

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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4 TRANSCRIPT OF PROCEEDINGS

5 Prehearing Conference

6 August 30, 2011

7 Volume 1

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9
10 Eric C. Larson,)
11 Complainant,)
12 vs.) File No. WC-2011-0409
13 Woodland Manor Water)
14 Company, LLC,)
15 Respondent.)

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18 DANIEL JORDAN, Presiding
19 _____
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22 SENIOR REGULATORY LAW JUDGE

23 REPORTED BY:

24 NANCY L. SILVA, RPR, CCR

25 TIGER COURT REPORTING, LLC

1 ERIC C. LARSON

Pro se

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5 GREG GIBSON (via telephone)

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FOR: Woodland Manor Water Company, LLC

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1 JUDGE JORDAN: We can go on the
2 record. The Commission will call File No.
3 WC-2011-0409, which is the complaint of
4 Eric C. Larson against Woodland Manor Water
5 Company, L.L.C.

6 I'm Daniel Jordan. I am the
7 regulatory law judge assigned to this action.
8 What I'm going to do is begin with entries of
9 appearance, and we'll start with the
10 Complainant. Will you introduce yourself,
11 please.

12 MR. LARSON: I'm Eric Larson.

13 JUDGE JORDAN: Mr. Larson, there was
14 a little bit of confusion as to who the entity
15 is that owns the property that's being
16 serviced. Is there an LLC involved in this at
17 all?

18 MR. LARSON: No. There had been an
19 LLC earlier, and it was dissolved as a matter of
20 not being attentive to its LLCness.

21 JUDGE JORDAN: Right. Okay. So the
22 property is owned by you; is that correct?

23 MR. LARSON: Eric and Debbie Larson.

24 JUDGE JORDAN: And by Debbie Larson.
25 Thank you. Thank you. All right.

1 Now, for Woodland Manor Water Company,
2 LLC.

3 MR. GIBSON: Yes, your Honor.
4 Gregory R. Gibson on behalf of Woodland Manor.

5 JUDGE JORDAN: Thank you. Will you give
6 your address and contact information to the reporter,
7 please.

8 MR. GIBSON: Yes. The best address would
9 be P.O. Box 108, Blue Eye, Missouri 65611, and my
10 phone is area code 417.779.2226.

11 JUDGE JORDAN: Thank you.

12 And for Staff.

13 Rachel Lewis on behalf of Staff, P.O.
14 Box 360, Jefferson City, Missouri 65102. With me I
15 have Dave Spratt, Jim Merciel and Jim Bush in the
16 room.

17 JUDGE JORDAN: Thank you.

18 And for Office of Public Counsel, I
19 haven't seen anyone. They are a party. They're
20 entitled to appear, but I don't think they have so
21 far. And I'm not hearing anyone on the line and not
22 seeing anyone in the room for Office of Public
23 Counsel.

24 And while we're discussing
25 representation, Mr. Larson, you have someone also

1 with you as well?

2 MR. LARSON: Yes. This is my wife Debbie.

3 JUDGE JORDAN: Debbie Larson --

4 MR. LARSON: Correct.

5 JUDGE JORDAN: -- is present in the room.

6 And Staff has identified their representatives.

7 MR. GIBSON: Mr. Gibson, is there a
8 representative of the LLC at your end of the line?

9 MS. FENIMA: Yes, your Honor. Mona Fenima
10 is also here. She is the chief administrator, I
11 guess, of the company.

12 JUDGE JORDAN: Okay. Here's what we're
13 going to do today: We're going to discuss
14 procedure. We can get into a little bit of the
15 substance of it, if you like.

16 It may be helpful for the parties to do
17 so. Many of these actions settle on terms agreeable
18 to the parties. And the Commission does offer
19 mediation services as well, if that would be
20 helpful. The law encourages settlement, and the
21 reason it encourages settlement is that the parties
22 can usually come up with a solution that better meets
23 their needs than the Commission or any other outsider
24 can.

25 What we'll do is discuss some of these

1 matters on the record, and we'll go off the record.
2 I'll leave the room so you may discuss more sensitive
3 information outside of my hearing without worrying
4 about any prejudging the merits of the case.

5 Well, the thing I want the parties to
6 focus on, in my experience, is what a complaint
7 does. According to statute, what a complaint does is
8 determine whether a regulated utility has violated a
9 statute, a regulation, or a tariff.

10 The Commission can fashion remedies for
11 that, but our focus is on whether the regulated
12 utility has violated a statute, a regulation, or a
13 tariff. The Complainant in these actions has the
14 burden of proof, and it's very much like a circuit
15 court trial. There's no jury.

16 If the case were to go to hearing, it
17 would be heard -- I would run the hearing. I
18 assemble the record. I draft a decision, and I
19 recommend that to the Commissioners, and then they
20 decide, by vote -- there's five of them -- they
21 decide how they want to decide the case.

