

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

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Missouri  
Public Service Commission

Jefferson City, Missouri

Volume 1

**ORIGINAL**

The Staff of the Missouri Public Service Commission vs.  
Officeplus Corporation of Missouri

Case No. TC-2004-0409

**MIDWEST LITIGATION SERVICES**

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PUBLIC SERVICE COMMISSION

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May 13, 2004  
Jefferson City, Missouri  
Volume 1

The Staff of the Missouri )  
Public Service Commission, )  
Complainant, )  
vs. ) Case No.: TC-2004-0409  
Officeplus Corporation of )  
Missouri, )  
Respondent. )

RONALD D. PRIDGIN, Presiding,  
REGULATORY LAW JUDGE.

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FOR: Staff of the Missouri Public Service  
Commission.

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

2 JUDGE PRIDGIN: We're on the record. Good  
3 morning. This is a prehearing conference in Case  
4 No. TC-2004-0409, the Staff of the Missouri Public  
5 Service Commission versus Officeplus Corporation of  
6 Missouri.

7 I am Ron Pridgin. I'm the Regulatory Law  
8 Judge assigned to preside over this prehearing  
9 conference. It's being held on May 13th, 2004 in the  
10 Commission's offices in the Hotel Governor Office  
11 Building in Jefferson City, Missouri. The date again  
12 is May 13th, 2004, and the time is ten o'clock in the  
13 morning.

14 I would like to get oral entries of appearance  
15 from counsel, beginning with Staff, please.

16 MR. BATES: Good morning, Your Honor. My name  
17 is Bruce H. Bates. I represent the Staff of the  
18 Missouri Public Service Commission. My address is  
19 Post Office Box 360, Jefferson City, Missouri 65102.

20 JUDGE PRIDGIN: Mr. Bates, thank you.

21 On behalf of Officeplus Corporation of  
22 Missouri, please?

23 MS. VUYLSTEKE: Yes. Diana Vuylsteke of the  
24 law firm Brian Cave, L.L.P., 211 North Broadway,  
25 Suite 3600, St. Louis, Missouri 6302-- excuse me --

1 63102, on behalf of Officeplus.

2 JUDGE PRIDGIN: Ms. Vuylsteke, thank you.

3 I don't believe I have any pending motions.

4 Is there anything --

5 MR. BATES: I --

6 JUDGE PRIDGIN: -- that counsel needs to bring  
7 to my attention?

8 Mr. Bates?

9 MR. BATES: I believe Officeplus has a motion  
10 to file -- enter a --

11 JUDGE PRIDGIN: I'm sorry. I think you are  
12 correct. Any objection to that, Mr. Bates?

13 MR. BATES: I'd probably just say we don't  
14 take any position, Your Honor.

15 JUDGE PRIDGIN: All right. I will just rule  
16 from the Bench, then, and sustain that motion, and  
17 allow that answer to be filed out of time.

18 Anything else?

19 MR. BATES: Two things, Your Honor.

20 JUDGE PRIDGIN: Yes, sir.

21 MR. BATES: I know that this is part of the  
22 normal language that's included in order setting  
23 prehearing conferences that the parties can discuss  
24 settlement, but I just wanted it on the record that  
25 unfortunately Staff has been given direction not to

1 pursue settlements at this time.

2 JUDGE PRIDGIN: I understand.

3 MR. BATES: Also I understand on procedural  
4 schedules now that the Commission is preferring that we  
5 do not have prefiled testimony?

6 JUDGE PRIDGIN: That's correct. In these  
7 particular types of cases, not -- not in all cases, but  
8 at least in these complaint cases the Staff has filed,  
9 that's correct.

10 MR. BATES: Yeah. Thank you.

11 JUDGE PRIDGIN: I'm sorry. Ms. Vuylsteke?

12 MS. VUYLSTEKE: Your -- Your Honor, I'm not  
13 sure if this is the right time, so stop me if it's not.  
14 I -- I've -- I've asked Mr. Bates what the issue is,  
15 and he's told me that it's -- the issue in the case is  
16 the failure of Officeplus to file an annual report.

17 And as you probably see from the pleadings,  
18 Officeplus has taken the position that it is no longer  
19 a Missouri corporation doing business in Missouri and,  
20 therefore, had no obligation to file the annual report.

