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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Rulemaking Hearing

October 25, 2013
Jefferson City, Missouri
Volume I

In the Matter of a Proposed)
Rulemaking to Revise the)
Manufactured Housing Rules)Case No. MX-2013-0432
Regarding Installation and)
Monthly Reporting Requirements)

JUDGE MORRIS L. WOODRUFF, Presiding
CHIEF REGULATORY LAW JUDGE

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A P P E A R A N C E S

For Staff of the Missouri Public Service Commission:

Mr. Kevin Thompson
Public Service Commission
200 Madison Street
P.O. Box 360
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(573) 751-3234

Also Present:

Ms. Natelle Dietrich, PSC Staff
Mr. Thomas Hagar
Mr. Blake Eastwood
Mr. Ronnie Mann
Mr. Darryl B. Myers

1 P R O C E E D I N G S

2 JUDGE WOODRUFF: All right. Good morning,
3 everybody. My name is Morris Woodruff. I'm the
4 Regulatory Law Judge for the Commission presiding
5 at this hearing.

6 And this is a rule-making hearing
7 concerning the Commission's proposal to implement
8 some new amendments to its manufactured housing
9 rules.

10 The rules -- proposed amendments have been
11 filed in the Missouri Register. And this hearing
12 was scheduled as part of that filing in the
13 Register.

14 This is a fairly informal proceeding. I'm
15 not going to take -- swear in anyone as a witness.
16 This is a chance for public to offer comments about
17 the rules.

18 I will -- I expect Staff will also
19 comments -- or make oral comments today. They've
20 already filed written comments. I'll ask Staff to
21 go last so they can respond to members of the
22 public.

23 I see several people here. I don't,
24 unfortunately, know you all. But I assume you're
25 from the manufactured housing industry. And so

1 I'll let you speak first. And whoever wants to go
2 first, just tell me who you are, and you can say
3 what you want to say.

4 MR. MYERS: Tom can go first. I'll defer
5 to his age.

6 MR. HAGAR: Well, I'm Tom Hagar. I'm the
7 Director of the Missouri Manufactured Housing
8 Association. We -- our state-wide trade
9 association represents a little over 200 licensed
10 retailers in the state, along with communities and
11 so forth that are involved in installation as well
12 as the sale of manufactured modular homes.

13 These rules are a project that's been
14 being worked on for about the last four years with
15 the previous Director of the -- of the Department
16 with the intention to move the number of years in
17 which complaints could be filed and so forth to a
18 reasonable level as we deemed it to one year, which
19 would match the -- the typical warranty and so
20 forth on a home.

21 And then there was changes made in which
22 we went to the -- there was a two-year request in
23 the event that it -- it started out in the event
24 where there was no complaint nor inspection done
25 within the first year and if a consumer filed a

1 complaint in the second year that there would be an
2 inspection done and -- and any problems would be
3 corrected at that -- at that time by the installer.

4 One of the items that was also discussed
5 in -- in a lot of those meetings was in reference
6 to reporting, prompt reporting, which when it's not
7 prompt or they don't receive the correct
8 information, it creates a lot of issues from
9 companies that report sheer cuts to number of sales
10 and so forth that people use in their marketing
11 efforts.

12 And so one of the things that was done
13 besides the problems with the PSC -- but one of the
14 things that I was concerned about and I -- in this
15 latest revision was to change one word. And that
16 was from "may" to "shall."

17 JUDGE WOODRUFF: Which particular rule are
18 you talking about?

19 MR. HAGAR: I'm talking about where it
20 says, for example, on page 3 of these changes is an
21 example, and there's several of them here.

22 JUDGE WOODRUFF: You're talking about
23 Staff comments that were --

24 MR. HAGAR: Yes.

25 JUDGE WOODRUFF: Okay. Thank you.

1 MR. HAGAR: And it says, A Director may
2 reject all monthly sales reports that are
3 incomplete and assess an inspection fee of \$50 per
4 report for each report that is filed 60 days after
5 the due date.

6 Well, the simple problem -- in reality
7 that I have with that and I know a lot of retailers
8 would have with it is, in the event that a problem
9 would come up within their business, whether they
10 had a personal issue, whether they have a death in
11 the family, whether they had -- you know, whatever
12 it may be, that it takes the discretion away from
13 the Director of the Department to look at someone's
14 history and say, Well, this person is reported on a
15 timely basis for three years, four years, five
16 years, ten years.

17 And so for all of a sudden they're two
18 months late or three months late. It does give
19 some grace period, but it doesn't give that
20 discretion and so forth to the Director. It -- it
21 -- it mandates it that it shall be collected,
22 period.

23 And I think -- and I still think that
24 that's something that is -- is a little bit too cut
25 and dried for the -- for the -- for the actual

1 circumstances out in the field.

2 JUDGE WOODRUFF: Okay. If I can interrupt
3 just to make it clearer for the record what we're
4 talking about, we're talking about Section 121.30.
5 And in the proposed amendment, it says may, and
6 then Staff has proposed to change it to shall, is
7 that --

8 MR. HAGAR: Yes. And I would prefer it to
9 stay may.

10 JUDGE WOODRUFF: Okay.

11 MR. HAGAR: The -- now, we received these
12 on -- on just here a few minutes ago. I understand
13 that they were on a web site. But I know my eyes
14 didn't see this until just here a few minutes ago.

15 I'm assuming that that is all that --
16 basically all the changes that are in this
17 document?

18 MS. DIETRICH: Do you want me to respond?

19 JUDGE WOODRUFF: Go ahead.

20 MS. DIETRICH: Okay.

21 JUDGE WOODRUFF: Identify yourself,
22 though, for the record.

23 MS. DIETRICH: Natelle Dietrich, Director
24 of Tariff Safety and Engineering Analysis for the
25 Commission Staff.

1 There are a few places where we changed
2 the may to shall, and it was all related to when
3 there was an inspection fee. And the reason for
4 making the change was because may is subjective and
5 there was no guideline for the Director to use to
6 say Person A would be charged a fee, but Person B
7 would not be charged a fee.

8 And since we do have the ability to
9 request waivers of rules from the Commission, we
10 felt it would be easier to have the shall in there
11 so that there was equal treatment of everybody.

12 And then if there were unusual
13 circumstances or reasons that the fee should be
14 waived, then we would have the ability to do that.
15 But it's -- there are a few places in there if you
16 -- we can walk through them if you'd like.

17 JUDGE WOODRUFF: Go ahead.

18 MR. HAGAR: I was just -- my question was
19 curious whether there were other things besides
20 that.

21 MS. DIETRICH: Another change that we made
22 was in the Definitions section, the -- the
23 rule-making -- or the current rule refers to the
24 Director of Manufactured Housing and all the
25 different duties.

1 And we do not have a position called
2 Director of Manufactured Housing. It's actually
3 Manager of Manufactured Housing. So we just
4 inserted in the definitions that Director means,
5 quote, Manager, unquote, so that's just to clarify
6 that it was one in the same person.

7 Let's see. Some of it, we just rearranged
8 it so it flowed better, but we did not change the
9 meat of it.

10 And then the other thing that we did was
11 on the property locator form, we actually created a
12 form and attached it to our comments, which is the
13 last page of the comments.

14 There were some concerns about making sure
15 that everybody used the same form, making sure that
16 it was clearer that any customer information that
17 is provided to the Commission is maintained
18 confidentially as -- as a confidential document as
19 confidential information. So we've included that,
20 so --

21 MR. HAGAR: So everything --

22 MR. MYERS: I missed that.

23 MS. DIETRICH: I'm sorry?

24 MR. MYERS: I missed that.

25 MS. DIETRICH: On Property Locator Form,

1 we indicated that any information that was provided
2 to the Commission is maintained confidentially.
3 And so we made that clear, too.

4 MR. HAGAR: So as far as any other
5 changes, then that would be the -- the -- the
6 primary thing was the may to shall that's being
7 suggested?

8 MS. DIETRICH: Correct. And then
9 providing an actual Property Locator Form as
10 opposed to just talking about it in concept.

11 MR. HAGAR: Well, I think, sir, we just
12 have a basic difference in -- in viewing it. I
13 think there should be flexibility. I think that
14 should rely with the Manager of the Department.

15 At the present -- you know, prior to these
16 rules, if these rules get approved and adopted,
17 there were a lot of these that didn't exist at all.
18 So what the intention was in my discussions
19 throughout the State with -- with as many retailers
20 as I could see, which was a lot, the overwhelming
21 feeling was that this was something that was
22 important as -- and they agreed that this should be
23 something that should have some discretion in -- I
24 mean, to go before the Commission over a \$50 or
25 \$200 fee is not something, I don't think, in

1 reality is going to happen. It costs someone more
2 than that to come to Jeff City.

