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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
KIM S. BURTON, REGULATORY LAW JUDGE, PRESIDING  
SUMMIT INVESTMENT, LLC, )  
Complainant, )  
vs. ) SC-2014-0214  
OSAGE WATER COMPANY, ) WC-2014-0215  
Respondent. )

TRANSCRIPT OF PROCEEDINGS  
PRE-HEARING CONFERENCE  
APRIL 9, 2014  
JEFFERSON CITY, MISSOURI

3432 West Truman Boulevard  
Suite 207  
Jefferson City, Missouri 65109  
573-636-7551

1 A P P E A R A N C E S

2

3 For the Staff of the Public Service Commission:

4 Kevin Thompson

5 Alexander Antal

200 Madison Street

6 Jefferson City, Missouri 65101

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8 For Office of Public Counsel:

Christina Baker

9 PO Box 2230

Jefferson City, Missouri 65102

10

11

For Summit Investment, LLC

12 Jeffrey E. Green

4558 Osage Beach Parkway

13 Suite 106

Osage Beach, Missouri 65065

14

15

For Osage Water Company:

16 Gary V. Cover

137 West Franklin

17 Clinton, Missouri 64735

18

19 Also Present:

Ronald D. Westenhaver

20 6340 Red Barn Road

Osage Beach, Missouri 65065

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1 P R O C E E D I N G S

2 THE COURT: Let's go ahead and go on the  
3 record. It is currently 2:04 p.m. on Wednesday, April  
4 9th, 2014. The Commission has set this time for a  
5 prehearing conference in files number SC-2014-0214 and  
6 WC-2014-0215, Summit Investment, LLC, complainant  
7 versus Osage Water Company, Respondent. At this time,  
8 I'm going to ask that all the parties present enter  
9 their appearance and provide their address so the  
10 court reporter can get that on the record. Go ahead  
11 and start with the complainant, Summit Investment.

12 MR. WESTENHAVER: Ronald D. Westenhaver,  
13 6340 Red Barn Road, Osage Beach, Missouri.

14 MR. GREEN: Jeff Green, his attorney, 4558  
15 Osage Beach Parkway, Suite 106, Osage Beach, Missouri  
16 65065.

17 THE COURT: All right. Thank you. And for  
18 Osage Water Company?

19 MR. COVER: On behalf of Osage Water  
20 Company, my name is Gary Cover. C-O-V-E-R. I'm the  
21 court-appointed receiver and attorney. My address is  
22 137 West Franklin, Clinton, Missouri 64735.

23 THE COURT: All right. Thank you. And on  
24 behalf of the staff of the Public Service Commission.

25 MR. THOMPSON: Kevin Thompson and Alexander

1 Antal for the staff of the Missouri Public Service  
2 Commission, Post Office Box 360, Jefferson City,  
3 Missouri 65102.

4 THE COURT: All right. Thank you. And on  
5 behalf of the Office of Public Council.

6 MS. BAKER: Thank you. Christina Baker.  
7 PO Box 2230 Jefferson City, Missouri 65102.

8 THE COURT: All right. Now, are there any  
9 other parties that I might have missed? Hearing none,  
10 the reason that we went ahead and scheduled this  
11 pre-hearing is to address possible hearing dates, or  
12 if there's any possibility of a resolution through  
13 settlement. I don't know if the parties have had an  
14 opportunity to discuss the issues or the disputes.  
15 And we can let you have this room and an opportunity  
16 to discuss after we go off the record. In the  
17 interim, though, I would like to go ahead and suggest  
18 that the parties look at their calendars -- I hope you  
19 have those in front of you -- to determine whether or  
20 not we can make a hearing date schedule for today.  
21 Mr. Cover and Mr. Green.

