

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
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5 TRANSCRIPT OF PROCEEDINGS  
6 Prehearing Conference  
7 July 7, 2014  
8 Jefferson City, Missouri  
Volume 2

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10  
11 Summit Investment, LLC, )  
12 )  
13 Complainant, )  
14 )  
15 vs. ) File No. SC-2014-0214  
16 ) File No. WC-2014-0215  
17 Osage Water Company, )  
18 )  
19 Respondent. )  
20  
21  
22 KIM S. BURTON, Presiding,  
23 REGULATORY LAW JUDGE.  
24  
25

21 REPORTED BY:  
22 KELLENE K. FEDDERSEN, CSR, RPR, CCR NO. 838  
23 MIDWEST LITIGATION SERVICES  
24  
25

1 APPEARANCES:  
2 JEFFREY E. GREEN, Attorney at Law  
4558 Osage Beach Parkway, Suite 106  
3 Osage Beach, MO 65065  
(573)348-0122  
4 Jeff@cghlaw.net  
5 FOR: Summit Investment, LLC.  
6 GARY COVER, Attorney at Law  
137 West Franklin  
7 Clinton, Missouri 64735  
8 FOR: Osage Water Company.  
9 CHRISTINA BAKER, Assistant Public Counsel  
Office of the Public Counsel  
10 P.O. Box 2230  
200 Madison Street, Suite 650  
11 Jefferson City, MO 65102-2230  
(573)751-4857  
12  
13 FOR: Office of the Public Counsel  
and the Public.  
14 KEVIN A. THOMPSON, Chief Staff Counsel  
ALEX ANTAL, Legal Counsel  
15 Missouri Public Service Commission  
P.O. Box 360  
16 200 Madison Street  
Jefferson City, MO 65102  
17 (573)751-3234  
18 FOR: Staff of the Missouri Public  
Service Commission.  
19  
20  
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1 P R O C E E D I N G S

2 JUDGE BURTON: Today is Monday,  
3 July 7th. The time is currently 10:32 a.m. The  
4 Public Service Commission has scheduled a  
5 prehearing conference in Files No. SC-2014-0214 and  
6 WC-2014-0215.

7 At this time I would ask the parties  
8 to enter their appearance for the record. And on  
9 behalf of Summit Investments, LLC?

10 MR. GREEN: Jeff Green.

11 JUDGE BURTON: And for Osage Water  
12 Company?

13 MR. COVER: Gary Cover, C-o-v-e-r.  
14 I'm the court-appointed receiver and attorney for  
15 Osage Water Company.

16 JUDGE BURTON: We're having some  
17 problems hearing you, Mr. Cover, so bear with us  
18 here. I just turned the volume up. Could you  
19 please provide your contact information for the  
20 court reporter?

21 MR. COVER: Sure. My office is  
22 137 West Franklin, Clinton, Missouri 64735.

23 JUDGE BURTON: All right. Thank you.  
24 And on behalf of the Office of Public Counsel?

25 MS. BAKER: Thank you. Christina

1 Baker, P.O. Box 2230, Jefferson City, Missouri  
2 65102, appearing on behalf of the Office of the  
3 Public Counsel and the customers.

4 JUDGE BURTON: Thank. And on behalf  
5 of the Staff of the Missouri Public Service  
6 Commission?

7 MR. THOMPSON: Kevin Thompson and  
8 Alex Antal for the Staff of the Missouri Public  
9 Service Commission, Post Office Box 360,  
10 Jefferson City, Missouri 65102.

11 JUDGE BURTON: Okay. Thank you. Is  
12 there any other party present that I have not  
13 acknowledged? Seeing and hearing no one, I'll go  
14 ahead and proceed.

15 We currently have an evidentiary  
16 hearing scheduled in this matter for July 23rd,  
17 2014 at 10 o'clock a.m. And the reason I wanted to  
18 have this prehearing conference is because, based  
19 off of your last prehearing conference, it was my  
20 assumption that the parties would be filing motions  
21 for summary determination, and I have not received  
22 anything to that effect.

23 So, Mr. Cover, could you explain what  
24 your status is and what you believe is going to be  
25 happening on the 23rd?