3 So I think, on the other hand, it -- it
4 would be better to just stay with the rule as it is
5 presently written. And besides that, I'll defer to
6 Mr. Myers, who is one of our members, by the way.

7 JUDGE WOODRUFF: Okay. Mr. Myers, if
8 you'd identify yourself for the court reporter?

9 MR. MYERS: I'm Darrell Myers with New
10 Castle Homes in Harrisonville, Missouri. I don't
11 normally become involved in political issues at
12 Jeff City, although I have been a member of the
13 Board of Directors for the Manufactured Housing
14 Association. And I've been dealing with the Public
15 Service Commission almost 40 years since I've been
16 in business.

17 I had the opportunity to discuss this with
18 a Manager rather than -- deal with the previous
19 Manager prior to Blake and had such a bad
20 conversation with the gentleman that I decided that
21 it was time that I did something because I
22 disagreed with the position that the Manufactured
23 Housing Association has taken.

24 And I know there are other dealers within
25 the State not represented with the Manufactured

1 Housing Association that disagree with this
2 position, too.

3 And the -- so -- so with that in mind,
4 I've had a conversation with Blake -- and I'm
5 sorry. I forgot --

6 MS. DIETRICH: Natelle.

7 MR. MYERS: Natelle. And we've had a nice
8 discussion about what this Department and the
9 Public Service Commission can do to make it better
10 for all of us.

11 I mean, I have no objection to rules that
12 -- that are well thought out and designed to help
13 the Commission do their job because I've supported
14 the actions of the Commission and the Public
15 Service -- and the Manufactured Housing Association
16 for a number of years.

17 I have never seen anything like this
18 Christmas tree, and Blake said he didn't write it,
19 come across in all the 40 years. Okay? This is a
20 Christmas tree of ideas that solve problems
21 directly for the field inspectors without thought
22 to the basis of what it does to the dealers.

23 There are so few dealers left in our
24 state. And the ones of us that have survived, our
25 neighbors and our friends and our -- and our --

1 other people that have been in this industry go out
2 of work and broke.

3 And so the survivors here do not need a
4 lack of cooperation from the PSC and its Staff. We
5 need some help. We need some help in -- in logical
6 regulation to enhance the -- the -- our image with
7 the -- with the customers and not hang us for the
8 wrongs of all the -- all of the occurrences on the
9 dealers that have been gone out of business or been
10 disciplined.

11 So what we have here is a list of things
12 that were discipline to other dealers that this
13 corrects. Well, I'm the recipient of it. Okay?
14 And I object to that because there are other
15 statutes and other laws that applies to some of
16 these things.

17 So I'll just go down some brief notes. I
18 am not an attorney. I have read this backwards and
19 forwards. If I took time off from my job and just
20 studied it, I could come up with some -- some more
21 stuff. So I'll just give you the brief deal
22 because my scenario is we have a new Director,
23 excuse me, Manager.

24 We have a new idea coming forward that we
25 take this and put it in the trash can until we have

1 something from the current staff that will be
2 acceptable not only to the Manufactured Housing
3 Association, but the rest of the unrepresented
4 people in the industry. And that's -- that's my
5 thought. So I guess I'll just go down this list
6 that --

7 JUDGE WOODRUFF: Go right ahead.

8 MR. MYERS: The items. Okay. And like I
9 say, I might not be a hundred percent right because
10 I haven't clarified some of that with Staff. So if
11 I've said something wrong in this part does not
12 mean that I'm wrong in the next one.

13 JUDGE WOODRUFF: Okay.

14 MR. MYERS: And Ronnie and I have spent a
15 great deal of time having that kind of discussion
16 because Ronnie is our Inspector. Okay?

17 On Proposed Amendment CR 240.120.065, I --
18 I -- I don't have a problem with the five years. I
19 know that a couple of our people and the Directors
20 have had some problems with it.

21 Quite frankly, business has been so bad in
22 the last five years, we have not near the liability
23 we used to have over the five-year periods. So --
24 but the State itself shouldn't care about the five
25 years because since this five years was put in

1 place, we have installed in the state a Federal
2 mandated inspection of all -- of the set-ups.

3 We have trained people setting them up.
4 We have less consumer complaints, I assume, because
5 of that, because the set-ups are done by people
6 that are supposed to be trained and approved and
7 licensed by the State. So the five-year carry
8 forward is more of a nuisance than it is a help.

9 And -- and can I say it's a nuisance
10 because I have personally been turned in to the
11 State of Missouri in the past. Of course, I'm
12 picking up things over 40 years because an attorney
13 was suing a concrete guy, and he wanted the State
14 of Missouri to inspect it.

15 Well, the State of Missouri didn't inspect
16 the concrete guy. They inspected me. And that's
17 just an example of what having the extended five
18 years instead of a realistic one, which is what the
19 warranty is and the inspection of the dealers or a
20 two year at best.

21 It shouldn't be five now. With the --
22 with the cost that we've got on the other side, we
23 shouldn't have a liability for the full five years
24 because we now have a cost factor of \$35 a house
25 that we didn't have. Is that correct, Ronnie?

1 \$35 a house?

2 And we have -- if you're -- if you're a
3 small business as you know want to license a
4 person, it costs you \$150 for the license, if I'm
5 correct in that. It costs you \$35 for every seal.
6 It costs \$150 for your continuing education for
7 both those people because if one guy gets hurt,
8 you've got to have another and we set our own
9 hours. Plus, it costs \$100 extra to go to the
10 class if you're not a member of the Association.

11 So the costs that we now incur just
12 licensing that Inspector is -- I mean, that set-up
13 person is significant. And -- and then we come
14 down with -- here today and I was going to protest
15 the fees in the first place even under may.

16 Some of these fees are because of chronic
17 people not doing their job, people that show up
18 down here with 12 dealer deals and hand them to the
19 guy and say, Well, I've -- I did my report.

20 There's your actions that could be taken
21 in the process of that. You could send him a
22 letter. You could say, Hey, if you don't get us
23 reports, we're going to suspend your license.
24 There's different things you can do without
25 charging me because my wife had a bad hair day or

1 my granddaughter was sick the day she was going to
2 send it and she went to baby-sit, cost me \$50,
3 plus, I've lost my employee, if your wife can
4 really being an employee. And there we've gone.

5 So that is a -- a -- a deal that the --
6 the Staff wants to solve their problem of not
7 checking those things properly and then sending the
8 costs back to -- to our dealership or anybody else
9 that makes an innocent mistake. Not a chronic
10 person. But that's how you fix it.

11 Then you change the may to shall, and that
12 becomes an issue that we're going to have
13 additional costs doing those reports.

14 Then we come down here to the next part
15 where it says that. The cost of some of these --
16 and every one of these has their own thing. I
17 would say that there is no way that in some of
18 these issues that the State of Missouri can do
19 these for under \$500.

20 I don't know what the magic number of \$500
21 is on these reports, but I do know that I had a --
22 I probably was the first person ever around that
23 got thrown under the Sunshine bus. And -- and just
24 to get the information I had -- I wanted to -- to
25 put together a literate response to this thing, the

1 -- the charges were over a thousand dollars.

2 If I had had that money, I probably
3 wouldn't have been arguing about it. So -- and
4 we've settled that issue too, in our meeting.
5 Okay? But I know that the cost of that is in
6 excess of \$500.

7 I asked Blake. He says that's the
8 computer cost that your secretary is there, so --
9 so you have that cost. I don't know how you -- you
10 -- you figure costs.

11 But once my secretary or my employee
12 starts working on a project, that's the cost of
13 that project. When I fill out the forms necessary
14 as a dealer to comply for these extra 48 -- I've
15 got 48 hours to comply to this thing. Okay?

16 Now, I've got -- which another issue.
17 I've got -- I had 27 people working for me. Today,
18 we have seven. Okay? And we have nobody in the
19 office other than my wife and I to do the
20 paperwork. Okay?

21 So I'm supposed to within 48 hours grab my
22 salesman, get the information and disclose it to
23 you or pay a hundred or \$200 -- whatever the fine
24 is for not getting that done. And you are going to
25 say that it doesn't cost over \$500.

1 Last year, we sold almost a thousand
2 houses. It -- it's not going to cost \$500 to -- to
3 data entry those into the system. I know that on
4 our side, I can't -- I can't certify what the
5 State's cost is, but our cost to comply with these
6 regulations is far in excess of \$500 before I get
7 it done.

8 And -- and the result of not getting it is
9 punitive because we're not staffed to do that. We
10 are currently -- and this is on another -- another
11 issue on deeper in it.