22 MR. GREEN: Yes.

23 THE COURT: Do you have your calendars?

24 MR. GREEN: I do. Gary, do you have your  
25 calendar?

1 MR. COVER: I can, in about five seconds.

2 THE COURT: Well, while Mr. Cover is  
3 getting his calendar, let me go ahead and ask --

4 MR. COVER: I've got it now. I'm sorry.  
5 Excuse me.

6 THE COURT: No. You're fine. Let me ask  
7 the parties, is there a possibility that this could be  
8 handled with just oral arguments, or are there  
9 disputes on the facts that we need to present an  
10 evidentiary hearing? Or do we just need oral  
11 arguments, let's say on a summary judgment motion?  
12 And if the parties are unaware at this time and need  
13 to sort of resolve it through discovery first to make  
14 that determination, that's fine. I just want to know  
15 what we need to be scheduling.

16 MR. COVER: Well -- this is Gary Cover on  
17 behalf of the respondent. And I think, frankly, from  
18 our perspective -- and I think, Jeff -- I don't think  
19 we've got any real dispute as to the facts. Do we,  
20 Jeff?

21 MR. GREEN: I think you're right, Gary.  
22 That's why I'm --

23 MR. COVER: Yeah. I think we can put  
24 together -- my feeling would be we can put together a  
25 a -- a stipulated set of facts to present.

1 THE COURT: Okay.

2 MR. COVER: You know, the -- yeah. That's  
3 my feeling, anyway. I don't know that we -- there was  
4 a -- there was a -- well, there is. There was a --  
5 there's some companion civil litigation that there was  
6 some discovery in. And frankly, from my perspective,  
7 I think that's probably as much or all that we would  
8 need.

9 MR. GREEN: Yeah.

10 MR. COVER: I don't know a whole lot more,  
11 unless Jeff does.

12 MR. GREEN: And I would -- I would agree  
13 with you, Gary. I think we can probably stipulate to  
14 most of the facts. There hasn't been a lot of  
15 disagreement. And -- and just so you know, Judge,  
16 we've had discussions for years. This is not  
17 something that's been going on a short time. So we  
18 have not spoken since we got the -- the staff  
19 investigation report, though.

20 THE COURT: Okay.

21 MR. GREEN: So I would like to think  
22 there's some room in here to get this resolved, but we  
23 haven't spoken yet, so --

24 THE COURT: Okay. Do OPC or staff have any  
25 issues, then, with that possibility of just having

1 stipulated facts submitted without discovery?

2 MR. THOMPSON: Staff does not.

3 MS. BAKER: I don't believe we would,  
4 either.

5 THE COURT: Okay. Then in that case, let's  
6 go ahead and have the parties take a look at their  
7 calendars. And I'm assuming you're going to need at  
8 least 30 days to prepare any motions. I hear a little  
9 chuckle from one of the counsels. And then an  
10 additional 30 days. Let's take a look at the  
11 calendars. What are our thoughts as far as July?  
12 Does that seem reasonable to the parties?

13 MR. GREEN: Yes. I think so. What do you  
14 think, Gary?

15 MR. COVER: I agree to that.

16 THE COURT: All right. Now, right now, I  
17 believe that the Commission is going to be attending a  
18 conference the week of the 14th through the 18th of  
19 July. But it appears that they have available dates,  
20 and I have available dates from the 21st of July  
21 through the 30th.

22 MR. COVER: With -- with the exception of  
23 Tuesday afternoons, I'm -- I can certainly open that  
24 period of time.

25 MR. GREEN: And the only -- the only day I

1 have unavailable would be the 24th.

2 THE COURT: Okay.

3 MR. GREEN: My preference would be some  
4 time that week. The week of the 21st, if at all  
5 possible.

6 THE COURT: How does the 23rd work?

7 MR. GREEN: That's fine with me. How about  
8 you, Gary?

9 MR. COVER: That's fine.

10 THE COURT: Okay. Then let's go ahead and  
11 schedule -- and I'm assuming the parties have no  
12 objection to the hearing occurring here in the Office  
13 of the Public Service Commission.

