

In the Matter of:
CLAUDE SCOTT

v.

MISSOURI-AMERICAN WATER COMPANY

WC-2020-0407, VOL. II

December 14, 2020



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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Discovery Hearing

December 14, 2020

Jefferson City, Missouri (WebEx)

Volume 2

| | | |
|-------------------|---|-----------------------|
| Claude Scott, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| vs. |) | File No. WC-2020-0407 |
| |) | |
| Missouri-American |) | |
| Water Company, |) | |
| |) | |
| Respondent. |) | |

JANA JACOBS, Presiding
REGULATORY LAW JUDGE

REPORTED BY:
Beverly Jean Bentch, CCR No. 640
TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

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P R O C E E D I N G S

JUDGE JACOBS: I apologize to everyone very much for the delay. We did have a court reporter arranged, but we obviously had technical problems. So my apologies for that.

We do have Mr. Scott on the line. Mr. Scott, are you still with us?

MR. SCOTT: Yes, I am.

JUDGE JACOBS: Okay. So this proceeding today is going to be recorded. So we are going to go on the record for this discovery conference, which is taking place in WC-2020-0407, which is Mr. Scott's complaint against Missouri-American Water Company.

All right. So we have with us today Mr. Scott. He is on the line. And then I'll ask the Company to enter an appearance here and let us know who's representing the Company. Thank you.

MS. HERNANDEZ: Yes, Your Honor. This is Jennifer Hernandez with the law firm of Brydon, Swearingen & England representing Missouri-American Water Company, and also on the line is Ms. Tracy Figueroa just in case there would be some more technical questions that I wouldn't be able to answer.

JUDGE JACOBS: Okay. Thank you for introducing that person as well. And for Staff?

1 MR. PRINGLE: Forgot to unmute. Morning,
2 Judge. This is Travis Pringle, Staff Counsel
3 Department, Missouri Public Service Commission. I'm
4 also joined by Contessa King, Scott Glasgow and Tammy
5 Huber on the line.

6 JUDGE JACOBS: Okay. Thank you very much for
7 introducing those folks as well. I'm just going to ask
8 the court reporter to just confirm for me by saying yes
9 that she can still hear us.

10 THE COURT REPORTER: Yes.

11 JUDGE JACOBS: Okay. Thank you. All right.
12 We also have Mr. Scott with us. Mr. Scott, are you with
13 us, sir?

14 MR. SCOTT: Yes, I am.

15 JUDGE JACOBS: Would you introduce yourself,
16 sir?

17 MR. SCOTT: My name is Claude Scott. I am a
18 client or a customer of Missouri-American Water.

19 JUDGE JACOBS: Okay. My understanding this
20 morning, Mr. Scott, is that you called from work and you
21 may have limited time to deal with this this morning.

22 MR. SCOTT: That is correct.

23 JUDGE JACOBS: Okay. So what I would like to
24 just -- The purpose of this is really to gather some
25 information about what has happened. So really what I'm

1 just trying to do is figure out what has been asked for,
2 what has been provided and if there has been some kind
3 of miscommunication and if there's an actual dispute
4 here of some kind. Okay? Today I just want to get
5 basic information collected about how we got to the
6 point of Mr. Scott filing something on November 16 that
7 he described as a motion to dismiss respondent's
8 monetary claim. And so we were having technical
9 problems this morning. So I had tried to move ahead
10 with the discovery conference without having a reporter
11 with us. Now we do have a reporter with us and we are
12 officially on the record. So we're going to retread a
13 little bit of the same ground and I apologize for that.

14 Mr. Scott had explained to us that he had
15 asked the Company to provide some information, and he
16 was answering my questions about when and how he's done
17 that. So I'm going to go back over that.

18 Mr. Scott, when you have asked the Company to
19 give you information in this case, how did you do that?

20 MR. SCOTT: I did that, like I said, in person
21 and when I was there to test the water meter and do
22 discovery where I sent the Commission a copy of the
23 exact same thing I sent to Missouri-American Water.
24 Missouri-American Water never responded to that. So I
25 had asked them specifically on an 18-month history to

1 see if they have clearly input my payment, et cetera,
2 and all the information charges on the water. They
3 failed to respond. I got no response from them
4 whatsoever. This is why we're at this point now.

