

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
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6 TRANSCRIPT OF PROCEEDINGS  
7 Prehearing Conference  
8 September 4, 2008  
9 Jefferson City, Missouri  
Volume 1

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12 Reuben L. Crenshaw, )  
 )  
13 Complainant, )  
 )  
14 v. ) Case No. WC-2008-0354  
 )  
15 Missouri-American Water Company, )  
 )  
16 Respondent. )

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19 NANCY M. DIPPELL, Presiding,  
DEPUTY CHIEF REGULATORY LAW JUDGE.

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21 REPORTED BY:

22 KELLENE K. FEDDERSEN, CSR, RPR, CCR  
23 MIDWEST LITIGATION SERVICES

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1 APPEARANCES:

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14 FOR: Staff of the Missouri Public  
15 Service Commission.

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

2 JUDGE DIPPELL: This is Case

3 No. WC-2008-0354, Reuben Crenshaw vs. Missouri-American

4 Water Company. My name is Nancy Dippell. I'm the

5 Regulatory Law Judge assigned to this case, and we've come

6 here today for a prehearing conference. I have counsel

7 for Missouri-American as well as the Complainant on a

8 phone line, and I have members of the Staff and their

9 counsel here in the room with me in Jefferson City.

10 I'm going to begin by letting the attorneys

11 make entries of appearance. Mr. Jones, would you like to

12 begin?

13 MR. JONES: Yes. This is Ken Jones. I'm

14 an attorney in-house for Missouri-American Water Company.

15 My address is 727 Craig Road, St. Louis, 63141.

16 JUDGE DIPPELL: Thank you. And Staff?

17 MR. DEARMONT: My name is Eric Dearmont,

18 and I am entering an appearance under Missouri Rule 13 on

19 behalf of the Missouri Public Service Commission. Our

20 address is P.O. Box 360, Jefferson City, Missouri 65102.

21 JUDGE DIPPELL: And Mr. Crenshaw, can you

22 give us your address?

23 MR. CRENSHAW: My address is 6910

24 Winchester Drive, St. Louis, Missouri 63121.

25 JUDGE DIPPELL: I'm going to probably need

1   you to speak up as much as you can just because our  
2   connection isn't that great on this phone. I've turned up  
3   the volume, but if you can speak into the phone a little,  
4   that will help us.

5                   MR. CRENSHAW: Okay.

6                   JUDGE DIPPELL: Okay. Like I say,  
7   basically we've come here today for a prehearing  
8   conference, and that is where I just want to get a few  
9   matters clarified on the record, and then I'm going to let  
10  you-all have some time to yourselves to discuss possible  
11  settlement or to pick some procedural dates so you can  
12  file a procedural schedule if you can't reach some kind of  
13  settlement and it needs to go to hearing.

14                  Mr. Crenshaw, I'm just going to begin with  
15  you. Basically, I wanted to find out if, because I  
16  couldn't tell from your last filing for sure, if you agree  
17  with Missouri-American's statement that they had zeroed  
18  out your account balance?

19                  MR. CRENSHAW: Yeah. I don't have anything  
20  in front of me, but I seem to recall that that's correct.

21                  JUDGE DIPPELL: Okay. And so can you  
22  clarify for me, then, just so that it's 100 percent  
23  certain, the facts that you think are still in dispute?  
24  Is it just that you believe the meter reading was  
25  incorrect or that the billing was incorrect?

1 MR. CRENSHAW: Both.

2 JUDGE DIPPELL: Okay.

3 MR. CRENSHAW: The meter reading  
4 precipitated the outlandish billing.

5 JUDGE DIPPELL: Okay. Are there specific  
6 tariff provisions or rules or regulations or laws of the  
7 State that you believe Missouri-American has violated?

8 MR. CRENSHAW: Rules or laws of the State?

9 JUDGE DIPPELL: Yes.

10 MR. CRENSHAW: I'm not that familiar with  
11 the laws of the State.

12 JUDGE DIPPELL: Okay.

13 MR. CRENSHAW: I'm just seeking the truth.

14 JUDGE DIPPELL: You were breaking up there  
15 just a little bit there. Did you say you were just  
16 speaking the truth?

17 MR. CRENSHAW: I'm seeking.

18 JUDGE DIPPELL: Oh, seeking the truth.

19 MR. CRENSHAW: Yes. That girl LaDonna has  
20 been hidden from all of this, you know, since the day I  
21 talked to her. There's been a cover-up. I want to know  
22 what she's got to say. But there was something Mr. Jones  
23 stated in his response about privacy rules.

24 JUDGE DIPPELL: Well, I believe he was  
25 referring to employee personnel matters are generally

1 considered confidential.

