

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the application of)	
Nickie Hertzog for a Change of Electric)	<u>File No. EO-2012-0343</u>
Supplier)	

**ORDER CANCELING PROCEDURAL
SCHEDULE AND ORDER CANCELING HEARING**

Issue Date: December 5, 2012

Effective Date: December 5, 2012

On October 15, 2012¹, the parties filed a Joint Proposed Procedural Schedule. The Commission issued an order adopting it the following day. That schedule stated that Ms. Hertzog must file her direct testimony by November 16.

Ms. Hertzog failed to file her direct testimony as required by Commission order. The Commission again ordered Ms. Hertzog to file her direct testimony by November 30, and further clarified how she could comply with the Commission's order and rules. Once again, Ms. Hertzog failed to comply.

Osage Valley Electric Cooperative filed a Motion to Dismiss on December 1. In the alternative, Osage Valley asks the Commission to cancel the procedural schedule and order a second prehearing conference.

The Commission finds that dismissal is too harsh a remedy, at least for now. However, because the case cannot proceed until Ms. Hertzog files her testimony, the Commission will simply cancel the remainder of the procedural schedule, including the hearing.

¹ Calendar dates refer to 2012.

Ms. Hertzog's e-mails to the Commission's Staff do **NOT** comply with Commission rules on filing testimony or pleadings. As explained on November 20, testimony must be accompanied by an affidavit providing the witness's oath, and the testimony need not be extensive. The Commission will **further** clarify that the Commission's Staff is a party to the case, and that Ms. Hertzog's e-mails to Staff do **NOT** constitute proper filing with the Commission.

Ms. Hertzog must submit testimony or pleadings in compliance with Commission Rule 4 CSR 240-2.025. That rule states that a party may submit testimony or pleadings to the Commission (**NOT** its Staff) at:

Secretary of the Commission
PO Box 360
Jefferson City Missouri 65102

Ms. Hertzog may also file pleadings and testimony electronically at the Commission's Internet website per that same rule. That website address is psc.mo.gov, and the Commission's Electronic Filing and Information System (EFIS) is available from that website.

Ms. Hertzog's application is still subject to dismissal for her failure to comply with Commission rules, as stated in Commission Rule 4 CSR 240-2.116(3), and as the Commission has warned Ms. Hertzog. Further, Commission Rule 4 CSR 240-2.116(2) states that cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety days.²

² If Ms. Hertzog complies with Commission orders and files testimony properly, the Commission will then inquire of the parties how they would like to proceed. Of course, any party is free to move the Commission for a different procedure at any time.

THE COMMISSION ORDERS THAT:

1. The procedural schedule and the hearing is canceled.
2. This order shall become effective upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Ronald D. Pridgin, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 5th day of December, 2012.