5 JUDGE JACOBS: Okay.

6 MR. SCOTT: So basically my complaint is that
7 I have received nothing. The discovery has not been
8 responded to.

9 JUDGE JACOBS: Okay. So when you submitted
10 something in writing to Missouri-American, when did you
11 do that?

12 MR. SCOTT: What it was, it was a motion for
13 discovery that was taken to the court and to
14 Missouri-American Water --

15 JUDGE JACOBS: So in this case --

16 MR. SCOTT: -- dated November 16.

17 JUDGE JACOBS: In this case there was
18 something that was filed in a previous case that you had
19 against Missouri-American and it had that case file
20 number on it that was submitted to the Commission in
21 August. And then because it had that old file number on
22 it, it was transferred over to this case and that
23 happened in August.

24 MR. SCOTT: Okay. I was not notified of that.
25 Would that have an effect on this case at all?

1 JUDGE JACOBS: Well, sir, you filed something
2 in August with a file number on it. So you clearly had
3 notice of that. And then when that was received by the
4 Commission, the Commission noticed that it was in an old
5 and closed case and it concerned this case. And so what
6 happened was the Commission simply said it appears that
7 this was intended for this case and filed a notice to
8 that extent and moved that document over to this case
9 and that was also provided to you. So you received
10 something to confirm that that filing was transferred.
11 Okay.

12 MS. HERNANDEZ: Your Honor, this may help to
13 clarify and help move past this point. I did receive in
14 October, we received it here at the law firm October 8,
15 2020, essentially the same letter that Mr. Scott filed
16 as the motion for discovery November 17 it looks like is
17 when we received it. When he's talking about the letter
18 he sent, he sent it to counsel here for
19 Missouri-American.

20 JUDGE JACOBS: Okay. So in October he sent
21 you a letter that you've received as the Company's
22 attorney?

23 MS. HERNANDEZ: Correct.

24 JUDGE JACOBS: Okay. And then now he has come
25 forward and said that he didn't receive anything in

1 response. Maybe the next question to ask here is what
2 happened and was something provided?

3 MS. HERNANDEZ: Sure. So at the August 27
4 procedural conference, during the off the record portion
5 I agreed to send Mr. Scott copies of all the data
6 request responses 1 through 11 that Staff had submitted.
7 In a September 10 letter that we sent by Fed Ex, I have
8 a delivery confirmation that it was delivered to
9 Mr. Scott's address on September 11 at 1:17 p.m. I sent
10 the responses to the Staff DRs 1 through 11 in this case
11 and due to the size of the documents they were sent by a
12 thumb drive. In particular, the complainant's written
13 motion acknowledged receipt of this thumb drive, and
14 he's requesting the billing and payment record, it looks
15 like in particular the payment confirmation or what he's
16 calling payment confirmation. That information is in DR
17 -- Staff DR 4 and that information was provided on that
18 thumb drive.

19 Now, if the dispute is Mr. Scott essentially
20 wanting paper copies versus the thumb drive with the
21 information, the Commission's Rule 20 CSR 4240-2.090(1)
22 discovery may be obtained by the same means and
23 conditions as in the civil actions and so requests for
24 production typically provide the information in the
25 format that the company holds that information. That is

1 all electronic information so we put it on the thumb
2 drive and submitted it and sent it to Mr. Scott. But if
3 the dispute is he actually wants paper, I certainly can
4 make this very easy for everyone and print out that
5 paper and send it to him.

6 MR. SCOTT: First of all, the thumb drive that
7 they sent me, I could not read anything on it. I didn't
8 even know who it was from. So I could not read a single
9 thing because there was nothing but gibberish on the
10 thumb drive. Second is that the opposing side should
11 know by now everybody does not have a computer to use.
12 The thumb drives are a very bad idea to respond with
13 information. It should have been on paper form in the
14 first place. That way I would have been able to see
15 clearly exactly what the dispute is and where we had a
16 breakdown in communication, et cetera. But as far as
17 that thumb drive is concerned, that does not satisfy
18 discovery because it was not readable.

19 JUDGE JACOBS: So Mr. Scott, when you received
20 the thumb drive, do you have the means to plug it into a
21 computer and see what's on it?

22 MR. SCOTT: I have a means to plug it into a
23 computer, but it's not readable.

24 JUDGE JACOBS: Okay. So you tried to use it?

25 MR. SCOTT: I tried to use it, exactly.

1 JUDGE JACOBS: Okay. So you have a computer
2 at home that you're able to use or you're able to go to
3 someone else's place or the library or something?

