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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 4th
day of December, 1997.

M. JoEllen Bell,
Complainant,

v.

Stoddard County Sewer Company,
Respondent.

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Case No. SC-97-354

Steve and Bonnie Jones,
Complainants,

v.

Stoddard County Sewer Company,
Respondent.

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Case No. SC-97-375

Henry Avery,
Complainant,

v.

Stoddard County Sewer Company,
Respondent.

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Case No. SC-97-387

Earl Northington,
Complainant,

v.

Stoddard County Sewer Company,
Respondent.

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Case No. SC-97-413

Billy and Brenda McClain,)	
Complainants,)	
)	
v.)	<u>Case No. SC-97-423</u>
)	
Stoddard County Sewer Company,)	
Respondent.)	

John A. Duley,)	
Complainant,)	
)	
v.)	<u>Case No. SC-97-466</u>
)	
Stoddard County Sewer Company,)	
Respondent.)	

ORDER REGARDING COMPLAINTS

M. JoEllen Bell filed a complaint against Stoddard County Sewer Company (Respondent or Company) on February 28, 1997. Ms. Bell requested the Commission to prevent Respondent from disconnecting service so that the issue of back payments could be resolved. Ms. Bell alleges that on February 4, 1997, Respondent requested \$5,973.60 from her in back payments on seven rental houses which accrued over the past ten years. Ms. Bell alleges that the attempt to collect was untimely and that the amounts were owed by the tenants. Ms. Bell stated in the complaint that she reluctantly agreed to a six-month payment plan so that the Company would not cut the sewer lines on March 6.

Steve and Bonnie Jones filed a complaint against Respondent on March 11. The Jones requested that the Commission investigate Respondent and issue a decision concerning amounts owed to Respondent. The Jones alleged that Respondent refused to provide them with coupon books and that on January 22, 1997, Respondent improperly demanded \$1,083.00 for eight years of past due amounts.

Henry Avery filed a complaint against Respondent on March 17, 1997. Mr. Avery requests that the Commission determine the correct amount he owes to Respondent. Mr. Avery alleges Respondent demanded \$2,497.96 for a promissory note and \$1,382.00 for a user fee; however, Respondent stated he would settle for payment of the user fee. Mr. Avery alleges he was not provided a payment book as requested.

Earl Northington filed a complaint on March 25 against Respondent alleging that Respondent seeks \$969.00 for six years of past due payments despite the fact that Respondent did not provide a coupon book to Mr. Northington. Mr. Northington requests that he be allowed to make payments on the balance without having his service disconnected.

Billy and Brenda McClain filed their complaint against Respondent on March 28, 1997. The McClains allege that after they paid hook-up charges plus an additional \$900 in 1978, Respondent informed them that no further payments would be needed. The McClains allege Respondent should not be allowed to collect additional amounts.

John Duley filed his complaint on April 22, 1997, which stated that Respondent demanded payment for services rendered prior to April 5, 1989, when Mr. Duly purchased the property, and that Respondent demanded payment for the previous owner's promissory note. Mr. Duley asked to be released from billings prior to his purchase of the property and from interest amounts due. Mr. Duly requested that he be allowed to make installment payments on his delinquency without having his sewer service disconnected.

The Commission issued a Notice of Complaint in each case. The Commission also issued an Order Prohibiting Disconnection of Service in Case Nos. SC-97-354, SC-97-387, SC-97-413, SC-97-423 and SC-97-466. The Notice of Complaint was issued pursuant to 4 CSR 240-2.070 and advised the

Company that it had 30 days in which to file an answer stating legal and factual defenses or to describe the measures taken to satisfy the complaints. The Respondent did not file an answer before 30 days passed in any of these cases.

The Commission issued its Order Regarding Default on May 2. The Commission found that pursuant to 4 CSR 240-2.070(9), the Respondent was in default and that the allegations set out in the complaints were deemed to be admitted absent a finding of good cause to the contrary. The Commission directed the Water and Sewer Department Staff (Staff), along with the Office of General Counsel of the Missouri Public Service Commission, to investigate the allegations set forth in the complaint cases and to file a report by May 30 setting out its findings in these cases.

The Commission extended the filing date of the report to June 6. Staff filed its report of investigation on June 6 concerning all the complaint cases. Staff reported that from approximately October of 1988 to October of 1995, the Company did not issue delinquency notices. Mr. Bien sold the stock of the Company in October of 1988; however, the new owners failed to take possession of the Company and foreclosure procedures began. Mr. Bien felt obligated to operate and maintain the system rather than abandon it, and he did not know if he had authority to take action concerning delinquent accounts.

Staff's report stated that Staff met with a customer of the Company who explained that during the Company's foreclosure proceedings, a number of people quit paying their sewer bills and thought they could get away with it. The report stated this customer thought that it would be unfair to him and others who faithfully paid their bills to allow delinquent customers to get by without paying their bills.

Staff reported in Case No. SC-97-354, that Complainant JoEllen Bell had agreed to a six-month informal payment plan for the rental properties with past due amounts. Staff stated it was unclear whether the tenant or the landlord is the real customer. Staff reported that in January of 1997, five of the previously unknown six tenants filed applications for sewer service.

Staff reported the Company correctly calculated past due bills for Complainants Steve and Bonnie Jones in the amount of \$1,083.00 for the period from March of 1989 to February of 1997. The Company offered a \$100.00 per month payment plan, and the Jones did not agree to this plan. Staff concluded that a payment plan is appropriate.

