

C SERVICE COMMISSION  
OX 360  
PERSON CITY MO 65102



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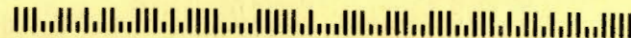
FILED  
June 8, 2015  
Data Center  
Missouri Public  
Service Commission

5-9-15

Ridge Creek Development, L.L.C.  
Legal Department  
20684 Lynwood Road  
Waynesville, MO 65583-4604

NIXIE 655833050-1N 05/30/15

RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD  
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**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

The Office of the Public Counsel,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>File No. WC-2015-0290</u></b>
	)	
Ridge Creek Development, LLC,	)	
Ridge Creek Water Company, LLC,	)	
Mike Stoner, Denise Stoner,	)	
	)	
Respondents.	)	

**ORDER GIVING NOTICE OF CONTESTED CASE, DIRECTING ANSWER  
AND DIRECTING STAFF INVESTIGATION**

Issue Date: May 7, 2015

Effective Date: May 7, 2015

On May 5, 2015, the Office of the Public Counsel ("Complainant") filed a complaint with the Missouri Public Service Commission ("Commission") against Ridge Creek Development, LLC, Ridge Creek Water Company, LLC, Mike Stoner and Denise Stoner ("Respondents"). A copy of the complaint accompanies this notice. This is a contested case<sup>1</sup> pursuant to Section 386.390, RSMo 2000.

The Commission will set a deadline for Respondents to file an answer. In the alternative, the Respondents may file a written request that the complaint be referred to a neutral third-party mediator for voluntary mediation of the complaint. Upon receipt of a request for mediation, the 30-day time period shall be tolled while the Commission ascertains whether or not the Complainant is also willing to submit to voluntary mediation.

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<sup>1</sup> A "[c]ontested case" means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing." Section 536.010.4, RSMo Supp. 2013.



If Complainant agrees to mediation, the time period within which an answer is due shall be suspended pending the resolution of the mediation process. Additional information regarding the mediation process is enclosed. If Complainant declines the opportunity to seek mediation, Respondents will be notified in writing that the tolling has ceased and will also be notified of the date by which an answer or notice of satisfaction must be filed. That period will usually be the remainder of the original 30-day period.

As required by Section 536.067(2)(f), RSMo 2000, the Commission informs the parties that the Commission's provisions governing procedures before the Commission, including provisions relating to discovery, are found at Commission Rule 4 CSR 240-2.090. The Commission will also set a deadline for its Staff to complete an investigation and file a report.

**THE COMMISSION ORDERS THAT:**

1. The Commission's Data Center shall send, by certified mail, a copy of this notice and order and a copy of the complaint to the Respondents.

2. The Respondents shall file an answer to this complaint or request for mediation no later than June 8, 2015, and serve a copy upon the Complainant. All pleadings (the answer, the notice of satisfaction of complaint or request for mediation) shall be mailed to:

Secretary of the Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102-0360

or filed using the Commission's electronic filing and information service.

3. The Staff of the Missouri Public Service Commission shall investigate this complaint and file a report with the Commission no later than July 8, 2015.

4. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Michael Bushmann, Senior Regulatory  
Law Judge by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 7<sup>th</sup> day of May, 2015.

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

The Office of the Public Counsel,           )  
An agency of the State of Missouri,       )  
COMPLAINANT                                       )

v.                                                       )

**Case No. WC-2015-**\_\_\_\_\_

                                                          )  
Ridge Creek Development, LLC,            )  
Ridge Creek Water Company, LLC,         )  
Mike Stoner, Denise Stoner,               )  
A Missouri water corporation,             )  
RESPONDENTS                                   )

**THE OFFICE OF THE PUBLIC COUNSEL’S COMPLAINT**

COMES NOW the Office of the Public Counsel and for its Complaint, pursuant to Section 386.390, RSMo, states as follows:

**INTRODUCTION AND STATEMENT OF JURISDICTION**

1. Complainant, the Office of the Public Counsel, is an agency of the State of Missouri and pursuant to the statutory authority in Sections 386.700 and 386.710, RSMo, represents the public in all proceedings before the Missouri Public Service Commission and on appeal before the courts. The mailing and business address is the Office of the Public Counsel, PO Box 2230, Governor Office Building, 200 Madison Street, Suite 650, Jefferson City, Missouri, 65102. The Office of the Public Counsel is authorized to file complaints against public utilities for the violation, or claimed violation, of any provision of law, or of any rule or order or regulation, or decision of the Missouri Public Service Commission, including the unauthorized rates or charges of any water corporation. Section 386.390, RSMo, and 4 CSR 240-2.070.