12 We are under inspection by Ronnie Mann.
13 We are under inspection by the Counties that we do
14 business in. We are inspected by the cities that
15 we do business in. We are the most inspected
16 business that you can get in Cass County. And we
17 operate in Kansas City, Jackson County, Clay County
18 and Cass County, the big five counties over there.

19 I have to provide data and detail down to
20 the endth degree, four copies of prints,
21 topographical maps already to do these houses that
22 we're doing in our five counties. And now if I
23 don't report to the State I'm sending this out,
24 then I'm going to -- be a 50 or another \$100 fine.

25 It is a burden upon small businesses to

1 put that on. I've discussed this with Ronnie. I
2 know why the State wants it. Okay? The State
3 wants it because it's becoming more difficult to
4 get people to agree to allow them to do the
5 inspection. And their job is to do inspections.
6 Okay? And I understand that.

7 We have cooperated to the fullest to see
8 that Ronnie gets the information to do inspections.
9 Ronnie calls me and asks me what I'm setting. I
10 give it to him. Ronnie calls and sees some dirt
11 moving in a county over. I say, Yeah, that's mine.

12 I parked a house on a competitor's lot.
13 He recognizes it's my house and asked me where I'm
14 putting it. So we're doing everything we can to
15 make his job easier.

16 This form, this Property Locator Form, to
17 me, is a direct violation of the -- of our privacy
18 agreements with our customer. We're reporting to
19 the State of Missouri Proper to the completion of
20 the sale.

21 We take a down payment. Our sale is not
22 complete contractually, it's my understanding,
23 until I get the final balance on that house. I
24 don't collect the final balance till either the
25 house is partway here or a day or two before or on

1 the location.

2 So I'm giving up information on my
3 customers that is supposed to be private, okay,
4 supposed to be private according to this form --
5 and we've all seen what's been going on in this
6 country about what isn't private and what is.

7 The people out here don't trust
8 Government. Okay? And they're right because we
9 have -- the Government has violated their trust in
10 more than one occasion. Missouri Government has.
11 The Federal government has.

12 And there -- and this Property Locator
13 requires me to give out information -- if you had a
14 private phone number -- and most of us are cell
15 phones aren't published -- I'm being required to
16 give up private information on my customer before I
17 even have a completed sale.

18 And I'm being required to do it within 48
19 hours when I don't have staff. I'm being required
20 to do it although this thing says it costs \$500 for
21 me to do it.

22 Let me assure you I know enough about my
23 costs, I can't report 30 sales and get the sales
24 staff, the service staff, make sure the map is
25 right because I do the physical inspection on the

1 lot, and half the time, the map that we've got
2 isn't right.

3 So I have to verify this map. I have to
4 get the information, and I have to violate the
5 trust of my customers to deliver a Property
6 Locator.

7 JUDGE WOODRUFF: If I can interrupt with a
8 question here?

9 MR. MYERS: Yeah.

10 JUDGE WOODRUFF: The Property Locator, is
11 that something you're doing now or is this
12 something that --

13 MR. MYERS: We physically have one to send
14 our crews out. Okay? It's not on a State-approved
15 form. Okay?

16 JUDGE WOODRUFF: Is that something that
17 you have to get to the State now?

18 MR. MYERS: No. No. This is all -- this
19 is all new paperwork with penalties attached. And
20 this is why I objected to -- I objected even when
21 it was shall or may that this is not right because
22 that makes it arbitrary.

23 If I -- if I decide, and I have personally
24 fixed things on houses because I don't want -- that
25 I didn't think were right. But I did it because I

1 didn't want to argue with my Inspector because we
2 do have a good relationship. And a couple of three
3 times, I agreed to fix things because the consumer
4 needed help. It wasn't because the Inspector
5 thought I was that wrong. We just agreed, Hey,
6 that needs help, the customer has no money, we'll
7 fix it.

8 But you do those kind of things if you
9 want to stay in this business. Okay? The reason
10 we have managed to stay in business is that we took
11 care of our customers, and we have a referral base.
12 And I spent a lot of money for that. Okay?

13 And I do not want penalized on top of --
14 for small errors in my office on paperwork. Okay?
15 It's -- it's a punitive deal designed to get a
16 result.

17 The other thing that I would like to bring
18 to the table while we're here discussing is -- is
19 the -- one, I understand the dealer was shipping
20 houses in here without -- wrecked houses, okay, and
21 fixing them and then selling them as new.

22 So we've today this thing if a new or used
23 unit has incurred any damages, I have to notify the
24 customer of that. That leaves me open to --

25 JUDGE WOODRUFF: Excuse me. Which rule

1 was that?

2 MR. MYERS: It's Rule No. -- let's see.

3 It looks like 240.123.065(6)(7).

4 JUDGE WOODRUFF: Okay.

5 MR. MYERS: We've added to it that if
6 unit is new or used and the unit has incurred any
7 damages, I have to notify my purchaser.

8 If I'm shipping a house from Indiana and
9 blow out a tire, okay, and it cracks a floor joist,
10 which -- which can occur, in the common course of
11 business, I will repair that and -- and set the
12 house.

13 There is an approved method to repair it,
14 and we follow that. And -- and in some of our
15 units because they're fully sheetrocked and they've
16 traveled down the highway 750 miles, I'll have
17 cracking in the sheetrock. I might have a house
18 with damage as part of the siding blowing off. I
19 might have damage where in the right weather
20 conditions we lose some shingles. Okay?

21 I'm now liable for an interpretation by
22 somebody's attorney as to whether I am violating
23 that statute or not. Am I supposed to when I have
24 a cracked floor joist stop \$150,000 house from
25 going over somebody's basement until I get them to

1 sign off for a cracked floor joist? Is that part
2 of this? It's not stated what damages here. Okay?

3 So this is putting a whole new twist in
4 our liability down the road. And I -- and I have a
5 real concern for liability down the road. I'm
6 addressing an attorney's letter on a house that's
7 27 years old that is being subrogated by an
8 insurance company.

9 So it's driven by big money and insurance
10 subrogating back at me. I don't need the State
11 putting in the statutes things that I can't
12 explain.

13 And it is common that you can break a --
14 we're traveling down the highway, so there's no
15 definition of what this reg. is. I know that the
16 people that bought these houses were wronged.
17 But I also know that they can hire an attorney.
18 They can sue. The State can't do much with them
19 because they're still in operations.

20 So I don't see why the reputable dealer
21 represented by the Association or even
22 free-standing be being penalized by the actions of
23 other.

24 Part of these statutes that's coming
25 across our regulations is directly related to -- by

1 adding the penalties, we had a dealer in Kansas
2 City that was going broke for six years. For the
3 first three of those six years, he took deals away
4 from us simply because he needed the cash. So if
5 you priced your house at any point, he would be
6 cheaper than you. So we lost deals that way.

7 Then it took the State two years -- is
8 that right, Ronnie? I don't want to be misquoting.
9 Took the State two years to put the guy out of
10 business.

11 And so our industry not only got a black
12 eye, but we wound up selling the houses at a
13 discount to help pull him -- pull the consumers out
14 and doing his final finish on some of his units,
15 just to try to say, Hey, all mobile home dealers
16 aren't crooks.

17 But we've got on here statutes and
18 penalties that will allow them to penalize me
19 because that guy did something wrong, the same way
20 with the guy that shipped these houses in here.

21 I don't think, as an industry, we should
22 bear the burden for the wrongs that our -- our
23 competitors have done and -- and then write
24 statutes to correct that when there's already
25 recourse under the law.

1 And if the recourse under the law isn't
2 going to help our consumers, neither is this
3 statute. All it's going to make is lawyer year 27
4 years from now suing my company, which is a
5 corporation, for something that I did today because
6 the statute said that that -- and the customers
7 remember aving a broken floor joist because it's
8 not defined.

9 So this whole -- whole process that's
10 taken four years came up with this. And two weeks
11 before this hearing -- or the final hearing or
12 whatever, we get an amendment to change a major
13 portion of it.

14 That is not the type of cooperation that
15 -- that the PSC should have in relation to the
16 people you're governing. We talked about it in our
17 meeting. We talked about -- and I don't have all
18 the right ideas.

19 But there's a lot of things that we can go
20 back -- the Public Service Commission used to be
21 the best agency down here to do business with. It
22 was a dream. They call. They say, Hey, you've got
23 this problem, go fix it.

24 And now we're talking about may and shall.
25 We're talking about a Christmas tree bill. We're

1 talking about planting liabilities on the dealers.
2 Unintended. It's all unintended because everyone
3 that I know, except the guy I don't know that's no
4 longer in the office, and I don't know where he
5 came from, he lasted for a very short time.
6 He transferred out or something that I -- I
7 absolutely was amazed that anybody could aspire to
8 his job with the way he handled things and his
9 attitude about stuff.