1 MR. COVER: Yes, I can. Last week I  
2 provided Mr. Green with a proposed partial  
3 stipulation of facts. It was late in the week, and  
4 at the time he probably hadn't got a chance to  
5 review it, at least not much before the holiday  
6 weekend.

7 I also -- and I doubt -- and  
8 obviously I'll let him speak to it. I doubt that  
9 he's going to have a whole lot of objection or  
10 disagreement with the partial stipulation of facts.

11 I also went ahead and prepared a  
12 proposed list of issues before the Commission, and  
13 I got Jeff's e-mail back that didn't necessarily go  
14 along with all of these issues, and I understand  
15 his position.

16 And so basically where we're at is,  
17 from my perspective, I think we're prepared to  
18 stipulate to the vast majority of the facts as far  
19 as that are concerned in the case and, you know,  
20 then kind of let the Commission go from there.

21 Basically where I'm at is, you know,  
22 Mr. Green's client entered into a contract with  
23 Osage Water Company before the receivership was in  
24 place. The contract would provide that there's to  
25 be additional service to Mr. Green's client

1 provided by Osage Water Company. Once I became the  
2 receiver, basically it became my position, A, I've  
3 got limited funds, and I don't know that I can  
4 provide the terms of the contract anyway. And  
5 No. 2, as the receiver, I don't know that I'm  
6 really supposed to -- I question whether I'm  
7 supposed to be out expanding the system as it is.  
8 And basically that's been my position.

9 JUDGE BURTON: Okay. Mr. Green, what  
10 is your position as far as the status?

11 MR. GREEN: I don't have a whole lot  
12 of disagreement with Mr. Cover. I think the facts  
13 are pretty clear, and the proposal that he has I  
14 have finally had a chance to get reviewed and we  
15 probably will be submitting it.

16 JUDGE BURTON: Let's go ahead and  
17 figure out a deadline, then. When do you think  
18 it's reasonable to get the stipulated facts before  
19 the Commission?

20 MR. GREEN: Could we get that done by  
21 the end of the week, Gary?

22 MR. COVER: Yeah. That's no problem.  
23 We can do that.

24 JUDGE BURTON: Then why don't we say  
25 by the 11th of this month, July, the parties are to

1 submit the stipulated facts in this matter.

2 MR. COVER: That would be fine.

3 JUDGE BURTON: Now, if there are any  
4 disputed facts, let's say, are the parties going to  
5 be submitting these issues based on evidence that's  
6 going to be presented by witnesses on the 23rd or  
7 are they going to be submitting affidavits prior to  
8 that date, or are you undecided?

9 MR. COVER: Well, on behalf of Osage  
10 Water Company, realistically I don't have any  
11 witnesses.

12 MR. GREEN: And I think on behalf of  
13 plaintiff/petitioner, I'm only going to have the  
14 one witness. And part of me says, once we get the  
15 stipulated facts submitted, and I know it's  
16 probably untimely, but we can probably submit this  
17 thing at that point just for the Commission to  
18 review and enter a judgment, you know, summarily,  
19 so to speak. I think I was --

20 JUDGE BURTON: We do have Commission  
21 rules and regulations on those, and the deadlines  
22 have passed for the motions for summary  
23 determination.

24 MR. GREEN: I know. Right.

25 JUDGE BURTON: I had been hoping that

1 we would be able to resolve this, but I understand  
2 sometimes things happen. But I would like to try  
3 to see what we can address and get resolved because  
4 my big concern is that this 23rd hearing is going  
5 to be pushed back, and I want to make sure we have  
6 all of the issues before the Commissioners prior to  
7 that date so they can have a chance to obviously  
8 review this before the 23rd.

9 And if there are any evidentiary  
10 issues outside of the stipulated facts, which  
11 obviously I don't have before me, I would like to  
12 know what we're feasibly going to do as far as  
13 getting that to the Commission, if you're going to  
14 submit it by affidavits, if you're going to do it  
15 by prefiled written testimony, or if you're going  
16 to be just submitting it completely on the 23rd.

17 MR. GREEN: I think we -- my  
18 preference personally would be to submit it all  
19 prior to via affidavits, because I don't think  
20 there's that much really in dispute. We've just  
21 got to have some kind of resolution.