22 Now, the thing about this hearing is that
23 it is an evidentiary hearing. Like I say, it's much
24 like in circuit court. The law relaxes the rules of
25 evidence, but the law of evidence still applies, and

1 in order to figure out pretty much everything you
2 need to know about evidence, I'm going to guide you
3 to a statute. The statute is No. 536.070. 536.070.
4 That tells you pretty much everything you need to
5 know about how to get your information into the
6 record, if we go to hearing.

7 That statute's written in pretty plain
8 language. There's 12 subsections to it, but pro se
9 litigants prepare and will prevail in their case
10 pretty often. The thing to understand about the
11 person running the hearing, me, is that I'm a
12 lawyer. I'm an administrative lawyer. My expertise
13 is in administrative law. That's what I know.

14 I'm not an engineer, and I'm not an
15 accountant. I'm not an economist, so if you have
16 matters like that that you want to communicate to me,
17 you're going to have to reduce them to very plain,
18 simple terms. Words of one syllable are helpful.

19 Any questions so far?

20 MR. GIBSON: No sir, not from us.

21 MR. LARSON: Nor from me.

22 JUDGE JORDAN: All right. Well, what I'd
23 like to do then, having said my peace, is leave this
24 matter to you and go off the record so that the
25 parties can talk about what they can agree to and

1 understand, also what they don't agree to.

2 It may be helpful for the parties to
3 agree on dates for exchanging information through the
4 discovery process. It may be helpful to agree on a
5 hearing date as well. If the parties want to file a
6 procedural schedule, that can be helpful as well.

7 I'll ask the Staff to guide those
8 discussions, and I will also ask Staff to file a
9 brief report, say tomorrow morning, a sentence or
10 maybe two just to give me an idea of the likelihood
11 for settlement or the need for a hearing as Staff
12 perceives it.

13 MS. LEWIS: Sure.

14 JUDGE JORDAN: And then once you're all
15 done, I'll ask you to hang up the phone and turn off
16 the lights.

17 MS. LEWIS: We can do that.

18 JUDGE JORDAN: Now, while I'm here with
19 you, is there anything I can help you with as far as
20 procedural guidance or at least how I perceive the
21 procedure in this action?

22 MR. LARSON: Not me.

23 JUDGE JORDAN: Staff, anything?

24 MS. LEWIS: No, I'm good too.

25 JUDGE JORDAN: Mr. Gibson, anything before

1 I leave the room and we go off the record?

2 MR. GIBSON: Well sir, no. I guess the
3 only issue, and it was one issue we raised, really,
4 just to kind of make sure we were covering all the
5 bases, was about whether or not the Complainant --
6 whether there could be an LLC also involved with the
7 Complainant, and I understand he has taken the
8 position here on the record that there is no LLC
9 involved. That's fine.

10 I think you understand, we just didn't
11 want to be in a position of having to revisit this at
12 some point in the future, you know, having a
13 duplicate filing by an LLC at a later date, so if
14 there's -- my understanding is that the Court is
15 satisfied that the Complainant has taken the position
16 on the record that there is no LLC involved, so we
17 can dispense with that issue; is that correct?

18 JUDGE JORDAN: Well, I appreciate you
19 having raised that issue, because if an LLC does own
20 the property -- if the LLC is the customer -- I think
21 I should say, if the LLC were a customer, then that
22 would involve matters of representation.

23 MR. LARSON: Right. I'd have to be
24 represented by a lawyer.

25 JUDGE JORDAN: Exactly so, and that's come

1 up in the past. In fact, my very first hearing had
2 that. A surprise LLC popped up so --

3 MR. LARSON: Uh-huh.

4 JUDGE JORDAN: -- always good for someone
5 to investigate and to clarify that, so I appreciate
6 you doing so.

7 Anything else before I go off the record
8 and leave the room?

9 MR. LARSON: Not from us.

10 JUDGE JORDAN: From Staff?

11 MS. LEWIS: Nothing from Staff.

12 JUDGE JORDAN: Anything from the utility?

13 MR. GIBSON: I have nothing further, sir.

14 JUDGE JORDAN: Thank you very much,
15 everyone, for your attention and efforts in this
16 action. With that, I'll adjourn this portion of the
17 prehearing conference. I'll leave the room and we'll
18 go off the record.

19 MR. LARSON: Thank you, sir.

20 JUDGE JORDAN: Thank you.

21 (The hearing concluded.)
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1 CERTIFICATE

2 I, Nancy L. Silva, RPR, a Certified
3 Court Reporter, CCR No. 890, the officer before
4 whom the foregoing hearing was taken, do hereby
5 certify that the witness whose testimony appears
6 in the foregoing hearing was duly sworn; that
7 the testimony of said witness was taken by me to
8 the best of my ability and thereafter reduced to
9 typewriting under my direction; that I am
10 neither counsel for, related to, nor employed by
11 any of the parties to the action in which this
12 hearing was taken, and further, that I am not a
13 relative or employee of any attorney or counsel
14 employed by the parties thereto, nor financially
15 or otherwise interested in the outcome of the
16 action.

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19 Nancy L. Silva, RPR, CCR
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