10 But the old Public Service Commission
11 prior Blake has a history of doing this the last
12 few years. Okay? It doesn't have to be that way.
13 Okay?

14 There's no reason why we should be looking
15 to sit in this hearing -- and I fully intend -- the
16 only way to redress this is go to Legislature if we
17 can't work together today. Okay? And -- and I've
18 gotten interested way too late because I'm getting
19 ready to retire or semi-retire.

20 But I've got a business that I've sold
21 that's going to go on. And the people in this
22 state and the mobile home dealers deserve better
23 than this. And at the same time, the PSC needs the
24 tools to work with. Okay?

25 But -- but let's say that this is a bad

1 idea. Okay? Because it is a bad idea. It has
2 liability built in. It has costs built in. It has
3 responsibilities built in it is unintended -- it is
4 something we physically can't do in my office.
5 Okay?

6 And I have been in the business 47 years.
7 There is no way that my people can juggle all of
8 the paperwork that they've got to do for the
9 Inspectors that we've got to have and do what we
10 want.

11 There is no way the State of Missouri can
12 do all that they do. They need to do their jobs
13 better. And I see in here now we're going to be
14 putting seals on the houses. And I don't
15 understand this, and maybe Ronnie can -- can do it.

16 It's my understanding that when we -- our
17 Inspector does a house, he's supposed to put the
18 seal in the house or sign it and put it up on the
19 house.

20 MR. MANN: Install it.

21 MR. MYERS: And install it. And he's
22 supposed to do that during the installation
23 process; is that correct?

24 MR. MANN: That's correct.

25 MR. MYERS: The regulation clearly states

1 that that seal is supposed to be affixed to that
2 house after the set-up. That's what it says in
3 chapter whatever. I've read -- I've read this
4 entire thing in the last two days.

5 But the State is going out telling one
6 thing. The regulation is saying another. So we're
7 correcting that right here by saying, Hey, let's --
8 let's make the seal affixed to the thing after its
9 blocked the level.

10 Well, what do you do if its rolled over a
11 base? That's not addressed. Well, is it addressed
12 that the seal doesn't -- this seal that we're
13 using, you can't write on it with any normal pen
14 and have it stick.

15 So when you hang it on the wall, you write
16 on it. Somebody comes in and writes on it again.
17 It wipes off, so you wind up with a blank seal.
18 Okay?

19 Plus, it's not easy to work on that seal
20 when you -- it's a box about like this. How do you
21 write like that and get it up there so it's legible
22 after the fact?

23 JUDGE WOODRUFF: Excuse me. What would
24 you be writing on it?

25 MR. MYERS: You're supposed to note that

1 you've got the different -- the inspection seal, as
2 you complete each portion, you write on the seal
3 that t's done. So the Inspector -- I mean, the
4 set-up person certifies that he's done the
5 anchoring, he's done the sewer, he's done the
6 connections.

7 And so you stick that where it's supposed
8 to be. You write on it as you're dragging your
9 hands on it. And so it wipes off so your guy is
10 doing it and doing it and doing it.

11 The State is enforcing it one way.
12 They're putting it into code today, although the
13 code clearly states -- and it's their job to
14 understand the Code. I just comply with it. Okay?

15 If I -- if I choose to read it like I did,
16 I can tell you right now that the Code says that.
17 Okay? And -- and we have the same problem. I know
18 that a lot of people worked hard on this. Your old
19 Code said -- clearly states that if the serial
20 number is available that is supposed to be part of
21 a report -- okay?

22 And as we all know, serial numbers are not
23 always available on retail sold houses. We sell
24 far more retail sold today than we ever have
25 before, meaning the serial number is not issued

1 till weeks after the sale is started. Okay?

2 In the new language --

3 JUDGE WOODRUFF: If I can interrupt you.

4 You mentioned the term retail sold. What does that
5 mean?

6 MR. MYERS: Well, when we have a house in
7 inventory, okay, today, a lot of people will come
8 in. They will pick their house. They will pick
9 their floor plan. And they will order it through
10 the plant process.

11 In other words, they have all the options
12 put on it, if they want it on a basement or want an
13 attic in it or want dormers or three-box house, all
14 of that's specified.

15 So we work with them for months to get all
16 of that down. And then they come in and pay a
17 deposit on the house. And we order it from the
18 manufacturer. Once we order it from the
19 manufacturer, the manufacturer draws the prints and
20 sends it to the State to get them approved, which
21 takes anywhere -- State of Missouri does a good job
22 in the approval process of these plans.

23 This office here is one of the better
24 states in getting those prints back as a rule.

25 So I want to -- I want to say that there's a lot of

1 things that they do right down in this office.

2 Okay? I'm not here complaining about the whole
3 thing because there's good people, and they try.

4 Whoever read this thing and was putting it
5 together over the last four years didn't read the
6 old and they come up with the new, which is, by the
7 way, in Section 240.123.065(6) and (7).

8 Every dealer of a modular unit shall
9 provide the purchases at the time of sale. And it
10 depends on time of sale, see? What is time of
11 sale?

12 At time of sale, a Purchase Agreement,
13 Bill of Sale containing at least the following.
14 The purchaser's name and address, make of the unit,
15 serial number. I can't purchase -- I cannot
16 provide at sale the serial number.

17 Had they simply read the old regulation,
18 which clearly states that I am providing this
19 serial number if available, but the detail has not
20 been paid to this regulation, the detail of what
21 they wanted and who they wanted to punish is there.
22 But the detail in itself is not there because the
23 detail is not there in the cost of this for the
24 dealer. And I question whether the detail is there
25 in the cost to the -- to the State.

1 And I will defer to Blake, and it's not a
2 part of this hearing is to argue about whether the
3 costs -- but I will certify to you today that the
4 \$500 that it's stating -- and I don't know whether
5 it matters or not. I don't know whether that's
6 just a formality or not. \$500 will not cover my
7 costs for these reports, period.

8 And I'll just -- I know I've taken too
9 much of your time. Let me --

10 JUDGE WOODRUFF: Can you --

11 MR. MYERS: -- just go right through
12 these, and I'll --

13 JUDGE WOODRUFF: That's fine.

14 MR. THOMPSON: Could I clarify what you're
15 referring to?

16 MR. MYERS: On what?

17 MR. EASTWOOD: On the record reporting for
18 the mod.

19 MR. MYERS: Oh, on the reporting for the
20 mod, right here on -- it's page 1482, second
21 section, six and seven. It lists the things that a
22 dealer has to do.

23 And this is also -- the bottom item is
24 also where we're to report -- or notify the
25 customer that this house is -- has incurred any

1 damages.

2 MR. THOMPSON: This -- this particular
3 section that you're referring to is not changed
4 from the prior version.

5 MR. MYERS: I'm just -- I'm reading this
6 right here. Okay?

7 MR. THOMPSON: There's a number change
8 because we inserted a new -- a new paragraph. But
9 the -- text is --

10 MR. MYERS: So you've had all along that
11 -- and when was that put in? Because that didn't
12 used to be there? Tom, did you -- was you aware we
13 had to report the --

14 MR. HAGAR: Yeah. It's been that way in
15 the old language for a long time.

16 MR. MYERS: Well, that ends the
17 conversation since I said I wasn't right. We need
18 to correct this. Okay?

19 MR. THOMPSON: Since April of 2008.

20 MR. MYERS: Yeah. We need to correct this
21 because this isn't right. It's creating a
22 liability for the dealerships.

23 And -- and now we have to determine since
24 it's the law what is the Public Service Commission
25 on a blown tire, you know. We're -- we're in a

1 situation where it's a fluid deal. I have to go
2 forward and fix things because we are under a
3 timeline. These people are waiting for their
4 house. They have a foundation. We've got a
5 considerable amount of expense. And it's -- and
6 it's going to happen.

7 I haven't blown a tire this year. But
8 we've known instances where we blow a tire and
9 wreck two -- two -- and there is an approved system
10 where you follow through and do it according to the
11 State -- the staff. It's not a damaged house. But
12 you could make a case for that.

13 And so while we're re-looking at what this
14 chapter needs to do or these regulations need to
15 do, that's one of the things that need corrected.
16 And thank you for bringing that to my attention.

17 I found a couple other things in there as
18 I was reading that were already in the law that I
19 didn't know. And I've been doing it for 40 years,
20 so I don't know how people that have been doing it
21 -- maybe somebody that just went in would read all
22 this stuff once and recognize it.

23 So I -- I think that that is about the end
24 of my comments that I can think of.

25 JUDGE WOODRUFF: Okay. And -- and just to

1 summarize, you would prefer that the -- the
2 Commission just start over on these rules?

