

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3
4 TRANSCRIPT OF PROCEEDINGS
5 Prehearing Conference
6 February 14, 2007
7 Jefferson City, Missouri
8 Volume 2
9
9 Gerald and Joanne Reiersen,)
))
10 Complainants,)
))
11 v.) Case No. SC-2005-0083
))
12 Kenneth Jaeger and Blue Lagoon)
Sewer Corp.,)
13)
Respondents.)
14
15 Robert M. Hellebusch,)
))
16 Complainant,)
))
17 v.) Case No. SC-2005-0099
))
18 Kenneth Jaeger and Blue Lagoon)
Sewer Corp.,)
19)
Respondents.)
20
21 RONALD D. PRIDGIN, Presiding,
22 REGULATORY LAW JUDGE.
23
23 REPORTED BY:
24 KELLENE K. FEDDERSEN, CSR, RPR, CCR
25 MIDWEST LITIGATION SERVICES

1 APPEARANCES:

2 GERALD L. REIERSON, pro se
3 JOANNE REIERSON, pro se
4 43615 Blue Lagoon Pl.
5 Monroe City, MO 63456

6 FOR: Pro Se Complainants.

7 ROBERT M. HELLEBUSCH, pro se
8 150 New Grange Pass
9 St. Charles, MO 63304

10 FOR: Pro Se Complainant.

11 CHRISTINA BAKER, Assistant Public Counsel
12 P.O. Box 2230
13 200 Madison Street, Suite 650
14 Jefferson City, MO 65102-2230
15 (573) 751-4857

16 FOR: Office of the Public Counsel
17 and the Public.

18 KEITH R. KRUEGER, Deputy General Counsel
19 P.O. Box 360
20 200 Madison Street
21 Jefferson City, MO 65102
22 (573) 751-3234

23 FOR: Staff of the Missouri Public
24 Service Commission.
25

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

2 JUDGE PRIDGIN: Good morning. We're on the
3 record. This is the prehearing conference in SC-2005-0083
4 and 0099. These are both complaints against Kenneth
5 Jaeger and Blue Lagoon Sewer Corporation, one filed by
6 Gerald and Joanne Reiersen, the other by Robert M.
7 Hellebusch.

8 I'm Ron Pridgin, the Regulatory Law Judge
9 assigned to preside over this prehearing conference. It's
10 being held on February 14th, 2007, 10 a.m. And I would
11 like to get oral entries of appearance from counsel,
12 beginning with the General Counsel's Office, please.

13 MR. KRUEGER: Keith R. Krueger for the
14 Staff of the Missouri Public Service Commission. My
15 address is P.O. Box 360, Jefferson City, Missouri 65101.

16 JUDGE PRIDGIN: Mr. Krueger, thank you. On
17 behalf of the Office of the Public Counsel, please?

18 MS. BAKER: Christina Baker, Office of the
19 Public Counsel, P.O. Box 2230, Jefferson City, Missouri
20 65102, here on behalf of the Public Counsel and the
21 ratepayers.

22 JUDGE PRIDGIN: Ms. Baker, thank you. On
23 behalf of either Kenneth Jaeger and/or Blue Lagoon Sewer
24 Corporation, please? No counsel entering an appearance.

25 MR. KRUEGER: Your Honor, I did receive a

1 message, actually relayed by Lera Shemwell, who said that
2 she had received a call from Mr. Lemon who said that he's
3 not able to be here today because his car is stuck in a
4 snow drift or something, and she gave me a cell phone
5 number where he might be contacted.

6 JUDGE PRIDGIN: So you'll be able to speak
7 with Blue Lagoon's counsel after the prehearing, as far as
8 you know?

9 MR. KRUEGER: Yes.

10 JUDGE PRIDGIN: All right. Oral entries of
11 appearance from Mr. and Ms. Reierson, please?

12 MR. REIERSON: Name?

13 JUDGE PRIDGIN: Yes, please.

14 MR. REIERSON: Gerald Reierson. You want
15 the spelling?

16 JUDGE PRIDGIN: And an address, please.

17 MR. REIERSON: 43615 Blue Lagoon Place,
18 Monroe City, 63456.

19 JUDGE PRIDGIN: Mr. Reierson, thank you. I
20 apologize for mispronouncing your name. Ms. Reierson?

21 MS. REIERSON: Joanne Reierson, same
22 address.

23 JUDGE PRIDGIN: Thank you. And
24 Mr. Hellebusch?

25 MR. HELLEBUSCH: Robert Hellebusch, 150 New

1 Grange Pass, St. Charles, Missouri 63304.

2 JUDGE PRIDGIN: Mr. Hellebusch, thank you.

3 And I will be pretty brief and allow you to contact -- is
4 it Mr. Lemon that represents Blue Lagoon?

5 MR. KRUEGER: Yes.

6 JUDGE PRIDGIN: -- and let you speak after
7 we go off the record. Just to alert the parties, the
8 Commission became concerned that these complaints had been
9 pending since 2004 and wanted to essentially fish or cut
10 bait, and that's why we're here to begin that process.