2 MR. CRENSHAW: Unless it's subpoenaed in  
3 the court, I guess.

4 JUDGE DIPPELL: Well, and that's -- I want  
5 to clarify that this is, of course, the Public Service  
6 Commission, and we have a limited jurisdiction over  
7 Missouri-American. We're not a regular court. So we are  
8 charged with making sure that they abide by rules and  
9 regulations and their tariff provisions, but there's only  
10 certain things that the Commission will be able to grant  
11 you as a relief to your complaint.

12 So that's the reason I'm trying to make  
13 clear. I want to find out exactly what it is that you  
14 want the Commission to do so that I can figure out if the  
15 Commission has the jurisdiction to do that.

16 MR. CRENSHAW: So you have no powers to  
17 force the water company to bring this lady forth and  
18 testify?

19 JUDGE DIPPELL: Well, that's not completely  
20 it. I'm just saying that there is only certain things  
21 that we can grant to you as relief, and so if you're not  
22 seeking one of those things, then it's difficult for us to  
23 bring this woman forth to testify. I'm not sure what it  
24 is that you want her to testify about.

25 MR. CRENSHAW: I want her to corroborate or

1 deny what I have put in my letter, that first letter, what  
2 she told me on the phone when I called complaining about  
3 this bill.

4 JUDGE DIPPELL: Okay.

5 MR. CRENSHAW: It's all in my letters that  
6 I -- and complaint, what have you. Everything is in  
7 there, what I am asking for, what I'm seeking.

8 JUDGE DIPPELL: Okay. So if we were to  
9 take this matter to hearing, then, you would be seeking  
10 to, say, subpoena Ms. -- the woman that you spoke of,  
11 LaDonna I believe was her name?

12 MR. CRENSHAW: Yeah.

13 JUDGE DIPPELL: To prove that the company  
14 had this meter that was registering incorrectly?

15 MR. CRENSHAW: I put in my letter exactly  
16 what she told me, and I want to -- I want her to attest to  
17 that or deny it, whatever, but I wrote down exactly what  
18 she said, incorrect meter readings or meters that were  
19 defective. I don't know. Exactly what -- exactly what I  
20 put in the letter is what she told me.

21 JUDGE DIPPELL: Okay. Well, again, I'm  
22 just trying to find out if there's some relief that you're  
23 requesting that the Commission would be able to grant if  
24 we found in your favor.

25 MR. CRENSHAW: Well, I want the water

1 company to tell the truth.

2 JUDGE DIPPELL: Okay.

3 MR. CRENSHAW: I'm wondering, have they  
4 talked to this woman LaDonna? I would think that they  
5 have.

6 JUDGE DIPPELL: Well, I don't know any of  
7 that at this point, and I'm not able -- since this -- this  
8 isn't the hearing part, so the facts I won't get into.  
9 I'm just trying to clarify the facts that are in dispute  
10 so that I can determine if there's some relief the  
11 Commission would be able to grant you.

12 MR. CRENSHAW: The fact that they zeroed  
13 that account does not void what was done, the statements  
14 that were made.

15 JUDGE DIPPELL: I understand what you're  
16 saying.

17 MR. CRENSHAW: I want acknowledgement.  
18 This Donna -- LaDonna, I think she should testify whether  
19 she told me this or not. I want to see if she'll tell the  
20 truth with no influence from the company, but I don't know  
21 how we can determine whether the company has influenced  
22 her.

23 JUDGE DIPPELL: Okay.

24 MR. CRENSHAW: The truth lies with  
25 Missouri-American Water, and whether they'll ever tell the



1 truth about this, I don't know.

2 JUDGE DIPPELL: Okay. Mr. Jones?

3 MR. JONES: Yes.

4 JUDGE DIPPELL: Did you have anything  
5 additional that you needed to bring for the on-the-record  
6 portion of this conference?

7 MR. JONES: No, your Honor. I'm also still  
8 trying to determine what the legal issue is, what the  
9 claimed violation is and what the proposed relief is.

10 JUDGE DIPPELL: Okay. Mr. Crenshaw, did  
11 you have anything that you wanted to add before we go off  
12 the record, then, and I'll leave you-all to discuss a  
13 procedural schedule?

14 MR. CRENSHAW: Procedural schedule for?

15 JUDGE DIPPELL: Just means, like, when we  
16 would have a hearing, for you-all to figure out dates that  
17 you'd be available. The Commission will be looking at  
18 this. Basically, the company has included in their answer  
19 a request to dismiss the complaint because there's no  
20 relief that the Commission can grant, and the Commission  
21 will look at that.

22 But assuming that the Commission goes  
23 forward with the hearing, you'll need to get together with  
24 the company and decide on a date for that, and that will  
25 be the purpose of your discussions or if you can discuss

1 any kind of settlement, you can ask Mr. Jones your  
2 additional questions and so forth.

