

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Norman Harrold,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2007-0311</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

ORDER DIRECTING FILING

Issue Date: January 23, 2008

Effective Date: January 23, 2008

On February 22, 2007, Norman Harrold filed a formal complaint against Laclede Gas Company ("Laclede"). By order dated January 3, 2008, the Commission set the complaint for an evidentiary hearing in Room 305 of the Governor Office Building on Wednesday, January 23, 2008, beginning at 8:30 a.m. No continuance was secured by any party beforehand, and the hearing was convened at 8:40 a.m. While Laclede and the Commission's Staff appeared for the hearing by their counsel, Mr. Harrold did not appear, either in person or by telephone,¹ despite the fact that the hearing was delayed for ten minutes to accommodate any party that was not present at the scheduled start time of 8:30 a.m.

¹ In this regard, the Commission's January 3 order setting the complaint for hearing expressly stated: "Although the parties are strongly encouraged to attend the hearing in person, any party wishing to participate by telephone will be permitted to do so after notifying the Regulatory Law Judge by calling 573-751-7485 by no later than noon on January 17, 2008." However, Mr. Harrold did not notify the RLJ that he wished to participate by phone until after the hearing had already been adjourned.

Commission Rule 4 CSR 240-2.110(2)(B) states: “Failure to appear at a hearing 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.” Since Mr. Harrold failed to appear at the January 23, 2008 evidentiary hearing without previously having secured a continuance, under the plain terms of this Rule, his complaint against Laclede is subject to dismissal unless he shows “good cause for [his] failure to appear” at the evidentiary hearing on the merits of his complaint. Accordingly, Mr. Harrold will be granted one week to file a pleading showing good cause for his failure to appear at the evidentiary hearing.²

IT IS ORDERED THAT:

1. Norman Harrold shall file a pleading, not later than 5:00 p.m. on Wednesday, January 30, 2008, showing good cause for his failure to appear at the evidentiary hearing on the merits of his formal complaint against Laclede Gas Company, which was scheduled to take place in Room 305 of the Governor Office Building on Wednesday, January 23, 2008, beginning at 8:30 a.m.

² The Commission advises Mr. Harrold that good cause “generally means a substantial reason amounting in law to a legal excuse for failing to perform an act required by law.” *Black’s Law Dictionary* 692 (6th ed. 1990). Similarly, “good cause” has also been judicially defined as a “substantial reason or cause which would cause or justify the ordinary person to neglect one of his [legal] duties.” *Graham v. State*, 134 N.W. 249, 250 (Neb. 1912). Missouri appellate courts have also recognized and applied an objective “ordinary person” standard. See, e.g., *Cent. Mo. Paving Co. v. Labor & Indus. Relations Comm’n*, 575 S.W.2d 889, 892 (Mo. App. W.D. 1978) (“[T]he standard by which good cause is measured is one of reasonableness as applied to the average man or woman.”) Of course, not just *any* cause or excuse will do. To constitute *good* cause, the reason or legal excuse given “must be real not imaginary, substantial not trifling, and reasonable not whimsical.” *Belle State Bank v. Indus. Comm’n*, 547 S.W.2d 841, 846 (Mo. App. S.D. 1977). See also *Barclay White Co. v. Unemployment Compensation Bd.*, 50 A.2d 336, 339 (Pa. 1947) (to show good cause, reason given must be real, substantial, and reasonable). And some legitimate factual showing is required, not just a party’s mere conclusion. See generally *Haynes v. Williams*, 522 S.W.2d 623, 627 (Mo. App. E.D. 1975); *Havrisko v. U.S.*, 68 F.Supp. 771, 772 (E.D.N.Y. 1946); *The Kegums*, 73 F.Supp. 831, 832 (S.D.N.Y. 1947).

2. This order shall become effective on January 23, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Benjamin H. Lane, Regulatory Law
Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 23rd day of January, 2008.