21 JUDGE PRIDGIN: All right.

22 MS. VUYLSTEKE: And that seems to be the  
23 issue. And, you know, we'll admit that we didn't file  
24 an annual report.

25 Is the issue going forward, then, going to be

1 whether Officeplus really did have an obligation to  
2 file an annual report?

3 I'm -- I'm really not sure where this leaves  
4 us, but it seems like we may be going into a proceeding  
5 that we could possibly agree on or stipulate to at  
6 least the factual issues on.

7 MR. BATES: I -- I think she has a point  
8 actually. And it may be up to the Commission or -- or  
9 to Your Honor to decide whether or not this is just  
10 something that can be done on the pleadings perhaps  
11 with a supplemental legal memorandum on that issue, as  
12 opposed to having a hearing.

13 JUDGE PRIDGIN: And -- and that's perfectly  
14 fine. I mean, that's -- you certainly have until  
15 May 20th to discuss and decide whether you believe you  
16 have a factual dispute.

17 If you don't -- or if you feel that you don't,  
18 in lieu on the proposed procedural schedule if you  
19 wanted to file something like a stipulation of facts  
20 and -- and some sort of suggestions, I would suggest  
21 that even if you decide that you don't dispute the  
22 facts, it's just a legal issue, that in whatever you  
23 file, you also submit a proposed date or proposed dates  
24 in case the Commission wants some sort of on-the-record  
25 presentation. They very often do.

1           So just because you may want to decide it on  
2 the pleadings or on the stipulations, the Commission  
3 may still want some sort of oral argument from counsel.

4           MR. BATES: I just rechecked my -- my  
5 colleague's pleadings, and it doesn't appear that  
6 there's a concession in there that a report was not  
7 filed. It's simply the assertion that --

8           MS. VUYLSTEKE: I see.

9           MR. BATES: -- that the Company is no longer  
10 doing business in Missouri. So that is something I  
11 guess we should discuss.

12           If -- if we should decide that there would be  
13 a filing of a stipulation on the facts and would -- how  
14 would you like us to proceed? Would it be a -- a  
15 filing of stipulation of facts and a motion then to  
16 have it decided on the pleadings, or would you like  
17 legal argument at that time or how would the Commission  
18 like to handle it?

19           JUDGE PRIDGIN: If the parties stipulate to  
20 the facts -- I mean, if -- if it's something where the  
21 parties are -- are comfortable just asking the  
22 Commission to rule on the pleadings and -- and whatever  
23 stipulation you've filed, that's perfectly fine. You  
24 may, you know, ask the Commission for that relief.

25           And again, I would suggest that you list some

1 available dates in case the Commission has questions.  
 2 Also if you stipulate to the facts, but you want to  
 3 supplement it with -- with briefs, legal memoranda,  
 4 what have you, again, please suggest that in your  
 5 pleadings. And again, also please leave some available  
 6 dates in case the Commission wants an on-the-record.

7 That's -- it's just been my experience they  
 8 will likely -- no matter what your agreement is, they  
 9 will likely want some sort of question-and-answer  
 10 session from counsel.

11 MS. VUYLSTEKE: Okay.

12 JUDGE PRIDGIN: Anything else?

13 MR. BATES: I don't believe so.

14 JUDGE PRIDGIN: All right. And again, I  
 15 understand, Mr. Bates pointed out that -- that one of  
 16 the purposes, of course, of the prehearing is for the  
 17 parties to discuss settlement. And I understand that  
 18 may not be possible, and I appreciate your -- your  
 19 pointing that out to me.

20 And obviously the other reason is to get  
 21 together on a schedule. I am on the ninth floor. If  
 22 you have any scheduling questions, the Commission's  
 23 calendar is also up on the ninth floor.

24 You have access to this room until  
 25 five o'clock. You can come see me if you have any

1 questions or -- or if you need to pick a date, again,  
2 that calendar is up on nine.

3 Anything else that needs to be brought to my  
4 attention?

5 MS. VUYLSTEKE: Nothing from me.

6 JUDGE PRIDGIN: All right.

7 MR. BATES: Nothing. Thank you.

8 JUDGE PRIDGIN: Hearing nothing, thank you  
9 very much. That will conclude this prehearing  
10 conference and we are off the record.

11 WHEREUPON, the on-the-record portion of the  
12 prehearing conference was concluded.

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