3 MR. CRENSHAW: The official hearing, what  
4 is the purpose for that?

5 JUDGE DIPPELL: That would be for you to  
6 come forth with your evidence and to have -- to prove your  
7 case.

8 MR. CRENSHAW: Evidence? Evidence as to  
9 what LaDonna told me?

10 JUDGE DIPPELL: That would be your  
11 opportunity to --

12 MR. CRENSHAW: I don't have any evidence.  
13 I just have my memory as to what she told me.

14 JUDGE DIPPELL: Well, obviously --

15 MR. CRENSHAW: And she knows what she told  
16 me. I don't know if she took notes that day.

17 JUDGE DIPPELL: You would be able to  
18 testify on your own behalf as well as you'd be able to  
19 call other witnesses, and you could ask the Commission to  
20 subpoena witnesses for you if you like.

21 MR. CRENSHAW: I don't know really --

22 JUDGE DIPPELL: I know it seems complex.

23 MR. CRENSHAW: I have no witnesses. Where  
24 would I get a witness involved with this?

25 JUDGE DIPPELL: Well, you were just telling

1 me that you wanted to hear from this woman at  
2 Missouri-American. You wanted her to testify as to the  
3 facts.

4 MR. CRENSHAW: As to what she said.

5 JUDGE DIPPELL: For instance, that might be  
6 a witness. You would testify on your own behalf might be  
7 a witness. The company would be able to present witnesses  
8 in their defense. Without having a hearing and putting  
9 evidence into the record, the Commission has nothing to  
10 base a decision on unless you agree to let the Commission  
11 make the decision based on the filings that have been made  
12 without any cross-examination. Does that make any sense?

13 MR. CRENSHAW: I'm not sure that it does.  
14 It seems that the Commission does not have the power to  
15 draw the truth out or force the truth from the water  
16 company. And even in a court of law, I'm wondering how  
17 can the court make them tell the truth if this employee  
18 refuses to admit what she told me? I got no other  
19 witness.

20 JUDGE DIPPELL: Well, as I said, the  
21 Commission has limited powers. We're an administrative  
22 body, and we regulate the companies based on rates and  
23 service and safety. We have a set of rules and  
24 regulations that they have to follow. There's statutes  
25 they have to follow. They have to follow the provisions

1 of their tariff, which sets out their rates and services.  
2 So if there is one of those things that is suspected to  
3 have been violated, the Commission does have the power to  
4 try to find the truth of that. But that's the reason I'm  
5 trying to figure out exactly what it is that you might be  
6 requesting so that I can figure out if the Commission has  
7 the authority to do that, and it sounds like at this point  
8 you want Missouri-American to admit that they were wrong  
9 about the meter?

10 MR. CRENSHAW: Yeah, that's certainly in  
11 the forefront of the complaint.

12 JUDGE DIPPELL: So in order for the  
13 Commission to make any kind of decision, we have to have a  
14 record on which we can base the decision on. So that  
15 would either have to be by agreement, the pleadings that  
16 you-all have already -- the filings, the documents and  
17 letters and things that you've already submitted, or we  
18 would have to have a formal evidentiary hearing where we  
19 can hear testimony and take those documents into evidence.

20 MR. CRENSHAW: Under what framework would  
21 this lady LaDonna be forced to testify under oath?

22 JUDGE DIPPELL: If you requested a subpoena  
23 from the Commission and it was served on her, she could be  
24 a witness, or if she just appeared voluntarily.

25 MR. CRENSHAW: What venue would she be

1     testifying?  Would that be the next step in this process,  
2     this hearing you refer to?

3                     JUDGE DIPPELL:  Yes.

4                     MR. CRENSHAW:  She'd have to testify if  
5     she's subpoenaed to testify at that hearing, and anyone  
6     else that I designate to be subpoenaed, is that what  
7     you're saying?

8                     JUDGE DIPPELL:  Yes.  That's generally the  
9     way it works.  And I don't want to get into too much.  I'm  
10    not really here to give you legal advice on how to present  
11    your case.  But that's generally how the procedure works.

12                    MR. CRENSHAW:  Well, I certainly don't have  
13    a lawyer.  This Jones fellow, he is a lawyer.  I'm just a  
14    private citizen.  I can't afford to get a lawyer involved.

15                    JUDGE DIPPELL:  I understand, and no one  
16    expects you to have a lawyer.  That's the reason I'm  
17    trying to explain a little bit how the procedure works.

18                    MR. CRENSHAW:  The last letter I wrote, I  
19    stated that some people needed to be -- needed to be  
20    interrogated under oath.  Theresa Dubba is another one  
21    that needs to be interrogated under oath.  These two,  
22    LaDonna and Theresa, come to mind immediately.  I have to  
23    look through my documents to see if there's possibly  
24    someone else that needs to be subpoenaed.

