

Gerald and Joanne Reiersen,)
)
)
 Complainants,)
)
)
 v.)
)
) **Case No. SC-2005-0083**
 Kenneth Jaeger and)
 Blue Lagoon Sewer Corp.,)
)
)
 Respondents.)

COMES NOW the Staff of the Missouri Public Service Commission and, for its Response to Respondents' Motion for Continuance, states to the Missouri Public Service Commission as follows.

This case was originally scheduled for an evidentiary hearing to be held on April 26, 2007. On April 18, 2007, the Commission granted Respondents' motion for a continuance of that hearing date, because Respondents' counsel had a conflict and was not able to attend a hearing on April 26. The Commission continued the evidentiary hearing to May 18, 2007.

In its Motion for Continuance, Respondents refer to proceedings in Ralls County Circuit Court Case No. CV805-12CC (“the Ralls County Case”). The documents on file in that case are

not part of the Commission's file in the instant case, however, and Respondents have not provided either the Staff or the Commission with copies of the pleadings or other documents filed in the Ralls County Case. Respondents' statements about the Ralls County Case are not verified or otherwise substantiated, and the Staff and the Commission can only speculate about what the issues are in the Ralls County Case, or whether they will be resolved, and if so, when, and about how the issues might be resolved. Furthermore, the Commission has no way to know whether the issues in the Ralls County Case are the same as, or similar to, the issues in the instant case.

Respondents also claimed in their Motion for Continuance that proceeding with the hearing in this case would violate their due process rights and subject them to double jeopardy. As noted in the preceding paragraph, there is no way for the Commission to even determine whether the issues in the instant case are similar to the issues in the Ralls County Case. But even if they are similar, that does not support a finding of double jeopardy, which only applies when a person is twice subjected to prosecution for the same criminal offense. The instant case is not a criminal proceeding, and the Staff believes that the Ralls County Case is not a criminal proceeding, either. Respondents have not explained how the hearing in this case would violate their due process rights. Furthermore, they have not cited any cases in support of their arguments regarding due process and double jeopardy.

The Staff agrees with Respondents statement that the interests of the Complainants would best be served by the transfer of the subject sewer system to a responsible provider. That has been the Staff's goal ever since these cases were filed more than two-and-one-half years ago, and still there is no clear indication that such a transfer is imminent. The Staff believes that too much

time has already elapsed in the resolution of this case, and that the interests of justice will best be served by proceeding to a hearing as promptly as possible.

With respect to Paragraph 5 of Respondents' Motion, the Staff notes that "the Commission" did not file a response to its own order. Rather, *the Staff* filed the pleading setting forth its position on the issues in this case. Furthermore, Respondents' statements in Paragraph 5 do not accurately summarize the Staff's position on these issues.

Finally, the Staff states, on information and belief, that Gerald Reiersen, one of the Complainants herein, will be leaving the State of Missouri on May 19, 2007, and that if the hearing is continued, Mr. Reiersen may not be able to attend a rescheduled hearing on this matter before September 2007. The hearing in this case has been too long delayed, and the Commission should overrule the Respondents' Motion for Continuance.

WHEREFORE, the Staff prays that the Commission overrule Respondents' Motion for Continuance and proceed with the evidentiary hearing in this case on May 18, 2007, as presently scheduled.

Respectfully submitted,

/s/ **Keith R. Krueger**

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)
keith.krueger@psc.mo.gov

Certificate of Service

I hereby certify that copies of this Motion have been mailed with first-class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 14th day of May 2007.

/s/ Keith R. Krueger