Staff reported that the Company correctly calculated the delinquent balance of Henry Avery at \$1,382.00 through January of 1997 in addition to the promissory note for the CIAC charge with a balance of \$2,381.31 as of February of 1997. Staff recommended a new payment plan.

Staff also reported that the Company correctly calculated the delinquent balance of Earl Northington as \$969.00 through January of 1997. Complainant Northington made payments totaling \$322.80 towards the arrearage in February leaving a balance of \$646.20. Staff concluded that a payment plan for the balance is appropriate.

Billy and Brenda McClain have never made payments for sewer service, according to Staff's report. Staff therefore concludes that the Company's delinquency calculation of \$1,525.94 from December of 1985 through January of 1997 is correct, and that a payment plan is appropriate.

Staff reported the Company made an appropriate correction to John Duley's account for monthly charges after he showed that he did not own the property prior to April of 1989. Therefore, Staff reported a corrected balance due of \$819.40 through March of 1997. Mr Duley informed

Staff he is willing to enter a payment plan for past due monthly charges which have accrued since April of 1989. Staff further reported that Mr. Duley should not be subject to disconnection for non-payment of the previous owner's promissory note for the one-time CIAC charge.

Staff concludes in its report that the problems have arisen because of untimely collection of past due bills and because coupon books were not regularly supplied to customers. The Company informed Staff that coupon books are now regularly mailed to each customer. In addition, at the time of the investigation, the Company agreed not to immediately disconnect delinquent customers. Staff recommended that the Company update its tariff to refine billing rules and practices. Staff did not take a position regarding a time limitation within which the Company must pursue action on delinquent accounts. Staff stated that there is not a Commission rule in effect regarding how far in the past the Company should be allowed to pursue collection of past due bills.

On September 24 the Commission issued an order setting show-cause hearing. The Commission directed Respondent to appear on October 14 with legal counsel to show cause why the Commission should not impose appropriate sanctions or penalties for the Company's failure to respond. The Respondent appeared with legal counsel at the show-cause hearing and informed the Commission that the default occurred because the Company's president assumed that the legal costs for responding to each case would exceed the loss of income from failing to respond and thus losing each case. Respondent agreed to submit answers to the complaint cases no later than October 28. Respondent further agreed to mail a coupon book to each customer in January of each year. Staff asked that in consideration of the Company's resources and viability, the Commission should not impose heavy penalties or sanctions but, if any, perhaps nominal penalties.

On October 23, Respondent filed answers to each of the complaint cases. Respondent stated that the account balances due from Ms. Bell were reduced to reflect the date of the transfer of ownership of the properties to Ms. Bell from her mother, even though the tariff provides that the transfer of property among family members does not eliminate a balance owed. Respondent explained in the answer that under the tariff, the customer making application for service is responsible for payment until the Company is notified in writing that the service is to be transferred or terminated. Respondent therefore believes that unless the property owner orders disconnection of service and is willing to pay a reconnection fee each time the property is rented to a new tenant, then the Company cannot transfer service to a new tenant. Respondent requests that it should be allowed to collect in full for the services provided to the Bell properties.

Respondent stated in its answer to the Complaint filed by the Jones, Mr. Avery, and Mr. Northington, that the Company has always provided coupon books on request. The Company stated in its answers that the account balances are correct and that the Company should be entitled to collect the past due amounts or discontinue their service. The Company stated in its answer to the complaint filed by the McClains that the claims stated in the complaint are fallacious and that the documentation attached to the answer demonstrates the Company's attempts to collect. In response to Mr. Duley's complaint, the Company stated that the Commission should allow the note to stand for past due payments as well as user fees, and if payment is not forthcoming, then the Company should disconnect the service.

The Commission has reviewed the complaints, the report filed by Staff, and the answers filed by the Company. The Commission finds that with respect to Mr. Duley's complaint, Respondent should not be allowed to

collect for promissory notes or unpaid bills of a previous owner of the property. The Commission has determined that a customer cannot be held accountable for the unpaid bills of a previous owner which a utility did not properly collect in accordance with its tariffs. Borgmann v. Imperial Utility Corp., 24 Mo. P.S.C (N.S.) 194, 190 (1981). Therefore, the Company is not entitled to collect from Mr. Duley for non-payment of the previous owner's promissory note for the one-time CIAC charge.

The Commission finds that in all six complaint cases the Company should establish reasonable payment plans so that the customers can pay past due amounts in no more than twelve equal monthly installments. The Commission finds that customers should not be subject to service disconnection as long as they remain current on the payment agreements and on their charges for continuing service. The Commission further finds that the Company should update its tariff to refine billing rules and practices with the assistance of Staff.

IT IS THEREFORE ORDERED:

1. That for Case Nos. SC-97-354, SC-97-375, SC-97-387, SC-97-413, SC-97-423, and SC-97-466 the Stoddard County Sewer Company shall establish payment plans for customers to pay past due amounts in no more than twelve equal monthly installments. The payment plans for these customers shall not include amounts for promissory notes of a previous owner of the property or unpaid bills of a previous owner of the property.
2. That for Case Nos. SC-97-354, SC-97-375, SC-97-387, SC-97-413, SC-97-423, and SC-97-466 the Stoddard County Sewer Company shall not disconnect sewer service for customers as long as customers remain current on the payment agreements and on the charges for continuing service.

3. That the Stoddard County Sewer Company updates its tariff to refine billing rules and practices with the assistance of the Staff of the Commission.

4. That this order shall become effective on December 16, 1997.

BY THE COMMISSION

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Murray,
and Drainer, CC., concur.

G. George, Regulatory Law Judge