3 MR. MYERS: Well, I think -- I think that
4 the rules -- if you go down each rule and the costs
5 to the dealerships -- and the fact that the State
6 can't justify -- I don't think the State can
7 justify their cost estimates on the cost estimates.
8 I -- I -- I'd entertain looking at them if it was a
9 perfect -- but I know the cost estimates on the
10 dealers won't fly. We can't do what they're saying
11 for \$500. Okay? It -- it can't be done if I
12 factor my cost.

13 So -- and I don't know whether there's
14 important or not. And all costs are important to
15 me. Okay? And the cost of -- of paying -- I don't
16 know that -- I don't know that we missed a report
17 last year as far as the -- our dealer reports are
18 concerned.

19 I know that the State has a history, and
20 -- and Blake will back me up, and Ronnie will, of
21 changing their minds on what they want on these
22 dealer reports and what they want on the
23 inspector's reports.

24 They'll go from where they want the
25 consumer's name on it where they don't want the

1 consumer's name on it to where they want this, and
2 they will change just at will.

3 My -- one of my Inspectors got a letter
4 that 13 months ago the State had changed the
5 inspection form. He was just copying the old form.
6 Okay?

7 Thirteen months ago, you issued a new
8 form, which required him to put other information
9 on. Thirteen months later, he gets a letter
10 rejecting his report.

11 I think Staff down here has a lot that
12 they could do to clean up their act and do their
13 job. I mean, when he -- he filed it the first
14 time, he'd have been doing it right for 13 months.
15 We went online. Oh, there it is. The new form.
16 Filled out, sent it in. It wasn't a bad deal. I
17 mean, but it was embarrassing to me that we're
18 filing a report that's 13 months old.

19 But the State has done that. They will go
20 from, Hey, we want this information on this report
21 to, Oh, we want this information. It's a right or
22 wrong. Okay? And you shouldn't just decide that
23 you need this information but don't want it. And
24 then six months, five years later, you want that
25 information but don't want it.

1 And if you've been in the business long
2 enough, it does get confusing. When I'm talking to
3 people in my office and say, This is the way it is,
4 this is the report and find out 13 months ago, the
5 State changed the form -- I would bring to your
6 attention that I don't and neither do the dealers
7 in this state -- we don't track your web site.
8 Okay?

9 We don't track -- I don't know -- as a
10 matter of fact, when I got involved in coming to
11 this hearing before Blake, I couldn't even get the
12 office to tell me how to -- how to track this
13 meeting. Okay? I was supposed to go to some
14 source where these things are published.

15 The office of the Public Service
16 Commission refused to give me information to attend
17 this meeting. Okay? Blake did -- I told him I
18 needed it. He sent me a deal right here.

19 I have no reason to have went -- I spent a
20 great deal of time reading all of this stuff to
21 come here and find out that it's been changed a
22 week ago.

23 I -- I'm -- I'm sure that you can't
24 respond to all that stuff. But if it was in the
25 works for four years, folks, it's unreasonable to

1 come to a hearing and have published on your web
2 site two weeks ago -- you folks are great people.
3 I -- I've not met anybody -- and I did meet the
4 gentleman that was on the phone here down here
5 which have a great deal of disrespect for.

6 You have good people working here. They
7 need -- they need to understand where we're coming
8 from when they're writing these rules and
9 regulations. You need to understand, we don't have
10 -- we're not hired to follow these regulations.

11 I have more regulations in the last five
12 years for our company to comply with that is -- is
13 asinine and silly with the EPA, the earth -- the --
14 you know, all of the things that we do on the
15 construction process, the reports that we have now
16 for the banking industry that want us to jump
17 through hoops, 4,000 pages the other day, the
18 contracts that we do.

19 The paperwork we're developing now is
20 going to consumers -- because I do not think that
21 as a dealership that if we expand -- and we hope
22 that business expands. I'll never be able to use
23 you the secretarial staff we used to use because I
24 have too much compliance activities now, not just
25 for you folks, but there's other people that wants

1 to pound the bar time, too.

2 And so if each of you quack out a little
3 bit and find me every time somebody misses or their
4 baby gets sick and they don't send the right form
5 to this office down here, your folks are on staff
6 and they're paid full-time do that job. Okay?
7 They have that interest.

8 Their office could do a better job working
9 with the people if they've got time do the things
10 that they're wanting to do here. They've got time
11 to straighten that office up, work with the
12 industry and then come back with a program that
13 works.

14 And -- and don't throw things out two
15 weeks. And I understand. Because it -- it works
16 for you. I mean, it works down here. It doesn't
17 work for anybody else. It might work for Tom. I
18 mean, he's a paid employee of the Missouri
19 Manufactured Housing Association, which I am a
20 proud member of.

21 But so help me, if you're an individual
22 dealer out here working, we can't do it. We can't
23 fill these reports in for the times you're taking.
24 We can't afford to pay the fees that you're wanting
25 to assess us. We can't afford to pay the fees

1 you're assessing us now. Okay?

2 This industry is off by several thousand
3 units a year. And I've made this comment to Blake,
4 and he says that I'm wrong. I've made this comment
5 to Ronnie Mann, and he says I'm wrong.

6 We're overstaff down here if you've got
7 time to do this. Okay? If you've got time to add
8 this much paperwork to your thing -- my office is
9 down from 27 to seven. The State's office is --
10 and that's one of the things that I got into the
11 Sunshine Law.

12 And I was asked about staffing. I'm not
13 -- I think you need the people. I know this is a
14 big state. You can't do without the Inspectors
15 you've got and do an adequate job.

16 But don't give me more work because you've
17 got time. Okay? We don't have time. We do not
18 have time now, and we won't have time later. I
19 hope. Because there for a couple of years, we had
20 all the time in the world you wanted.

21 JUDGE WOODRUFF: And you had time because
22 houses weren't selling?

23 MR. MYERS: We didn't have any business.
24 Okay? We were down to three people working, so,
25 you know --

1 JUDGE WOODRUFF: Can you explain to me
2 what's happened to the housing industry, or the
3 manufactured housing industry in Missouri?

4 MR. MYERS: The manufactured housing in
5 Missouri got caught prior to the housing crunch.
6 Our business started downhill because anybody that
7 could breathe on a mirror could buy a stick built
8 house. So our customers went away. The other
9 thing --

10 JUDGE WOODRUFF: They were all about
11 buying --

12 MR. MYERS: They were all about buying,
13 because we never had a stated income program. Our
14 financing is jacked up compared to some others. So
15 we never could say, that, Hey, you make 50,000 and
16 sign a piece of paper and say -- and have it
17 accepted. We always had to prove income.

18 The other thing that's happened is the
19 parks have sold and resold and resold because the
20 business model in the parks today is far different
21 than it was 20 years ago.

22 JUDGE WOODRUFF: You're talking about
23 mobile home parks?

24 MR. MYERS: Mobile home parks. So what
25 used to be dealers delivering in the parks, okay,

1 half of our business was park business. That
 2 business is all gone because the parks are buying
 3 lots of 30, okay, at a time and setting them up,
 4 and they're retail selling them or they're renting
 5 them or whatever. The dealers aren't filling the
 6 parks anymore. They have no interest in us.

7 We're also suffering from -- and it's
 8 addressed here in one of the regulations. I've lot
 9 five deals this year, I believe, to a manufacturer
 10 in Nebraska that is selling his product at the door
 11 through a dealer and giving the customers the name
 12 of the transport company and a licensed setter that
 13 they're bringing them into Missouri, which there's
 14 nothing you can do. That's just business.

15 We have to compete against that for ten or
 16 \$15,000 less than I can sell a house for because
 17 they -- the customer pays the set-up people. The
 18 customer pays the transportation. When it's all
 19 said and done, the manufacturer, all they have to
 20 do is say Well, I didn't -- you know, you took the
 21 responsibility at our door.

22 Or they're selling them through a dealer
 23 up there. If that dealer gets in enough trouble,
 24 they'll just shut that dealership down and start
 25 another one.

1 Working with one right now that we're
2 running in that same situation. It's not easy
3 being a dealer in this -- today. I semi-retired
4 six, seven, eight years ago. If I'd have taken my
5 money with me when I did that, I wouldn't be here
6 today talking to you.

7 But with that said, the business has
8 improved a little bit because housing in general
9 has. Okay? Not greatly. But at least -- and --
10 and, sadly, I used to be in the Kansas City area
11 one of 15 dealers within the marketplace.

12 Today, viable dealers that are active with
13 new product in the Kansas City area is one.
14 Myself. And there's a dealer in Lathrop which
15 sells only modulars. The next competition is
16 Topeka, Kansas and Wichita and Springfield and
17 Pittsburg and Columbia.