11 I have -- I issued an Order Setting
12 Procedural Schedule that requires the parties to start
13 filing testimony here pretty quickly, and I assume if you
14 haven't spoken with Staff or General Counsel's Office
15 about that, it's kind of an unusual way in which, when the
16 Commission goes to hearing, a lot of times instead of
17 people simply appearing at a hearing and testifying, you
18 actually file your testimony ahead of time in question and
19 answer form, and then the hearing largely consists of
20 cross-examination on what that prefiled testimony was.

21 And the reason I'm discussing that is,
22 because of the Commission's rules, it's kind of a defining
23 moment in the process of a case. Up until the time that
24 testimony is prefiled, you as complainants have the right
25 to dismiss your complaints, if you want, just because

1 you've settled, you no longer wish to pursue it, whatever.
2 It's completely your business. You can dismiss. You can
3 go to hearing. It's up to you.

4 But once testimony is filed, then it
5 becomes the Commission's business and whether or not, if
6 you wanted to dismiss, you would be able to. It's kind of
7 a moment where you start losing more control of this
8 complaint and the Commission starts to interject itself
9 more. It may decide -- in other words, you may file
10 testimony and decide things aren't going your way
11 strategically and you want out and you can't get out.
12 That's why I'm alerting you.

13 And I'm sure that the counsel here at the
14 table will be able to answer any questions. That is not
15 to try to scare you off in any way. It's just to alert
16 you, once we start down that road of you filing testimony,
17 the rules change a little bit. Again, it's your
18 complaint. We can go to hearing. You're certainly free
19 to talk with other parties, with counsel to try to resolve
20 issues. You're always free and you're always encouraged
21 to do that. In fact, that's one of the main purposes of
22 this prehearing is to allow you to talk and see if you can
23 resolve disputes.

24 And because Mr. Lemon isn't here, I may not
25 get a full picture, but do I understand we've got some

1 circuit court litigation that's still pending up in Ralls
2 County? I don't know if any of the parties can speak to
3 that.

4 MR. HELLEBUSCH: Correct.

5 MR. REIERSON: Right.

6 MR. HELLEBUSCH: It's been going on
7 since -- I guess the Attorney General's Office first filed
8 suit in January, I believe, '05, and it's been going on.
9 There's been like two or three --

10 JUDGE PRIDGIN: Contempt motions?

11 MR. HELLEBUSCH: Yeah. And it's been
12 dragging on ever since then. The judge normally gives him
13 like two months, and he usually takes one month off and
14 goes to Texas.

15 JUDGE PRIDGIN: And I understand that a lot
16 of the reason that this case has been sitting here for so
17 long is waiting on what's going to happen at the circuit
18 court case, and I understand that, and I don't know if the
19 Commission knows or not, but I mean it's easy enough to
20 communicate that to them.

21 I mean, nobody's upset with you. I know
22 that a lot of it's been waiting on the circuit court.
23 It's just the Commission's saying, you know what, this has
24 been sitting here for about two and a half years. Let's
25 do something.

1 MR. HELLEBUSCH: Is there any way that the
2 Commission can intervene in this since it has been going
3 on so long?

4 JUDGE PRIDGIN: That's really kind of what
5 the General Counsel's Office is doing in a sense. That is
6 the General Counsel's Office representing the Staff of the
7 Commission, and I'm sure Mr. Krueger could say it more
8 eloquently than I could, kind of representing the
9 Commission's interests, but understand that the Commission
10 is sitting back not as a party but they are a
11 decision-making body, the five Commissioners.

12 But that is essentially what the General
13 Counsel's Office is doing is trying to represent the
14 Commission's interests at the level of the Staff of the
15 Commission, if that makes any sense. And Mr. Krueger, you
16 can probably say it a little bit better than I tried to.

17 The Commission is interested, but it kind
18 of has different purposes in this process.

19 MR. KRUEGER: Your Honor, I might mention
20 that I did speak with Mr. Bozoian this morning. He's with
21 the Attorney General's Office representing the DNR in the
22 circuit court litigation. And I believe the next court
23 appearance in Ralls County is in early March sometime.

24 MR. REIERSON: March 2nd.

25 MR. KRUEGER: There have not only been

1 contempt motions but findings of contempt, and one of them
2 included financial penalty and so forth. And in talking
3 with Mr. Bozoian, he explained some of the position of the
4 DNR, and it encouraged me that the resolution of the
5 circuit court action may pretty much resolve the issues
6 that are pending here if they can get it resolved. And he
7 discussed a little bit about the situation there, and I
8 think I more or less have an understanding of it.