14 MR. GREEN: We have no objection.

15 MR. COVER: That's fine. No objection.

16 THE COURT: Okay. Then let's go ahead and  
17 schedule it down for July 23rd. I'm assuming it's not  
18 going to be that long, since we're not going to be  
19 having witnesses called for evidentiary issues. And I  
20 understand, Mr. Cover, you're going to be driving a  
21 fair distance for this as well. How do the parties  
22 feel about a 10:00 start?

23 MR. GREEN: That's fine with me.

24 MR. COVER: That's okay. But I can do  
25 9:00, no problem, if that's what you prefer. It's no



1 big deal.

2 THE COURT: Why don't we go ahead, then,  
3 and say 10:00, just to be sure. Because Wednesdays  
4 are normally the Commission's agenda days that start  
5 at 9:00. So that will give them an opportunity to  
6 attend agenda first, without rearranging their  
7 schedule.

8 MR. COVER: All right.

9 MR. GREEN: Okay.

10 THE COURT: Okay. So July 23rd at 10:00.  
11 And this, of course, is dependent upon any motions  
12 being filed by the parties requesting summary  
13 judgment. All right? Now, are there any other issues  
14 that we need to have addressed during this pre-hearing  
15 conference?

16 MR. WESTENHAVER: Am I allowed to speak?

17 THE COURT: You have an attorney here to  
18 present any issues. As far as if you have a conflict  
19 with the date that we've scheduled, then I'll hear  
20 that. Otherwise, I would say we're not going to get  
21 into any of the factual issues or any legal argument.

22 MR. WESTENHAVER: I'm not talking about  
23 that. I'm talking about the fact that I'm 74, going  
24 to be 75 in three months. And that this has gone on  
25 so long. And every month, I have to pay interest

1 payments on the land that I haven't been able to use  
2 for over 12 years. And so I would like to make sure  
3 that this date does work, and that hopefully we can  
4 come to some resolution by that time. Because, you  
5 know, I ain't going to live forever, and neither is my  
6 checkbook.

7 THE COURT: I understand that, sir. But we  
8 also have to deal with the schedules and motions.  
9 There are legal procedures that have to occur first  
10 before we can have that hearing. And before I can  
11 even schedule that date, I need to make sure that I  
12 give the parties sufficient time for your attorney to  
13 do his work. Okay? So is there anything else that we  
14 need to address on the record?

15 MR. COVER: Nothing on behalf of  
16 respondent.

17 THE COURT: Okay.

18 MR. GREEN: I don't believe so.

19 THE COURT: Since it doesn't appear that  
20 we're going to need discovery, I'm not going to be  
21 issuing a procedural schedule. If at any time that  
22 any motions need to be filed, or any arguments prior  
23 to the motion for summary judgment need to occur, then  
24 I'm going to be relying on the attorneys to file the  
25 appropriate motions.

1 MR. GREEN: Okay.

2 THE COURT: We're going to go ahead and go  
3 off the record, and at that time, the parties can  
4 discuss and see if they can reach a possible  
5 settlement.

6 MR. GREEN: Okay.

7 THE COURT: Thank you, everyone. And we're  
8 now off the record.

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1 R E P O R T E R ' S C E R T I F I C A T E

2 STATE OF MISSOURI )

3 COUNTY OF FRANKLIN ) SS

4

5 I, Sarah J. Pokorski, Certified Court

6 Reporter #0745, do hereby certify that I was

7 personally present at the proceedings as set forth in

8 the caption sheet hereof; that I then and there took

9 down in stenotype the proceedings had at said time and

10 thereafter transcribed them into writing, and it is

11 fully and accurately set forth in the preceding pages.

12 IN WITNESS WHEREOF, I have hereunto set

13 my hand and seal on May 1, 2014.

14

15

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17

18 Sarah J. Pokorski, CCR #0745

19 Certified Court Reporter

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