

**OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION**

ORIGINAL

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NOTICE
The text of this order may be changed or corrected prior to the time for filing a Petition for Rehearing or the disposition of the same.

SECOND DIVISION
July 30, 2013

No. 1-12-2981
2013 IL App (1st) 122981-U

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ILLINOIS COMMERCE
COMMISSION
2013 JUL 23 1 P 1:24
CHIEF CLERK'S OFFICE

PEOPLE OF THE STATE OF ILLINOIS <i>ex rel.</i>)	Appeal from the
LISA MADIGAN, Attorney General of the State of)	Illinois Commerce
Illinois,)	Commission
)	
petitioner-Appellant,)	
)	
v.)	No. Ill. C.C. 09-0151
)	
ILLINOIS COMMERCE COMMISSION,)	
ILLINOIS-AMERICAN WATER CO., and)	
VILLAGE OF BOLINGBROOK,)	
)	
Respondents-Appellees.)	

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Harris and Justice Quinn concurred in the judgment.

SUMMARY ORDER

¶ 1 In this direct appeal of an administrative order by the Illinois Commerce Commission, petitioner Lisa Madigan asks us to reverse the Commission's decision to allow respondent Illinois-American Water Company (IAWC) to impose a 1.25% reconciliation surcharge on its customers, as well as the Commission's decision not to require IAWC to employ a unit sewer rate for low-volume customers. We dismiss for lack of jurisdiction.

¶ 2 “[T]he ascertainment of its own jurisdiction is one of the two most important tasks of an appellate court panel when beginning the review of a case.” *People v. Smith*, 228 Ill. 2d 95, 106 (2008). Illinois Supreme Court Rule 335 (eff. Feb. 1, 1994) authorizes this court to directly review the final orders of certain administrative agencies. In order to vest the court with jurisdiction under this rule, appellants must file a petition for review with the court within 30 days of an appealable final order. See *County of Cook, Cermak Health Services v. Illinois State Labor Relations Board*, 144 Ill. 2d 326, 329-39 (1991) (“Rule 335 incorporates the 30-day filing period established by Rule 303(a).”). Although section 10-201(a) of the Public Utilities Act (220 ILCS 5/10-201(a) (West 2010)) purports to establish a 35-day deadline for filing a petition for review, the jurisdictional provisions of section 10-201 were found to be unconstitutional on separation-of-powers grounds in *Consumers Gas Co. v. Illinois Commerce Commission*, 144 Ill. App. 3d 229 (1986). See also *Kreutzer v. Illinois Commerce Commission*, 404 Ill. App. 3d 791, 795-96 (2010) (discussing the conflict between Rule 335 and section 10-201).

¶ 3 In this case, the Commission issued its order on July 31, 2012, and denied petitioner’s motion for rehearing on September 11, 2012. Petitioner, however, did not file a notice of appeal and petition for direct review with this court until October 16, 2012, which is more than 30 days after the Commission denied petitioner’s motion for rehearing and its order became final and appealable. See 220 ILCS 5/10-113 (West 2010) (finality of administrative orders following motion for rehearing). We therefore lack jurisdiction to review this case under Rule 335.

¶ 4 Further, we are compelled to note that all three of the parties to this appeal failed to identify the basis for this court’s jurisdiction over this case in their briefs, in clear violation of Illinois Supreme Court Rule 341(h)(4)(ii) (eff. Feb. 6, 2013). Although “[t]he duty of the appellate court to consider its own jurisdiction and to dismiss an appeal if it determines

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jurisdiction is lacking is well established.” (*People ex rel. Foreman v. Village of North Barrington*, 191 Ill. App. 3d 544, 553 (1989)), the parties’ failure to identify or even address the threshold issue of jurisdiction has resulted in the unnecessary expenditure of a significant amount of judicial resources while resolving this case, which could have been easily avoided had the parties complied with the clear mandate of Rule 341(h)(4)(ii).

¶ 5 Appeal dismissed in accordance with Supreme Court Rule 23(c)(1).