

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 Nos. SE-91-97, etc.
 :
FAITH COAL CO. :

ORDER

On August 28, 1995, the Commission granted the cross petitions for discretionary review filed by Faith Coal Co. (“Faith”) and the Secretary of Labor. Pursuant to Commission Procedural Rule 75, 29 C.F.R. § 2700.75,¹ Faith’s opening brief was due to be filed on September 27, 1995. On January 26, 1996, the Secretary filed a Motion to Dismiss For Want of Prosecution (“Motion”) pursuant to Commission Procedural Rule 75(e), 29 C.F.R. § 2700.75(e).² On February 1, the Commission received Faith’s response to the Secretary’s opening brief. To date, the Commission has not received Faith’s opening brief, nor has Faith designated its petition as its brief. Further, Faith 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.

Faith 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

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