2. Respondents, Ridge Creek Development, LLC, and/or Ridge Creek Water Company, LLC, and/or Mike Stoner, and/or Denise Stoner is a water corporation as defined by Section 386.020(59), RSMo.
3. Ridge Creek Development, LLC, is a Missouri limited liability company duly organized and existing under the laws of the State of Missouri with its principal place of business located at 20684 Lynwood Road, Waynesville, MO 65583-4604.
4. Ridge Creek Water Company, LLC is a Missouri limited liability company duly organized and existing under the laws of the State of Missouri with its principal place of business located at 18499 Highway 133, Dixon, Missouri 65459.
5. Mike Stoner and Denise Stoner are husband and wife. Their address is P.O. Box KK, 18499 Highway 133, Dixon, MO 65459. On information and belief, Mike Stoner and Denise Stoner are the owners and members of Respondents Ridge Creek Development, L.L.C and Ridge Creek Water Company, LLC.
6. On information and belief, Respondents Mike Stoner and Denise Stoner formed Ridge Creek Water Company, LLC in 2015 to offer and provide water service to members of the public residing in a geographical area in Pulaski County, Missouri.
7. The Missouri Public Service Commission is a state administrative agency with the power and duty to regulate public utilities, including water corporations under Chapters 386 and 393, RSMo, and has jurisdiction in this complaint case to hear and decide the Office of the Public Counsel's allegations of unauthorized rates or charges of any water corporation. Section 386.250, RSMo, relates to the jurisdiction of the Missouri Public Service Commission over water systems; Section 393.130, RSMo., relates to the requirement for just and reasonable charges for water services; Section 393.140, RSMo, relates to the general powers of the Missouri Public

Service Commission with respect to water services; and Section 393.270, RSMo, provides for notice and hearing and the fixing of prices for water services. The mailing address of the Missouri Public Service Commission is PO Box 360, Governor Office Building, 200 Madison Street, Jefferson City, Missouri, 65102.

8. This Complaint is filed pursuant to Section 386.390, RSMo, and the Missouri Public Service Commission's rule regarding complaint cases, 4 CSR 240-2.070. Section 386.390.1, RSMo., authorizes the Missouri Public Service Commission to hear and determine this complaint:

Complaint may be made by the commission of its own motion, or by the public counsel or any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission . . . .

Missouri Public Service Commission Rule 4 CSR 240-2.070 authorizes the Office of the Public Counsel to file this complaint:

(1) Any person or public utility who feels aggrieved by an alleged violation of any tariff, statute, rule, order, or decision within the commission's jurisdiction may file a complaint. A complaint may also be filed by the commission on its own motion, the commission staff through the staff counsel, or the Office of the Public Counsel.

9. Section 386.570.1, RSMo., provides for a penalty of no less than one hundred dollars (\$100.00) but no more than two thousand dollars (\$2,000.00), per offense, for "[a]ny corporation, person or public utility which violates or fails to comply with any provision of the constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or



any part or provision thereof, of the commission..." Each day that a continuing violation persists is to be counted as a separate offense. Section 386.570.2, RSMo. In the case of a corporate respondent, the acts and omissions of its officers, agents and employees are deemed to be the acts and omissions of the corporation. Section 386.570.3, RSMo. All penalties are cumulative. Section 386.590, RSMo.

10. Any corporation, person or public utility which violates or fails to comply with any provision of the constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the Missouri Public Service Commission in a case in which a penalty has not herein been provided for such corporation, person or public utility, is subject to a penalty of for each offense. Section 386.570.1, RSMo.

## **COUNT I**

### **ALLEGATIONS OF CHARGING FOR WATER SERVICES WITHOUT AN APPROVED TARIFF**

11. The Office of the Public Counsel restates the allegations set forth in paragraphs 1 through and including 10 of its Complaint.

12. Based on its information, knowledge and belief, the Office of the Public Counsel states that Ridge Creek Development, LLC, and/or Ridge Creek Water Company, LLC, and/or Mike Stoner, and/or Denise Stoner has charged and currently charges for water service in the amount of \$33 per month collected quarterly for water service.<sup>1</sup>

13. Section 386.020(60) defines "water system" to include "all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to

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<sup>1</sup> See Case No. WA-2015-0182, April 29, 2015 Local Public Hearing Transcript & Exhibit LPH-2, Electronic Filing Information System (EFIS), Item No. (tbd).



facilitate the diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for municipal, domestic or other beneficial use.”

14. Section 386.020(59), RSMo., defines “water corporation” to include “every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees, or receivers . . . owning, operating, controlling or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water[.]”

15. Pursuant to Section 386.250, RSMo., a water corporation is a public utility and is subject to the jurisdiction, control and regulation of the Missouri Public Service Commission.

16. Missouri courts have held that entities act as public utilities when they sell water services to the public for compensation and have undertaken the responsibility to provide water services to all members of the public within their capability. *Hurricane Deck Holding Co. v. Public Service Commission*, 289 S.W.3d 260, 264-5 (Mo. App., W.D. 2009); *Osage Water Co. v. Miller County Water Authority, Inc.*, 950 S.W.2d 569, 573-5 (Mo. App., S.D. 1997). To do so means the entity has acted as a water corporation and a public utility, as provided by Section 386.020, RSMo.

17. Section 393.130.1, RSMo., states “Every unjust or unreasonable charge made or demanded for gas, electricity, water, sewer or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.”

18. Section 393.140(11), RSMo., also states “No corporation shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such services as specified in its schedules filed and in effect at the time.”

19. The filed rate doctrine precludes a public utility from collecting any rates other than those properly filed with the appropriate regulatory agency. *State ex rel. Associated Natural Gas Co. v. PSC*, 954 S.W.2d 520, 531 (Mo. Ct. App. 1997).

20. Missouri Public Service Commission Rule, 4 CSR 240-3.010 (28) states specifically:

Tariff means a document published by a public utility, and approved by the commission, that sets forth the services offered by that utility and the rates, terms and conditions for the use of those services.

21. Therefore, only a tariff which is approved by the Missouri Public Service Commission may set out the lawful rates for a public utility. Any charge made or demanded by a public utility for gas, electricity, water, sewer or any such service, without a Missouri Public Service Commission approved tariff is statutorily prohibited.

22. Neither Ridge Creek Development, LLC, nor Ridge Creek Water Company, LLC, nor Mike Stoner, nor Denise Stoner have tariffs approved by the Missouri Public Service Commission for rates and charges relating to water service.

23. As a result, Ridge Creek Development, LLC, and/or Ridge Creek Water Company, LLC, and/or Mike Stoner, and/or Denise Stoner has violated, and currently is violating, Missouri statute.

**WHEREFORE**, the Office of the Public Counsel submits its Complaint, pursuant to Section 386.390, RSMo, and Missouri Public Service Commission Rule 4 CSR 240-2.070, and prays that:

24. the Missouri Public Service Commission issue an order to provide the statutory notice of the filing of this Complaint and, thereafter, hold an evidentiary hearing on this Complaint in accordance with Missouri statutes and Missouri Public Service Commission Rules, and;



25. the Missouri Public Service Commission issue an order in favor of the Office of the Public Counsel and against Ridge Creek Development, LLC, and/or Ridge Creek Water Company, LLC, and/or Mike Stoner, and/or Denise Stoner on this Complaint, and;
26. the Missouri Public Service Commission make findings of fact accompanied by conclusions of law that the current charges for water service of Ridge Creek Development, LLC, and/or Ridge Creek Water Company, LLC, and/or Mike Stoner, and/or Denise Stoner are unjust and unreasonable in that these charges are prohibited by Missouri statute, and;
27. the Missouri Public Service Commission issue an order directing Ridge Creek Development, LLC, and/or Ridge Creek Water Company, LLC, and/or Mike Stoner, and/or Denise Stoner to refund any and all unlawful charges for water service, and;
28. the Missouri Public Service Commission issue an order authorizing its General Counsel to seek in Circuit Court any and all penalties allowed by law; and;
29. the Missouri Public Service Commission grant such further and additional relief as it deems appropriate and necessary.

Respectfully submitted,

THE OFFICE OF THE PUBLIC COUNSEL

**/s/ Christina L. Baker**

By: \_\_\_\_\_  
Christina L. Baker (#58303)  
Deputy Public Counsel  
P O Box 2230  
Jefferson City, MO 65102  
(573) 751-5565  
(573) 751-5562 FAX  
christina.baker@ded.mo.gov

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 5<sup>th</sup> day of May, 2015:

General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounselservice@psc.mo.gov

Kevin Thompson  
General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
Kevin.Thompson@psc.mo.gov

Mark W Comley  
Ridge Creek Development, LLC  
Ridge Creek Water Company, LLC  
Mike Stoner  
Denise Stoner  
601 Monroe Street, Suite 301  
Jefferson City, MO 65102-0537  
comleym@ncrpc.com

**/s/ Christina L. Baker**

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Commissioners  
ROBERT S. KENNEY  
Chairman  
STEPHEN M. STOLL  
WILLIAM P. KENNEY  
DANIEL Y. HALL  
SCOTT T. RUPP

## *Missouri Public Service Commission*

POST OFFICE BOX 360  
JEFFERSON CITY MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

SHELLEY BRUEGGEMANN  
General Counsel  
MORRIS WOODRUFF  
Secretary  
WESS A. HENDERSON  
Director of Administration  
and Regulatory Policy  
CHERLYN D. VOSS  
Director of Regulatory Review  
KEVIN A. THOMPSON  
Chief Staff Counsel

### **Information Sheet Regarding Mediation of Commission Formal Complaint Cases**

Mediation is a process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. The Regulatory Law Judges at the Public Service Commission are trained mediators and this service is offered to parties who have formal complaints pending before the Public Service Commission at no charge. In addition, the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

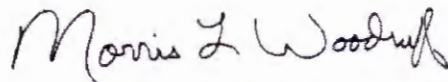
The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the

participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The Judge assigned to be the mediator will not be the same Judge assigned to the contested complaint.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case. If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

A handwritten signature in dark ink, reading "Morris L. Woodruff". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Morris L. Woodruff  
Secretary

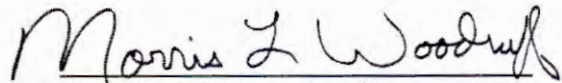


STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 7<sup>th</sup> day of May 2015.

  
Morris L. Woodruff  
Secretary

**MISSOURI PUBLIC SERVICE COMMISSION**

**May 7, 2015**

**File/Case No. WC-2015-0290**

**Missouri Public Service  
Commission**

Office General Counsel  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounsel@psc.mo.gov

**Office of the Public Counsel**

Dustin Allison  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opc@psc.mo.gov

**Ridge Creek Development,  
L.L.C.**

Legal Department  
20684 Lynwood Road  
Waynesville, MO 65583-4604

**Ridge Creek Water Company,  
LLC**

Legal Department  
18499 Highway 133  
Dixon, MO 65459

**Denise Stoner**

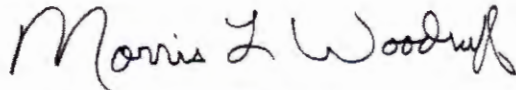
Denise Stoner  
18499 Hwy 133  
PO Box KK  
Dixon, MO 65459  
dstoner@windstream.net

**Mike Stoner**

Mike Stoner  
18499 Highway 133  
P.O. Box KK  
Dixon, MO 65459

***Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).***

***Sincerely,***



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.