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**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 22nd  
day of December, 1998.

Leona C. Welch,	)	
	)	
Complainant,	)	
	)	
v.	)	<u>Case No. SC-98-331</u>
	)	
Capital Utilities, Inc.	)	
	)	
Respondent.	)	

**ORDER DIRECTING SUPPLEMENTAL STAFF INVESTIGATION**

On February 4, 1998, Leona C. Welch (Complainant), filed a formal complaint with the Commission alleging that Capital Utilities, Inc., (Company) was negligent in maintaining its sewer lines and failed to respond in an efficient or timely fashion to a system backup which flooded Complainant's basement with sewage on Christmas Eve (December 24) 1997.

Company filed a response on March 9, 1998. A Staff investigation was ordered on November 12, 1998. On December 14, 1998, Staff filed a memorandum that stated that it had interviewed representatives of the Company and inspected the sewer. Staff concluded that: (1) the Commission is without power to declare that Company was negligent, (2) the company did not improperly maintain the sewer system, (3) the company's two-hour response time was reasonable, and (4) the construction behind the Complainant's house probably did not lead to the blockage.

The Commission has reviewed the filings in this case and the memorandum filed by Staff. It is true that the Commission is without power to declare the Company "negligent" in the legal sense of the word; however, the Commission is charged with overseeing the safe operations of all utilities. Section 386.310.1, RSMo states:

The commission shall have power, . . . upon complaint, . . . to require every . . . public utility to maintain and operate its line, plant, system, equipment, apparatus, and premises in such manner as to promote and safeguard the health and safety of its employees, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety and other devices or appliances, . . . and to require the performance of any other act which the health or safety of its employees, customers or the public may demand . . . .

The Complainant is a lay person representing herself before the Commission. It is not necessary and is indeed unfair to construe Complainant's request for the Commission to find the Company "negligent" as meaning that she was asking for a declaratory judgment. A plain reading of the complaint clearly reveals an intent on Complainant's part to ask the Commission to review the Company's maintenance of its sewer lines and response to the emergency.

Complainant states that the personnel representing the Company were unhelpful and complacent during the emergency. Complainant alleges that it took over one hour for the Company to call her back. Complainant further alleges that after the Company's owner finally arrived, it was over another hour before they began to clear the blockage.

Staff states that in its opinion, two hours is not an unreasonable amount of time to respond to a blockage. Staff indicates

that the Company's position is that if Complainant had called Company when Complainant first noticed her slow drains, the backup may not have happened at all. Staff did not interview the Complainant when conducting its investigation; therefore, it is not known whether Complainant has any further relevant information regarding the Company's handling of this matter or residual problems.

The Complainant is entitled to an impartial examination of her complaint. Union Elec. Co. v. Public Service Commission, 591 S.W.2d 134, (Mo. App. W.D. 1979). The Commission is not willing to simply dismiss this complaint without affording Complainant the same opportunity as the Company to contribute to the investigation. The Commission finds that the Staff should conduct a supplemental investigation into this complaint. Specifically, the Staff should interview the Complainant and her husband to determine if their version of events corroborates the Company's. Staff should then venture an opinion, in view of the entire investigation, whether the Company's emergency response was efficient and adequate. Staff shall file a memorandum setting out the results of the supplemental investigation.

**IT IS THEREFORE ORDERED:**

1. That the Staff of the Commission shall conduct a supplemental investigation of the complaint and file a memorandum report of its findings no later than January 15, 1999.

2. That this order shall become effective on December 22, 1998.

BY THE COMMISSION

*Dale Hardy Roberts*

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

( S E A L )

Lumpe, Ch., Crumpton, Murray  
and Schemenauer, CC., concur.  
Drainer, C., absent.

Gandhi, regulatory Law Judge

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COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION