

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 20<sup>th</sup> day  
of March, 2013.

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

**ORDER DISMISSING APPLICATION**

Issue Date: March 20, 2013

Effective Date: March 30, 2013

The Missouri Public Service Commission is dismissing the application of Nickie Hertzog ("Hertzog"). She filed her application on April 13, 2012.

On October 15, 2012, the parties filed a Joint Proposed Procedural Schedule. The Commission adopted it the following day. That schedule required Hertzog to file direct testimony on November 15, 2012.

Hertzog failed to file her direct testimony. Thus, the Commission issued an Order Directing Filing on November 20, 2012, further explaining how she could file her testimony. That order further extended her deadline to file testimony to November 30, 2012.

Hertzog again failed to file testimony, and on December 1, 2012, Osage Valley Electric Cooperative moved to dismiss the application. In response, on December 5, 2012, the Commission canceled the hearing and remainder of the procedural schedule. That order further clarified how Hertzog could file testimony. Also, the order stated how any party could ask the Commission for a different procedure at any time. Finally, the

order warned Hertzog of the Commission rule that allowed the Commission to dismiss a case should it lay dormant for 90 days.

On March 6, 2013, the Commission issued an Order to Explain Why Case Should Not Be Dismissed. That order reminded Hertzog that no pleadings had been filed in 90 days, and gave her until March 15, 2013 to explain why her application should not be dismissed. Hertzog failed to respond.

The Commission's regulations provide:

Cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety (90) days and no party has filed a pleading requesting a continuance beyond that time.<sup>1</sup>

The Commission's regulations also provide:

A party may be dismissed from a case for failure to comply with any order issued by the commission.<sup>2</sup>

Therefore, the Commission will dismiss the application.

**THE COMMISSION ORDERS THAT:**

1. The application is dismissed without prejudice.
2. This order shall become effective on March 30, 2013.
3. This file shall be closed on March 31, 2013.

**BY THE COMMISSION**



Shelley Brueggemann  
Acting Secretary

R. Kenney, Chm., Jarrett, Stoll,  
and W. Kenney, CC., concur.

Pridgin, Senior Regulatory Law Judge

---

<sup>1</sup> 4 CSR 240-2.116(2).

<sup>2</sup> 4 CSR 240-2.116(3).