

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

1730 K STREET NW, 6TH FLOOR
WASHINGTON, D.C. 20006

March 14, 1996

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	
	:	
v.	:	Docket No. KENT 94-972
	:	
BROKEN HILL MINING COMPANY, INC.	:	

ORDER

On October 11, 1995, the Commission granted the petition for discretionary review filed by Broken Hill Mining Company, Inc. (“Broken Hill”). Pursuant to Commission Procedural Rule 75, 29 C.F.R. § 2700.75,¹ Broken Hill’s opening brief was due to be filed by November 13, 1995. To date, no brief has been filed. On January 26, 1996, the Secretary of Labor filed a Motion to Dismiss for Want of Prosecution pursuant to Commission Procedural Rule 75(e), 29 C.F.R. § 2700.75(e).² Broken Hill has filed no opposition to the motion.

¹ Rule 75 provides, in part:

(a) Time to file. (1) Opening and response briefs. Within 30 days after the Commission grants a petition for discretionary review, the petitioner shall file his opening brief. If the petitioner desires, he may notify the Commission and all other parties within the 30-day period that his petition and any supporting memorandum are to constitute his brief. . . .

² Rule 75(e) provides:

Consequences of petitioner’s failure to file brief. If a petitioner fails to timely file a brief or to designate the petition as his brief, the direction for review may be vacated.

Broken Hill is hereby ordered to show cause within 14 days of the date of this order why its appeal should not be dismissed.

Mary Lu Jordan, Chairman

Joyce A. Doyle, Commissioner

Arlene Holen, Commissioner

Marc Lincoln Marks, Commissioner

James C. Riley, Commissioner

Distribution:

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