22 MR. COVER: I would agree with that.

23 JUDGE BURTON: Then do you think that  
24 that's possible to get done by the 11th as well?

25 MR. COVER: It is from my



1 perspective, I believe.

2 MR. GREEN: What day are we set, the  
3 23rd?

4 JUDGE BURTON: Yes, which is  
5 Wednesday.

6 MR. GREEN: I don't know if I can get  
7 it done by the 11th, but I was going to say by  
8 maybe the 16th. Yeah. I can -- I think we can  
9 probably get done by the -- I'd like to have 'til  
10 the 18th just to make sure I have plenty of time,  
11 which is a Friday, if that's -- if that's okay  
12 with -- if that's timely enough for the Commission.

13 JUDGE BURTON: Mr. Cover, do you have  
14 any objections to that?

15 MR. COVER: No. That would be just  
16 fine.

17 JUDGE BURTON: Okay. Then why don't  
18 we say that you'll be submitting complainant's  
19 witness affidavits by the 18th.

20 And also let's go ahead and discuss,  
21 if you two gentlemen can get together at some  
22 point, and obviously, Mr. Cover, I understand that  
23 your schedule is obviously pretty full right now  
24 with personal matters and issues.

25 MR. COVER: Yeah. I understand. But

1    yes, and I appreciate that, but at the same time, I  
2    want to keep the process going. I understand  
3    Mr. Green's client's perspective.

4                   JUDGE BURTON: Thank you for that.  
5    Let me ask then, gentlemen, is it possible to get  
6    by the 16th stipulated joint issues presented to  
7    the Commission so that I can have enough time to  
8    provide that information to the Commissioners  
9    before the 23rd?

10                  MR. GREEN: I think so. And, Gary,  
11    maybe I can -- we can touch base as soon as we're  
12    done with this call. I think if you and I had a  
13    chance to either sit down together or have a phone  
14    conference, we can probably get most all this  
15    submitted, don't you think?

16                  MR. COVER: I would think so. I  
17    would think so.

18                  MR. GREEN: Would you have time  
19    either this morning or this afternoon sometime that  
20    we could --

21                  MR. COVER: I've got time this  
22    afternoon, Jeff. I can give you a call. I'm  
23    leaving here and headed back. I plan on being in  
24    the office. So I can call you this afternoon if  
25    that will work.

1 MR. GREEN: That'll work. Why don't  
2 you give me a call and see if we can't hammer  
3 something out?

4 MR. COVER: That will be fine.

5 JUDGE BURTON: Okay. Then let's say  
6 the 16th unless I receive a motion otherwise as the  
7 deadline for the parties to submit the issues.

8 MR. COVER: That would be fine.

9 JUDGE BURTON: Are there any other  
10 issues that I'm missing? Staff, OPC, do you have  
11 anything to interject?

12 MR. THOMPSON: No, Judge.

13 MR. GREEN: No.

14 JUDGE BURTON: Well, I do have it  
15 scheduled for the hearing for ten o'clock a.m.  
16 Again, that's here in Jefferson City, and I haven't  
17 received any notices that there's going to be any  
18 need to change that, then, after listening to you  
19 gentlemen today. So we'll still plan on that.

20 And obviously I haven't received  
21 anything from DNR as far as their notice, but  
22 there's still time to see if they wish to intervene  
23 in this as well.

24 All right. So is there any other  
25 issue that needs to be addressed?

1 MR. GREEN: Not that I'm aware of.

2 JUDGE BURTON: Okay.

3 MR. COVER: No. Thank you very much.

4 JUDGE BURTON: No problem. And,

5 Mr. Cover, if you would like, I know that you're

6 traveling, so this might not be the ideal time for

7 you, but we do have the bridge phone system that is

8 still available until 11:30 if you and Mr. Green

9 would like to discuss now some of the issues.

10 You're more than welcome to use this after we go

11 off the record.

12 MR. COVER: And I appreciate that,

13 but it probably would be easier if I could do it

14 this afternoon.

