

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Daniel E. Brown,)	
)	
Complainant,)	
)	
v.)	<u>Case No. EC-2008-0384</u>
)	
Empire District Electric,)	
)	
Respondent.)	

ORDER SETTING PREHEARING CONFERENCE AND DIRECTING
FILING OF A PROPOSED PROCEDURAL SCHEDULE

Issue Date: October 2, 2008

Effective Date: October 2, 2008

Daniel E. Brown filed a formal complaint against The Empire District Electric Company ("MGE") on June 4, 2008,¹ in which he alleged that Empire had, among other things, failed to respond appropriately to restore power during the outages that occurred during ice storms in January and December of 2007. Empire filed its answer to the complaint on July 7, and the Commission's Staff filed its first report of its investigation into this matter on July 21. The Commission directed further investigation by Staff, and Staff filed its Supplemental Report on August 29th. Mr. Brown filed a response to Staff's investigation on September 29th.

This matter is now at issue and a prehearing conference and procedural schedule are appropriate to ensure its prompt resolution. In part, a prehearing conference is designed to permit the parties to pursue settlement discussions and to identify all

remaining procedural or substantive matters of concern prior to the formal disposition of the issues in the case.² In addition, a prehearing conference offers the parties a valuable opportunity to attempt to resolve their differences by agreeing to mediation of their dispute. The parties shall jointly file a proposed procedural schedule within one week after the prehearing conference.

The prehearing conference is *not an evidentiary hearing*. Sworn testimony will not be taken and no final decision will result from this prehearing conference.³ However, all parties are required to be present for the prehearing conference, and a court reporter will be present to make a record of the parties that appear. **Parties must arrive in person or appear by telephone at or before the scheduled starting time of 8:30 a.m. in order to participate.** Pursuant to Commission Rule 4 CSR 240-2.090(5), “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.”

The Commission further advises the parties that arriving late to a prehearing conference is the equivalent of failing to appear. Parties are expected to appear at scheduled hearings on time, or to advise the Commission of their need to appear late or to timely request a continuance. If a party fails to meet those obligations, that party may be dismissed and the Commission may rule in favor of an opposing party. This is why the Commission issues advance notice of all hearings and conferences and extends various

¹ All dates throughout this order refer to the year 2008 unless otherwise noted.

² See Commission Rule 4 CSR 240-2.090(6).

³ Also, under Commission Rule 4 CSR 240-2.090(7), any facts the parties may discuss during the conference, including any settlement offers or discussions, are privileged and cannot be used against any participating party unless the parties agree to disclose them or they are fully supported by other, independent evidence.

opportunities prior to any scheduled event for the parties to appear by phone or request a continuance.

THE COMMISSION ORDERS THAT:

1. The parties shall appear at a prehearing conference to be held on October 14, 2008, beginning at 8:30 a.m. The prehearing conference will be held in Room 305 at the Commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans with Disabilities Act. Any person needing additional accommodations to participate in this prehearing conference should call the Public Service Commission's Hotline at 1-800-392-4211 or dial Relay Missouri at 711 prior to the conference.

2. A conference call bridge has been established to allow the parties to participate in this conference by phone. Any party that wishes to participate in the conference by telephone may do so by calling (573) 526-6119 or (866) 630-9354 at the time set for the conference.

3. Any party wishing to request a continuance shall file a pleading with the Commission stating why they are unable to attend the scheduled prehearing conference on October 14, 2008, either in person or by phone, and shall provide the Commission with a list of dates when that party is available to appear. Any such pleading shall be filed no later than October 9, 2008, and shall also be served on every other party to this complaint by the party requesting the continuance.

4. The parties shall jointly prepare and file a proposed procedural schedule no later than October 21, 2008.

5. This order shall become effective immediately upon issuance.

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)

Harold Stearley, Senior Regulatory Law Judge,
by delegation of authority under
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 2nd day of October, 2008.