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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 12th  
day of November, 1998.

Don Colter & Leona C. Welch,	)	
	)	
Complainants,	)	
	)	
v.	)	<u>CASE NO. SC-98-331</u>
	)	
Capital Utilities, Inc.,	)	
	)	
Respondent.	)	

**ORDER DIRECTING STAFF INVESTIGATION**

On February 4, 1998, a complaint was filed by Leona C. Welch (Complainant) vs. Capital Utilities, Inc. (Capital Utilities or Respondent). On February 6 a Notice of Complaint was issued. In response to that notice Capital Utilities filed its answer on March 9.

It must first be noted that although this case was designated "Don Colter and Leona C. Welch v. Capital Utilities, Inc." the complaint was signed only by Leona C. Welch. Leona C. Welch did not sign this complaint as an attorney and Missouri law forbids a non-attorney to represent any other party. Therefore, the Commission is required to treat this case as a complaint filed solely by Leona C. Welch vs. Capital Utilities, Inc.

In the answer filed by Capital Utilities, it alleges that the incident complained of did not occur at the residences wherein Ms. Welch took service from Capital Utilities in her name. Capital Utilities further asserts that upon arrival to the correct address, the necessary repairs

were made and that there have been no other reported incidents at the address listed in the complaint, to wit: 4001 Greenbriar.

For her relief, the Complainant requests: (1) the Commission find the Company negligent because of improper maintenance; (2) the Commission order the Company to make periodic inspections; and (3) the Commission order the Company to find out if the sewer line has been damaged as a result of massive construction being done directly behind and across from the affected residence.

In response to that prayer, the Company has asserted: (1) that findings of negligence would be in the nature of declaratory judgement proceeding which constitutes an unlawful invasion into the exclusive jurisdiction of the circuit courts of the State of Missouri; (2) as to periodic inspections, Capital Utilities has had no previous difficulties with this line and believes that the line is adequate to perform the functions contemplated; and (3) Capital Utilities states that the construction in the area of 4001 Greenbriar is new construction which is separate from, and not connected to, the sewer lines which serve the residence located at 4001 Greenbriar. Capital Utilities has asserted that the complaint fails to state facts or a cause of action upon which relief can be granted and has moved the Commission to dismiss the complaint. The Complainant has not responded to that motion nor have any other pleadings been filed in this case since the Company filed its answer on March 9, 1998.

Therefore, the Commission will direct its Staff to investigate the facts surrounding the complaint and to file a memorandum herein with respect to the issues enumerated above. During the thirty-day period within which Staff is completing its investigation, the Complainant and Respondent may file further pleadings if necessary.

**IT IS THEREFORE ORDERED:**

1. That the Staff of the Missouri Public Service Commission shall investigate the facts as set out herein and file a memorandum regarding Staff's conclusion of the investigation. Such memorandum shall be filed not later than December 14, 1998.

2. That the Complainant and Respondent may file any additional pleadings on or before December 14, 1998.

3. That this order shall be effective on November 23, 1998.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(S E A L)

Lumpe, Ch., Murray, and  
Drainer, CC., Concur.  
Crumpton, Schemenauer, CC., Absent.

Roberts, Chief Regulatory Law Judge

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COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION