

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F603594

ROBERT MAULDING, EMPLOYEE	CLAIMANT
PRICES UTILITY CONTRACTORS, INC., EMPLOYER	RESPONDENT NO. 1
CINCINNATI INDEMNITY COMPANY, INSURANCE CARRIER	RESPONDENT NO. 1
SECOND INJURY FUND	RESPONDENT NO. 2
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 3

OPINION FILED FEBRUARY 13, 2009

Upon review before the FULL COMMISSION in Little Rock,  
Pulaski County, Arkansas.

Claimant represented by the HONORABLE DIANA M. MAULDING,  
Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE WILLIAM C.  
FRYE, Attorney at Law, North Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE DAVID PAKE,  
Attorney at Law, Little Rock, Arkansas.

Respondent No. 3 represented by the HONORABLE JUDY RUDD,  
Attorney at Law, Little Rock, Arkansas.

OPINION AND ORDER

This matter is presently before the Commission on  
claimant's remand from the Court of Appeals to settle the  
record. Claimant filed a motion with the Court of Appeals

claiming that the Clerk of the Commission failed to include in the record certain items as more specifically set forth in paragraphs 6a thru G of the petition. Specifically, the claimant contends that the AR-C form filed by the appellant with the Commission on March 27, 2008, appellant's statement as to workers' compensation benefits received as of trial, July 27, 2007 and filed on July 27, 2007, and the parties briefs filed to the Full Commission were omitted.

Pursuant to Ark. Code Ann. §11-9-704(b)(6)(a) the Full Commission is authorized to review the evidence and hear the parties on appeal. Accordingly, we conduct a de novo review of the record. The parties briefs are not evidence on the arguments. Such records have not ever been considered part of the record. Moreover Ark. Code Ann. §11-9-711(b)(1)(a) specifically states:

The appeal to the court may be taken by filing in the office of the commission, within thirty (30) days from the date of the receipt of the order or award of the commission, a notice of appeal, whereupon the commission under its certificate shall send to the court all pertinent documents and papers, together with a transcript of the evidence and findings and orders, which shall become the record of the cause.

This Commission does not permit a party to pick and choose which documents to "designate" for the record. This is a decision for the Commission to make. The Clerk of the Commission complied with the requirements of Ark. Code Ann. §11-9-711(b)(1)(a) and provided the claimant with a complete and accurate copy of the transcript for this claim. The briefs, appellant statement as to workers' compensation benefits received as of trial July 24, 2007, and the AR-C filed by the appellant with the Commission on or about March 27, 2008, are outside the record, they are not evidence and they do not fall within pertinent documents, papers, transcript, findings, or orders. Claimant had ample opportunity to introduce exhibits at the hearing level. Accordingly, we find that the record is settled as it currently exist.

IT IS SO ORDERED.

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A. WATSON BELL, Chairman

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KAREN H. MCKINNEY, Commissioner

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PHILIP A. HOOD, Commissioner