15 MR. GREEN: That's fine, Gary.

16 JUDGE BURTON: Then what's going to

17 happen is, we can all agree on those dates, and

18 just to reiterate, that's going to be the

19 stipulation of facts submitted by the 11th, joint

20 issues submitted on the 16th, and any witness

21 affidavits by the 18th.

22 Okay. Now, do I need to send out a

23 notice of those deadlines or is everyone aware of

24 this and copasetic without that?

25 MR. GREEN: I'm okay with it.

1 MR. COVER: I'm fine without it.

2 JUDGE BURTON: All right. Then thank  
3 you very much, everyone, and I hope you had a great  
4 4th of July holiday, and we're off the record.

5 (WHEREUPON, the recorded portion of  
6 the prehearing conference concluded at 10:41 a.m.)

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

2 STATE OF MISSOURI)

) ss.

3 COUNTY OF COLE )

4 I, Kellene K. Feddersen, Certified

5 Shorthand Reporter with the firm of Midwest

6 Litigation Services, do hereby certify that I was

7 personally present at the proceedings had in the

8 above-entitled cause at the time and place set

9 forth in the caption sheet thereof; that I then and

10 there took down in Stenotype the proceedings had;

11 and that the foregoing is a full, true and correct

12 transcript of such Stenotype notes so made at such

13 time and place.

14 Given at my office in the City of

15 Jefferson, County of Cole, State of Missouri.

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Kellene K. Feddersen, RPR, CSR, CCR

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<b>A</b>	<b>Beach</b> 14:2,3 <b>bear</b> 15:17 <b>behalf</b> 15:9,24 16:2,4 19:9,12 <b>believe</b> 16:24 21:1 <b>big</b> 20:4 <b>Box</b> 14:10,15 16:1,9 <b>bridge</b> 24:7 <b>BURTON</b> 13:18 15:2,11,16,23 16:4,11 18:9,16 18:24 19:3,20 19:25 20:23 21:4,13,17 22:4 23:5,9,14 24:2 24:4,16 25:2	15:4 16:6,9 17:12,20 18:19 19:17,20 20:13 21:12 22:7 <b>Commissioners</b> 20:6 22:8 <b>Company</b> 13:14 14:8 15:12,15 17:23 18:1 19:10 <b>Complainant</b> 13:12 <b>complainant's</b> 21:18 <b>completely</b> 20:16 <b>concern</b> 20:4 <b>concerned</b> 17:19 <b>concluded</b> 25:6 <b>conference</b> 13:6 15:5 16:18,19 22:14 25:6 <b>contact</b> 15:19 <b>contract</b> 17:22 17:24 18:4 <b>copasetic</b> 24:24 <b>correct</b> 26:11 <b>Counsel</b> 14:9,9 14:12,14,14 15:24 16:3 <b>County</b> 26:3,15 <b>court</b> 15:20 <b>court-appointed</b> 15:14 <b>Cover</b> 14:6 15:13 15:13,17,21 16:23 17:1 18:12,22 19:2,9 20:22,25 21:13 21:15,22,25 22:16,21 23:4,8 24:3,5,12 25:1 <b>CSR</b> 13:22 26:16 <b>currently</b> 15:3 16:15 <b>customers</b> 16:3 <b>C-o-v-e-r</b> 15:13	<b>D</b> <b>D</b> 15:1 <b>date</b> 19:8 20:7 <b>dates</b> 24:17 <b>day</b> 21:2 <b>deadline</b> 18:17 23:7 <b>deadlines</b> 19:21 24:23 <b>determination</b> 16:21 19:23 <b>disagreement</b> 17:10 18:12 <b>discuss</b> 21:20 24:9 <b>dispute</b> 20:20 <b>disputed</b> 19:4 <b>DNR</b> 23:21 <b>doubt</b> 17:7,8	<b>File</b> 13:13,13 <b>Files</b> 15:5 <b>filing</b> 16:20 <b>finally</b> 18:14 <b>fine</b> 19:2 21:16 23:4,8 24:15 25:1 <b>firm</b> 26:5 <b>foregoing</b> 26:11 <b>forth</b> 26:9 <b>Franklin</b> 14:6 15:22 <b>Friday</b> 21:11 <b>full</b> 21:23 26:11 <b>funds</b> 18:3
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