

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 20th day of April, 2023.

In the Matter of the Application of)
Matthew Delia for Change of Electric)
Supplier from Southwest Electric)
Cooperative to The Empire District)
Electric Company d/b/a Liberty)

File No. EO-2023-0108

ORDER DISMISSING APPLICATION

Issue Date: April 20, 2023

Effective Date: May 20, 2023

On September 19, 2022, Matthew Delia filed an application with the Commission requesting a change of electric supplier from Southwest Electric Cooperative (SWEC) to The Empire District Electric Company d/b/a Liberty. On November 29, 2022, SWEC filed a response to Mr. Delia's application; Liberty filed its response on December 2, 2022. On January 18, 2023, the Staff of the Commission (Staff) filed its *Staff Report and Recommendation*.

On February 3, 2023, the Commission issued an order setting a prehearing conference for March 1, 2023, beginning at 2:00 p.m., via WebEx video and teleconference.

The prehearing conference was conducted as ordered on March 1, 2023. Counsel for SWEC, Liberty, and Staff appeared for the conference. Mr. Delia did not appear via WebEx video or telephone and did not contact the Commission to request a continuance of the hearing.

On March 2, 2023, the Commission ordered Mr. Delia to file a pleading showing cause as to why his change of electric supplier application should not be dismissed for his failure to appear for the prehearing conference. Mr. Delia was ordered to respond by March 17, 2023. No response has been filed.

Three Commission rules address the failure of a party to appear for a prehearing conference. First, Commission Rule 20 CSR 4240-2.116(3) states:

A party may be dismissed from a case for failure to comply with any order issued by the commission, including failure to appear at any scheduled proceeding such as a public hearing, prehearing conference, hearing, or mediation session.

Second, Commission Rule 20 CSR 4240-2.090(5) states:

Failure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

Third, Commission Rule 20 CSR 4240-2.070(7) states:

The commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations.

Mr. Delia failed to appear for the March 1st scheduled prehearing conference and failed to comply with a Commission order to show good cause for his failure to appear. Therefore, as provided by the Commission's rules, his application will be dismissed.

THE COMMISSION ORDERS THAT:

1. For all the reasons stated above, the change of electric supplier application of Matthew Delia is dismissed without prejudice.
2. This order shall become effective on May 20, 2023.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Rupp, Chm., Coleman, Holsman, and
Kolkmeier CC., concur.

Seyer, Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 20th day of April, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

April 20, 2023

File/Case No. EO-2023-0108

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.