25                    JUDGE DIPPELL:  Well, if you have witnesses

1     that you would like the Commission to subpoena, you can  
2     ask the Commission to do that.

3                   MR. CRENSHAW:  Is there a form for me to  
4     fill out?  If there is, I'd appreciate if you'd send it to  
5     me.

6                   JUDGE DIPPELL:  There is a form, and I can  
7     send you a copy of that.

8                   MR. CRENSHAW:  Whatever legal, you know,  
9     document you require for this to take place and for me to  
10    list my witnesses.

11                  JUDGE DIPPELL:  That will be another thing  
12    that you can discuss as far as a procedural schedule, that  
13    would be what date you would pick to present a list of  
14    witnesses and what date you would pick for a hearing.

15                  MR. CRENSHAW:  So I would put that on this  
16    form you're referring to?

17                  JUDGE DIPPELL:  No.  The form I was  
18    referring to is a form that we have for a subpoena  
19    request, which I would be happy to send you a copy of it.

20                  MR. CRENSHAW:  What point would I stipulate  
21    the date that I would like?

22                  JUDGE DIPPELL:  I'm going to let you do  
23    that as soon as I sign off the formal part of this  
24    proceeding, and then I'll let you-all discuss dates among  
25    yourselves.  Okay?

1                   MR. CRENSHAW: Well, I'd like to think  
2 about a date and get back to Mr. Jones. Am I allowed to  
3 talk to him directly?

4                   JUDGE DIPPELL: Yes. Yes.

5                   MR. CRENSHAW: I want to go over my  
6 documents, what have you, and get things in order and  
7 decide on who I want to be subpoenaed and then get with  
8 him on some dates. He'll have to check with some others,  
9 I'm sure, come to terms on an agreeable date.

10                  JUDGE DIPPELL: Okay. Then I'm going to go  
11 ahead, then, and conclude the on-the-record portion.  
12 That's the portion of this prehearing conference that the  
13 court reporter is taking down. And then I'll let you-all  
14 conclude discussions about dates and so forth, and I might  
15 ask Staff attorneys to explain any additional procedures  
16 that I didn't.

17                  MR. CRENSHAW: Well, I don't -- like I  
18 said, I don't need to talk to Mr. Jones at this point. I  
19 want to get that form and get that filled out. Then I'll  
20 get with him and see what the date that would be  
21 agreeable.

22                  JUDGE DIPPELL: Well, I'm going to leave  
23 you-all, and you're both on the phone right now, so if you  
24 could kind of discuss what dates you might need to --  
25 usually our Staff takes care of filing actually the

1 proposed schedule with me, and then I will issue an Order  
2 setting that, or if the Commission will take up Mr. Jones'  
3 motion to dismiss probably in the interim.

4 So I'm going to go ahead, then, and  
5 conclude the on-the-record portion, and you-all can stay  
6 on the conference call and have discussions or make a time  
7 when you can get together to continue your discussions.

8 MR. CRENSHAW: Well, I have nothing further  
9 to say to Mr. Jones. As I said, I'll have to get back to  
10 him after I get that form from you.

11 JUDGE DIPPELL: Okay.

12 MR. CRENSHAW: Are you saying in the  
13 meantime the Commission is going to make a ruling without  
14 hearing from me?

15 JUDGE DIPPELL: In the meantime, the  
16 Commission will probably look at Mr. Jones' motion to  
17 dismiss the case for failure to state a claim that the  
18 Commission can grant. But you go ahead and figure out --  
19 because I don't know which way the Commission will rule on  
20 that, so you go ahead and figure out a date when you would  
21 like to go forth with the hearing.

22 MR. CRENSHAW: Well, I cannot determine a  
23 date at this point. I'd like to sign off also. I have  
24 nothing further to say to Mr. Jones.

25 MR. DEARMONT: Mr. Crenshaw? Mr. Crenshaw,



1     this is Eric Dearmont with the Public Service Commission.  
2     And if you wouldn't mind, we would like to discuss a few  
3     legal and factual matters with you.

4                     JUDGE DIPPELL:   I would appreciate it --  
5     Mr. Jones, this is Judge Dippell.   I would appreciate it  
6     if you'd just stay on the line and discuss things with  
7     Staff and Mr. Jones, and when you-all finish that, you're  
8     free to go, but I would appreciate it if you would stick  
9     around and at least hear what Staff and others might have  
10    to say.

11                    MR. CRENSHAW:   Okay.

12                    JUDGE DIPPELL:   Let's go ahead and go off  
13    the record.

14                    WHEREUPON, the recorded portion of the  
15    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 \_\_\_\_\_  
18 Kellene K. Feddersen, RPR, CSR, CCR  
19 Notary Public (County of Cole)  
20 My commission expires March 28, 2009.  
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