9 JUDGE PRIDGIN: Okay. And that's something
10 that I wanted -- that's kind of why I was speaking about
11 the prefiled testimony, because if I'm not mistaken,
12 that's due a few days after the next scheduled court date.
13 Do you have a court date?

14 MR. KRUEGER: I think that's right. I
15 think the -- Mr. Reiersen said the court date is March 2,
16 and the direct testimony is due on March 9.

17 MR. HELLEBUSCH: It's March 6th, I believe,
18 isn't it, Jerry? The court date?

19 MR. REIERSON: I thought it was March 2nd.

20 MR. HELLEBUSCH: I think it's the 6th.

21 JUDGE PRIDGIN: At any rate, they're pretty
22 close together, and that's something you're free to speak
23 about with counsel after I leave. But depending on what
24 happens at the circuit court, that might motivate you to
25 go ahead and go forward with your complaint or to ask for

1 more time. Again, the Commission did issue an Order
2 saying this is our procedural schedule, but you are always
3 free if you wish to ask for a different schedule, to say
4 we'd rather have a different schedule and here's why, and
5 the Commission will either grant or deny your request.
6 But that's -- this order setting the procedural schedule
7 isn't in stone. It's just the way they want to go now.
8 If for whatever reason something happens at the court date
9 that makes the parties want to go a different route, just
10 tell us.

11 MR. HELLEBUSCH: And who would we contact?

12 JUDGE PRIDGIN: You can certainly contact
13 any of the counsel, but somebody would need to file a
14 motion with the Commission saying we want to vary from
15 this procedural schedule and here's why.

16 MR. KRUEGER: Your Honor, I did print the
17 docket sheet from the circuit court case this morning, and
18 I see that the next hearing in Ralls County is on
19 March 6th.

20 JUDGE PRIDGIN: Again, depending on what
21 happens on March 6th, you essentially have until March 9th
22 to decide, do we want to prefile testimony? Again, once
23 you do, you lose some control over this litigation here at
24 the Commission, or do you want more time or does this
25 resolve your dispute. So that's just -- I just want to

1 keep you alert again of what happens once you file
2 testimony.

3 MR. HELLEBUSCH: Your Honor?

4 JUDGE PRIDGIN: Yes, sir.

5 MR. HELLEBUSCH: If it's a question and
6 answer, okay, format, you're saying once we file?

7 JUDGE PRIDGIN: The prefiled testimony,
8 yes.

9 MR. HELLEBUSCH: Well, I guess we're asking
10 our own questions and answering our own questions?

11 JUDGE PRIDGIN: That's what happens around
12 here. You were right to ask the question. Yes, that's
13 how it's done. They'll be glad to talk to you, I'm sure,
14 afterwards, but a lot of times you would be -- especially
15 since you're representing yourself, your prefiled
16 testimony would be in the form of you asking yourself
17 questions and answering them.

18 Again, part -- as foolish as it may sound,
19 as the parties start exchanging this information, it
20 allows the parties to start reading it and go, well, we
21 have this dispute but we don't have that dispute, and it
22 encourages them to keep talking, to maybe send discovery
23 requests to figure out where are you getting this
24 information, and it tries to narrow the dispute.

25 And the theory is that it makes the

1 evidentiary hearing go faster, because again, a lot of the
2 issues that come before the Commission are extraordinarily
3 complex, and if we went with live testimony, we would
4 never leave, because you might have dozens of issues and
5 dozens of parties, and it's an attempt to try to put a lot
6 of things up ahead of the hearing so that when we go to
7 hearing we're simply doing cross-examination.

8 MR. HELLEBUSCH: Do you find it to be self
9 serving for whatever party it is?

10 JUDGE PRIDGIN: All evidence is,
11 absolutely. All evidence is. That's the idea behind
12 cross-examination.

13 Is there anything else from counsel or from
14 the parties before we conclude?

15 All right. Hearing nothing else, this will
16 conclude the prehearing conference in Cases
17 No. SC-2005-0083 and SC-2005-0099. Thank very much.
18 We're off the record.

19 WHEREUPON, the recorded portion of the
20 prehearing conference was concluded.

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)

5 I, Kellene K. Feddersen, Certified
6 Shorthand Reporter with the firm of Midwest Litigation
7 Services, and Notary Public within and for the State of
8 Missouri, do hereby certify that I was personally present
9 at the proceedings had in the above-entitled cause at the
10 time and place set forth in the caption sheet thereof;
11 that I then and there took down in Stenotype the
12 proceedings had; and that the foregoing is a full, true
13 and correct transcript of such Stenotype notes so made at
14 such time and place.

15 Given at my office in the City of
16 Jefferson, County of Cole, State of Missouri.

17 Kellene K. Feddersen, RPR, CSR, CCR
18 Notary Public (County of Cole)
19 My commission expires March 28, 2009.
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