18 Now, that's how bad this industry has
19 taken. And I don't see that we, today, can afford
20 the extra time to fill out unnecessary paperwork.
21 I'll do whatever I can to see that Ronnie gets the
22 information on these houses and -- and add extra
23 expense because somebody's missed a report to my
24 cost because I am a survivor, but I had to write a
25 bunch of checks to stay. Okay?

1 And I don't want to write checks to the
2 State of Missouri because my secretary missed a
3 report. Because I think if you pull my reports, I
4 might have missed one or two in the last two or
5 three years. Maybe missed five. I don't know
6 because I don't handle those reports.

7 I know we've never done what some dealers
8 do. And they take them in once a year. And I
9 don't know whether you have dealers do that now or
10 not. At one point in time, they used to deliver
11 them all at the same time. I was an auto dealer
12 one time, and they did deliver all their sales in
13 one fell swoop. Today, I don't think they do that.

14 But it's not something that we need.
15 We're a weakened and damaged industry. We don't
16 need the regulations on us that hurt us. We need
17 help from the PSC so we can have a viable business.

18 I am proud -- I have an attorney that
19 works for us that thinks trailers are a dirty word
20 and everyone that lives in a trailer -- and, you
21 know, he's never been to my store. He's never seen
22 the product that I sell. But that's the mentality
23 out there.

24 My customers never bought a trailer from
25 me. We've sold over 8,000 houses, and I'm proud of

1 it because every one of them improved their lot
2 life somehow or it fit their needs. I need
3 cooperation to sustain my business and go forward.

4 I don't need new reports from this office.
5 I need help. Somebody should figure out why I've
6 got Ronnie checking a house, inspecting a house,
7 why I have to jump through the hoops in Cass
8 County, which is one of the worst counties for
9 inspection that can you get -- I've got inspections
10 on top of inspections. So maybe somebody could
11 figure out who is really doing the inspection and
12 just one guy come out.

13 You know, there's things that we could do
14 or the PSC could do to help us that have survived
15 continue to survive. And adding a hundred dollars
16 -- you know, I don't -- I -- I bought a new pickup
17 the other day, got a payment on it, didn't have a
18 payment. But I've got to watch every \$100 or \$50
19 we spend within my business.

20 And it's got -- it's got to be driving my
21 business. It's got to be advertising. I don't
22 need to send the PSC \$50 because my secretary had a
23 sick kid and couldn't send in a report in a timely
24 fashion. Just not right.

25 JUDGE WOODRUFF: Okay. Well, thank you,

1 Mr. Myers.

2 MR. MYERS: Thank you.

3 JUDGE WOODRUFF: If I could go back to
4 Mr. Hagar for a moment, you represent the
5 Association.

6 Is the Association generally satisfied
7 with these rules other than the may or shall that
8 you were talking about?

9 MR. HAGAR: Yes. Up to the point of this
10 latest change.

11 JUDGE WOODRUFF: Okay. If the Commission
12 were to reject this as Mr. Myers suggests and start
13 over, could you write a better rule if -- I mean,
14 working with Staff write a better rule than what
15 has been proposed?

16 MR. HAGAR: Well, I think you can always
17 do something better, you know, whether it's -- you
18 know, I -- I would reject the -- the idea that this
19 has been three and a half, four years of wasted
20 time.

21 You know, there's been a lot of people
22 from border to border in this state that have been
23 involved with this and been consulted with this.
24 And -- and I can tell you that of all the people
25 that I talked to and so forth, I -- there's one

1 retailer -- and -- and I've known him for a long
2 time because we were competitors for 27 years, and
3 that was Mr. Myers, that -- that objects to this.

4 The rest feel that it's -- it's something
5 that they -- they understand the trade-off,
6 basically, of getting a one to two-year versus a
7 five-year. You know, that's important to the
8 majority.

9 JUDGE WOODRUFF: Can you explain what you
10 mean by the one year compared to the five year?

11 MR. HAGAR: In -- in the past, years ago,
12 we -- we basically had no limit on the number of
13 years that would transpire that a consumer could
14 file a complaint with the Public Service
15 Commission, and they would send an Inspector out.

16 A long time ago when I started in -- in
17 retail in 1980, we had a much more consumer --
18 almost like an advocacy type of thing out of the
19 PSC. They worked with us much closer as -- as
20 retailers.

21 They would, you know, go out and talk to
22 the customer and -- and so forth and say, Look, you
23 know -- I remember one gentleman, he told them that
24 you have to leave your smoke detector connected in
25 order for it to -- to work because he was

1 complaining that his smoke detector didn't work.

2 Well, then he said but he didn't like the
3 chirping noise that -- that it made from time to
4 time. Well, I mean, those kinds of things. You
5 know, it takes you out of the office. It can take
6 you a hundred miles away and so forth.

7 Well, that was eventually reduced. I had
8 -- and I'm sure Ronnie would attest to this. In
9 all my years, I don't think I had a handful of
10 consumer complaints --

11 MR. MANN: I would agree.

12 MR. HAGAR: -- with the -- with the Public
13 Service Commission. But one of those was on a
14 house that was ten years old. I did not feel that
15 I should have to warrant something ten years old
16 because the customer didn't want to paint their
17 house.

18 It was a hard board sided house, and they
19 didn't want to paint it. Well, by the time
20 everything was said and done and bringing the
21 10-year-old home up to current standards and
22 blocking and anchoring and skirting and so forth
23 and so forth -- this was in the young Myer days and
24 so forth -- we end up spending about \$3500 on a
25 house that ten years prior had -- had sold brand

1 new for probably 24.

2 Then several years ago, it got reduced to
3 five years. Then there was a lot of discussion
4 when I took this job. In looking at that and
5 trying to figure out is that reasonable, should a
6 retailer be expected to respond or be liable for --
7 I'm not saying you're still not liable. You're
8 still liable in a civil -- in a civil case if a
9 customer decided to sue you, but from a standpoint
10 of -- of responding to a consumer complaint.

11 And so initially, I -- I was saying, Look,
12 I think it should be three years, or it should be
13 one year because that's what the typical warranty
14 is. Well, there's some manufacturers that produce
15 a two-year or whatever warranty. But most of them
16 are one year.

17 And, you know, going from five to all of a
18 sudden to one, you know, that was a starting point.
19 And we talked and we discussed and -- and -- and --
20 and I requested that the previous Manager and
21 myself go out and actually visit dealers and talk
22 to them and see what they felt about this.

23 Was it something they wanted? Did they
24 want it, too, you know, trade that because the PSC
25 was not willing to just say, We'll go from five to

1 one. They -- they wanted something else.

2 And the something else was the property
3 locator. Now, when we -- we look at Missouri and
4 -- as I did at the time and -- and others did and
5 our Board did and so forth who also supported these
6 changes, were a matter of where do we go? You
7 know, how --how much do we want to give up?
8 How much -- you know, how much paperwork is it
9 going to be a problem? What are these fines? You
10 know, what is this? What is that?

11 Well, the bottom line became, then, okay,
12 the Public Service Commission during the first year
13 can do an inspection on the home, unsolicited field
14 inspection.

15 In turn, the consumer, if they filed a
16 complaint within a two-year period of time that the
17 Public Service would respond to that.

18 Now, originally, we had discussions in
19 reference to if the Public Service Commission did
20 an inspection in the first year, should there be a
21 further inspection the second year in the event of
22 a consumer complaint?

23 And I think that was kind of more or less
24 rejected during -- during the discussions in
25 basically saying the Public Service Commission will

1 have an engineer from the date of delivery or sale
2 to respond and do a -- just walk out on a site and
3 do a field inspection.

4 Could be before the houses is completed.
5 Could be, you know, during the installation
6 process, whatever. Then they would have up to two
7 years be to respond to a consumer complaint.

8 After that, they would not accept a -- a
9 complaint from a consumer at that point. Did that
10 answer that?

11 JUDGE WOODRUFF: Yeah.

12 MR. HAGAR: So, you know, it was -- in the
13 eyes of the -- of the -- again, I say the majority
14 of the folks -- overwhelming majority of the folks
15 s, they found that acceptable, that that was a good
16 -- a good thing for them.

17 Now, whether that's a good thing for
18 everyone, you know, is it something that -- you
19 know, I'm not one that is so inflexible as -- as we
20 see in Washington that there's no compromise or --
21 or whatever, you know, available on these issues.

22 But it's been four years. And we went
23 through this, and we've debated it, and we've
24 talked about it. Can it be improved? I'm sure it
25 can. I'm sure.

1 But if we're going to end up going -- just
2 delaying and going back to where we are now, I
3 think that's a waste of time and effort.

4 JUDGE WOODRUFF: Okay.

5 MR. HAGAR: The other -- and let me make
6 one other comment. You know, compared to our
7 border states and so forth, you know, we have some
8 that have nothing.

