

RECEIVERSHIPS FOR SMALL WATER AND SEWER COMPANIES

March 12, 2008

Governor Office Building, Room 130

Presented by Keith Krueger, Missouri Public Service Commission

WORKSHOP OUTLINE

- I. **Overview** 10:00 – 10:10
 - A. **Governing Law**
 - Section 393.145, RSMo.
 - No case law
 - Seldom used until recent years
 - Now favored by commissioners
 - B. **Companies Eligible for Receivership**
 - Subsection 1 of statute
 - Applies to water and sewer companies only
 - No more than 8000 customers
 - C. **Authority of the Receiver**
 - Subsection 6 of the statute
 - Operate utility, preserve assets, serve best interest of customers
 - “Steps into the shoes” of the owners to manage the company
 - Ownership does not change; only management
 - But receiver may be authorized to liquidate assets

- II. **Appointment of the Receiver** 10:10 – 10:20
 - A. **Grounds**
 - Subsection 1 of the statute
 - Unable or unwilling to provide safe and adequate service
 - Actually or effectively abandoned by the owners
 - Defaulted on a financial obligation
 - B. **Procedure**
 - Commission determination
 - Right to a hearing
 - Standard of proof
 - Time required to process case before Commission
 - Petition to circuit court
 - Venue
 - Trial de novo
 - C. **Time required to process case**
 - Impossible to predict; can be very brief or very protracted

- D. Appointment of an interim receiver**
 - Subsection 2 of the statute
 - Authority and qualifications
 - Duration of appointment
 - History of this legislation

- III. Administration of the Receivership Estate** 10:20 – 10:30
 - Subsection 6 of the statute
 - Bond required
 - Preserve assets; protect customers
 - Operation of the business
 - Litigation
 - Compensation
 - Immunity from personal liability
 - Return control to the owners
 - Authorization to sell or liquidate assets
 - Approval of the sale contract

- IV. Compensation of the Receiver** 10:30 – 10:35
 - Permanent receiver
 - Amount to be determined by the court
 - Interim receiver
 - Amount to be determined by the Commission
 - Availability of funds to pay receiver

- V. When to Seek Receivership** 10:35 – 10:45
 - Need for an exit strategy
 - Can the company be rehabilitated?
 - Is there a potential buyer of the assets?
 - Identify qualified receiver
 - Subsection 5 of the statute
 - Qualifications
 - Lawyer, engineer, technician, customer
 - Qualifications of interim receiver are not specified

- VI. Case Studies** 10:45 – 11:30
 - A. Warren County Water and Sewer Company**
 - B. Osage Water Company**
 - C. Hickory Hills**
 - D. Missouri Utilities**
 - E. Rogue Creek Utilities**
 - F. Cases where receivership was not pursued**

- VII. 'Voluntary' Receiverships** 11:30 – 11:35

Statutes make no reference to this
Receiver must still be appointed by court
But owners may consent to their appointment
Rogue Creek

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| VIII. Alternative to Receivership | 11:35 – 11:45 |
| Stoddard County Sewer Company
Blue Lagoon
Section 393.146, RSMo | |
| IX. Strategic Decisions | 11:45 – 11:50 |
| “Trial” at Commission level or circuit court level
Will owners resist? Why or why not? | |
| X. Questions and Discussion | 11:50 – 12:00 |