9 I mean -- and this isn't anything new.
10 Everybody knows this, you know, that don't do any
11 inspections, ignore the Federal mandate on HUD
12 houses, don't really pay attention to mods. And we
13 have others that go the other way that have up to
14 seven different inspections.

15 You talk to the folks in Wisconsin, it's
16 off the charts. The State of Minnesota, same
17 thing. You get into the State of Illinois, depends
18 on where it is. You know, some of the cities,
19 you've got inspection, inspection, inspection.

20 Others, you have -- you know, you have to
21 have an occupational -- occupational inspection
22 before you can occupy the home. You have to have
23 one done by the State. You have to have one done
24 locally and so forth.

25 We have 75 percent of our counties in the

1 State of Missouri do not have building codes. They
2 do not have inspections of any sort. The -- what
3 they have out of manufactured housing side and --
4 and that's where a lot of people felt that it
5 should go to the one -- the one year was because
6 the manufactured housing -- and I would agree on
7 that point with -- with Mr. Myers is we are the
8 most over-regulated housing industry -- you know,
9 form of housing in the country.

10 We're -- with -- with probably one of the
11 worst images as -- as an industry. And -- and
12 that's a very sad situation. You know, we have a
13 lot of really, really good houses. We have a lot
14 of really good retailers, builders and so forth.

15 To me, personally, I've been in this
16 industry since 1974. I've worked on the insurance
17 side. I've worked on the lending side. I spent 27
18 years as a retailer. I've been in this job for a
19 little over six and a half years.

20 You know, I feel that -- that this goes
21 above and beyond what I would like to see
22 personally just on my own -- my own experience.
23 Okay? But for the majority, I think it -- it's a
24 good thing. I think it works. It limits the
25 liability for them and so forth as a whole.

1 Having -- and having seen so many friends
2 and people that I know in the industry that have
3 gone through such difficult times since 2000 --
4 basically in our industry, 2001, 2002, and
5 particularly 2007 to the present, it's -- it's --
6 it's heart wrenching.

7 I mean, it's just -- the people that have
8 lost their business, the ghost towns and so forth
9 that I see when I drive through these towns and so
10 forth, and they're not there anymore and so forth,
11 you know, they -- you know, they need help. They
12 don't need any more regulation.

13 They don't need, you know, this, that or
14 whatever. But at the same time, you know, we have
15 a basic difference of opinion. What is the big
16 deal? The Public Service Commission could come in
17 and do a hundred percent inspections today if they
18 wanted to. They can do 10 percent. They can do
19 20. They can do 30. But they also do mods. They
20 also do commercial, so forth. I understand that.

21 You know, staffing and as to forth, I --
22 I'm not here to debate that. But when -- when you
23 look at the -- the industry overall, you know,
24 yeah, people need relief.

25 Some of these things, that's why I think

1 -- thought it should have some flexibility when I
2 say this latest revision, and I still do. And --
3 and maybe even more.

4 You know, that's -- it's just -- I think
5 that's because of the times, you know, that we're
6 dealing with.

7 The industry has gone from 8,000 units
8 being shipped into this state in 19 -- in 2002,
9 2000 -- 2002/2003 period to last year, we did just
10 over 700. Pretty substantial. And we're hopefully
11 working our way back.

12 JUDGE WOODRUFF: Mr. Myers, you wanted to
13 be recognized again?

14 MR. MYERS: Yes. I admire Mr. Hagar, who
15 is a friend and a competitor of mine. But I would
16 like to point out that he represents -- any time
17 you ask a person a question, it's taken a great
18 deal of time, and I had to get angry to even read
19 this stuff because I normally -- you know, I -- you
20 know, I'm just your typical employee.

21 You know, you've got this. Okay. The
22 Association's taking care of it. Our Association
23 does not represent the majority of the registered
24 dealers in the state. Okay? We don't represent a
25 majority of the registered manufactured or modular

1 home dealers.

2 So there is other people involved besides
3 them. And the -- the question is do we really need
4 between a Government entity and ourselves as an
5 industry -- why do we not work out a solution to
6 our problems without let's make a deal?

7 Our industry perceives it's a problem,
8 unlike I do. I don't -- I don't think the State
9 ever had the authority to go to five years or
10 lifetime. But, you know, if you're not going to
11 sue them, just live with it.

12 And I don't know what you did in other
13 hearings. But if I were analyzing this and wanting
14 to know what was going on and one of the things I
15 was attempting to collect was the data on this
16 particular issue, which then I got a thousand
17 dollar bill for wanting it, how many complaints did
18 we have that were related to that two to -- two to
19 five-year deal?

20 It's obvious to me, the State is not going
21 to -- and we've never asked them to as an industry
22 walk off on the consumers. We used to have the
23 State, our customers -- because, at that time,
24 there was a lot of -- lot more cosmetic repairs.

25 We used to have, if we could not get the

1 consumer in -- in line to where we agreed on what
2 was right, we would have the consumer turn us in to
3 the State, and the State would come out and say,
4 Well, Darrell, you need to do this, this, this,
5 this.

6 And Mr. Consumer, you're not -- that's not
7 right. Worked -- it was a great, I mean, because
8 the consumer got protected and the dealer got
9 protected. We had a way.

10 Somewhere down the road, it became it's
11 going to take four years between talks from our
12 Executive Director and Staff and Laurie and all
13 that to work out what is a five-page deal. Okay?

14 And that is sad. And to trade off what is
15 good and what the State agrees with, I mean, the
16 State has already said because they've given up so
17 that we can have all this other stuff, which we
18 don't need, is sad.

19 If the State and staff have a problem,
20 let's figure out how we can do it without
21 penalizing the dealers that are in existence. Or
22 maybe there's nothing we can do about it. You
23 know, maybe there isn't anything we can do about
24 bad business people.

25 You know, the people that the State

1 haven't been able to control and -- and you can
2 write any law and put it in any books, okay, and
3 those people are not going to be controlled by
4 this. Okay? They will do what they want. They
5 will run their course. They will either be too
6 rich for you guys to touch or they'll go out of
7 business.

8 If you find them -- you have people out
9 there selling houses that don't have even have a
10 dealership. How -- how does this matter to them?
11 It only matters to the people that are viable.

12 We have gotten too far away from
13 cooperation and common sense into splitting hairs
14 and reading statutes and having unlimited meetings.

15 The State Association was focused totally
16 on doing away with the five-year deal. That's one
17 of Mr. Hagar's goals. That's his goal because
18 that's the direction of his Board of Directors.

19 That doesn't make the rest of it right.
20 And it doesn't make the State holding that
21 particular application, which, obviously, I wish I
22 had a number on that, how many people did complain
23 two to five years over the last whatever, you know.

24 There are some consumer advocates that
25 said, You can't trade that two consumers away in

1 the whole state. But let me assure you that, you
2 know, that problem is going to solve itself because
3 we haven't sold enough houses in the last five
4 years to be a big issue.

5 But we shouldn't be passing stuff just
6 because they worked at it for four years and
7 finally came down to this. And I'm -- and I'm not
8 trying to bad-mouth you. And -- and they get
9 sand-bagged when they walk into a hearing. Okay?

10 It's just the way we operate. It's the
11 way we've been operating. And we've had a long --
12 I had a nice discussion with them. I've discussed
13 it with Ronnie Mann.

14 There's so many things that the Staff
15 could work upon without implementing this. They
16 could work on a better program for training my
17 people. Okay?

18 When you go out on a site and I've got a
19 trained inspector, I mean, working for me and he
20 doesn't know that there's supposed to be a chip --
21 there's a chip out of the block and this time, it's
22 failed, and the next time, it might not be. Okay?

23 Those things can be corrected with work --
24 with Staff with what you have now. We can make it
25 so much better for the consumer by delivering a

1 better product. We can train our people. We can
2 make it cost effective. So I'd like to have
3 everyone that works for me go through a training
4 session with the PSC.

5 Can't afford it. It takes me 12
6 eight-hour days to send them off to a training
7 session. That means I've got to pay them. I -- it
8 costs me \$150 to attend the class for every one of
9 them.

10 But those are the things that PSC could
11 work on to improve our relationships and give the
12 consumers -- it's all about the consumers. If we
13 can deliver the product jointly that the consumers
14 deserve and get it to them in the proper fashion,
15 our business will grow. Okay?

16 If we're spending four years to pass
17 needed legislation or rules, my goodness, you know,
18 what if we need one of these things? You know, I
19 object to all of this, so, obviously, I didn't like
20 any of them.

21 What if we need -- what if the PSC really
22 needed our help on these to help them out? We've
23 got to, as an industry, work closer together and
24 realize that we all have a little bit different
25 agenda and compromise.

1 What's happened over the last few years
2 ending with our last Executive Director being a
3 perfect -- excuse me -- Manager, being a perfect
4 example of arrogance, we have grown apart.

5 We're no longer working for the good of
6 the consumers in the State together. The fact that
7 we talked for four years on this is ridiculous. It
8 -- it shouldn't have taken that long.

9 And shame on you and shame on -- excuse me
10 -- he's not here. They're not here. I'm sorry.
11 Shame on here that it took four years to come up
12 with this.

13 JUDGE WOODRUFF: All right. Thank you.
14 Mr. Mann, you've been mentioned several times.
15 Could you identify yourself for the record?

16 MR. MANN: Ronnie Mann, Senior Inspector.

17 JUDGE WOODRUFF: For the --

18 MR. MANN: Public Service Commission,
19 Manufactured Housing.

20 JUDGE WOODRUFF: I'll turn now to Staff.
21 What would you like to tell us?

22 MS. DIETRICH: First, I'd like to clarify
23 a couple things for the record. And since
24 Mr. Myers and Mr. Hagar aren't used to Commission
25 procedures, What was submitted last week was

1 Staff's suggested changes to the rule.

2 And nothing's been changed formally. It's
3 just for the Commission's consideration. It's just
4 like the comments today are for the Commission's
5 consideration.

6 The other thing I'd like to clarify is the
7 Locator Form, the private customer information, the
8 Commission and its Staff is subject to a statute
9 that specifically prohibits us from releasing
10 information. And I believe it's a misdemeanor if
11 we do.

12 So I just wanted to clarify both of those,
13 that we do -- we are held to a standard that
14 perhaps some other State agencies are not held to.

15 As far as the changing of the may for a
16 shall on the reports and the fees and that type of
17 thing, again, we're not looking at going after and
18 punishing people.

19 We were just trying to -- we're trying to
20 provide uniformity and provide a way so that the
21 Director or the Manager does not have to sit there
22 and say, I like this person, but I don't like this
23 person. Or I should say being accused of saying, I
24 like this person, and, I don't like this person.
25 And that's why you have the may. So we're trying

1 to make it a more formal process. We don't
2 anticipate that the dealers would have to come in
3 and go before the Commission.

4 It would just be an internal process where
5 if -- if we feel that there is a legitimate reason
6 why the report was late or, you know, whatever the
7 case might be and the fees should not be charged,
8 should not be charged, it would be a Staff
9 procedure where we would go to the Commission and
10 say we don't think it should be charged in this
11 case, and then the Commission would say yes or no.

12 the -- the other thing I would like to
13 point out, you know, there have been a lot of
14 comments about the rule-making process, Staff
15 processes, previous Directors and that type of
16 thing.

17 We are looking at all our internal
18 processes. We're looking at notifications to the
19 industry. And we have talked about that there
20 should be much more in the way of notification when
21 -- for instance, when a form changes.

22 We are looking at the training program and
23 if we need to improve it. So we are looking at all
24 of that. So I think that's all that I would like
25 to respond to.

1 As far as were the paperwork and what the
2 Inspectors need and the seal and how it's used, I
3 would defer to either Blake Eastwood, who is the
4 Manufactured Manager of the Manufactured Housing
5 Unit, or Ronnie Mann, who is the Senior Inspector
6 and let them provide input on those two items.

7 JUDGE WOODRUFF: Okay. Mr. Eastwood?

8 MR. EASTWOOD: Yes. With the Property
9 Locator Form, the intent behind that is actually to
10 assist the inspectors in the scheduling of their
11 inspections.

12 Each inspection -- each inspector carries
13 roughly 25 to 35 counties in their territory. So
14 whenever we're scheduling these routes, it's based
15 off where the homes are located. And the more --
16 the quicker that we can get those locators out, the
17 more efficient we can be in our routes that we
18 plan.

19 And with that, with one of Darrell's
20 concerns about the training, we're revamping our
21 training. And part of this Property Locator is we
22 want to be there to where we don't have to schedule
23 with the consumer. We're more or less scheduling
24 to be there while the installation is being
25 completed.

1 And when that happens, we coach that
2 installer up, and there won't necessarily have to
3 be times that have to be directed after the
4 inspector leaves. It will be items that can be
5 identified while that installer is on site
6 providing extra training and so on with that.

7 Other problems. With the -- with the
8 paperwork, on the late fees, our software does not
9 have an ability to say that, you know, we've --
10 we've given them these many breaks, and we've made
11 these exceptions.

12 So we felt that by changing the language,
13 we were more uniform across the board in us not
14 playing favorites.

15 And with the seal inside the home, I'd
16 like to clarify, that's actually a decal and a
17 decal sign-off sheet. And what that includes, as
18 Darrell was saying, is an installer's license
19 number that goes on the portion of work that they
20 did. And all that is identified on that report.

21 And what else? I think that's it. If
22 Ronnie has anything to add to that --

23 MR. MANN: Yes. I guess we've talked a
24 lot about inspections and -- and the ability to do
25 those inspections and the need for them. The

1 five-year versus two-year or whatever.

2 I think I would like to include just a --
3 a comment here to say that a lot of this all came
4 about -- the Public Service Commission is the State
5 administrative agency for HUD. We have an
6 agreement with HUD.

7 And in doing that, in the -- in the year
8 2000 there was the Manufactured Housing Act that
9 was passed. And in this State, Senate Bill 96 was
10 passed to accommodate that Manufactured Housing
11 Act.

12 And in that Senate Bill 96, we also
13 included the licensing of installers. That was one
14 of the provisions of the -- of the Act. And at
15 that time, we had to come up with a training
16 program.

17 A lot of these things that are covered in
18 this rule probably are a reflection from those days
19 of how that can be brought to the consumer and to
20 the industry better -- in a better way.

21 And then in regard to the inspections,
22 I've -- I will say this, that as the training with
23 the installers improves, the complaints go down.

24 With the two-year versus five-year, the --
25 the folks involved felt that that needed -- there

1 needed to be the need for those inspections to be
2 done promptly to see that those things were -- were
3 in compliance.

4 And in order to do that, the Property
5 Locator -- many of these other things that come
6 into play are -- are a direct result of that.

7 So, actually, this rule change has a lot
8 of benefits. And from the inspection process, it
9 would simplify it and streamline that process a
10 lot, I believe.

11 JUDGE WOODRUFF: Okay.

12 MR. EASTWOOD: To add on to what Ronnie
13 was saying, in addition to the fees for the dealer
14 monthly reports and installer monthly reports, part
15 of our funding is for certain reporting data that
16 we pass on to a third party.

17 And without having those forms in a timely
18 fashion, that report is inaccurate. So we're
19 trying to increase the effectiveness and efficiency
20 of the Department's reporting data by doing that.

21 JUDGE WOODRUFF: Okay. Anything else?

22 Well, then let me explain what the next step of the
23 process is. And this is all mandated by statute.
24 We have very little discretion in it.

25 From today's date, I have 59 days --

1 actually, the Commission has 59 days to consider
2 this to decide whether they want to go forward with
3 the rule or if they want to make any other changes
4 in the rule.

5 Within that 59 days, the Commission has to
6 issue a final order of rule-making if -- assuming
7 they want to go forward with the rule.

8 And in that order of rule-making, then I
9 -- I would write a response to all of the comments
10 that were written -- the written comments that
11 Staff supplied last week as well as the comments
12 that were made here today.

13 So whatever the Commission decides to do,
14 we'll explain it. Then it has to go to joint
15 Committee on Administrative Rules and has to sit
16 there for 30 days while the Joint Committee on
17 Administrative Rules decides whether they want to
18 take any action regarding the rule.

19 Thereafter, then it's filed with the
20 Secretary of State as the Final Order of
21 RuleRulemaking. And it would be published in the
22 Missouri Register at that point.

23 And 30 days after it's published, then it
24 would take effect as a rule of the Commission. So
25 that's the -- this is really just the start of the

1 process. And we'll go from there.

2 So at this point, then, the comment
3 hearing is adjourned. And I thank you all for
4 being here today. Thank you.

5 (The proceedings were concluded at 11:20 a.m. on
6 October 25, 2013.)

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1 REPORTER'S CERTIFICATE

2

3 STATE OF MISSOURI)

4) ss.

5 COUNTY OF OSAGE)

6

7 I, Monnie S. Mealy, Certified Shorthand Reporter,
8 Certified Court Reporter #0538, and Registered Professional
9 Reporter, within and for the State of Missouri, do hereby
10 certify that I was personally present at the proceedings as
11 set forth in the caption sheet hereof; that I then and there
12 took down in stenotype the proceedings had at said time and
13 was thereafter transcribed by me, and is fully and accurately
14 set forth in the preceding pages.

15

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