4 MR. SCOTT: I go to the library. I usually go
5 the library and their computers are always working.

6 JUDGE JACOBS: Will the library allow you to
7 plug in a thumb drive like that?

8 MR. SCOTT: Yes, they will.

9 JUDGE JACOBS: Okay. So is that what you
10 tried to do?

11 MR. SCOTT: That's what I tried to do and
12 couldn't read a single thing on it.

13 JUDGE JACOBS: Did you let the Company know
14 that you were not able to use the information they had
15 given you?

16 MR. SCOTT: I had already told that phone
17 call, yes, that I could not read the information, but
18 the real point of this whole thing is that --

19 JUDGE JACOBS: No, I'm sorry, let's go back.
20 Let's go back. So who did you tell by phone that you
21 were not able to use the information on the thumb drive?

22 MR. SCOTT: It was their customer service
23 department or whoever it is that works in customer
24 service. I basically asked them for a written copy in
25 my discovery that was sent to them and they should have

1 sent that to me anyway in the first place. Everybody
2 does not have a computer. They have access to a
3 computer. So it's just common sense in a case such as a
4 dispute of this magnitude that you send written form
5 only, not thumb drive.

6 JUDGE JACOBS: We're going to deal with this
7 specific case, because that's what we're talking about
8 is just this case. There's one thing I want to go back
9 to. In the document that was filed in August, Mr. Scott
10 had also asked for some information about his meter or a
11 meter and also for some meter reading information but
12 then what you filed in November, Mr. Scott, you didn't
13 mention that stuff. So did you get the information that
14 you wanted about the meter?

15 MR. SCOTT: No, I didn't. I didn't receive
16 anything about the meter, no. The only thing I have
17 received is a picture of the meter. That was what they
18 took a color copy of it and that's it. I didn't get any
19 information as far as what you call readings, et cetera.

20 JUDGE JACOBS: Okay. So I'm asking you about
21 this because it's mentioned in the August document, I
22 don't know if it was mentioned in a letter that was sent
23 asking for information which Ms. Hernandez said that she
24 received for the Company. But when you filed this
25 document before the Commission in this case, you didn't

1 mention anything about the meter. I just wondered why
2 it looks to me like if you didn't ask for it again or
3 say that there was a problem with it that there was not
4 problem with it, you had received the information you
5 wanted or you either did not want it any more.

6 MR. SCOTT: Okay. Are you speaking
7 specifically of the meter?

8 JUDGE JACOBS: I am talking about the request
9 that was filed in August for information. It talked
10 about some of the billing information and then it also
11 asked for information about the meter. And then when
12 you filed something again in November, you didn't
13 mention it. So now I'm asking you, because what I don't
14 want to do is try to resolve this and then have another
15 dispute about information about a meter. So I'm just
16 trying to figure out if that was addressed.

17 MR. SCOTT: Well, the only thing they sent me
18 on the meter, as far as that is concerned, is a picture
19 of it. They didn't send me any readings of any type,
20 no.

21 JUDGE JACOBS: Did you request additional
22 information about a meter or want at this time --

23 MR. SCOTT: Yes, I did.

24 JUDGE JACOBS: -- additional information about
25 the meter?

1 MR. SCOTT: I asked them for information when
2 I was out there and they were testing the meter. I
3 basically asked them would they send me copies of the
4 meter readings.

5 JUDGE JACOBS: At this point as far as your
6 case and complaint with the Company would go that is
7 before the Commission, the issue would be what you have
8 asked the Company for in this case, not verbal requests
9 you may have made to their representatives at your
10 house. So I am asking you about any information you
11 specifically asked for in this case and whether you
12 still wanted it.

13 MR. SCOTT: Okay. Yes, I did still want it
14 and it was still this case, because what happened was
15 when they did a test on the meter and they showed me
16 exactly how they test the meter, I specifically asked
17 for the information on billing, billing and credits,
18 payments, et cetera.

19 JUDGE JACOBS: Okay. That goes back to what
20 we already talked to before about billing and credits.
21 So was there anything else in regard to the meter that
22 you were asking for?

23 MR. SCOTT: No, that is it. All that does
24 pertain to this case.

25 JUDGE JACOBS: Okay. And then we just heard

1 Ms. Hernandez tell us that if you -- what you're asking
2 for is billing and payment records in paper, if I
3 understood her correctly, that she believes she would be
4 able to provide that information to you in paper form if
5 the electronic information that was already given to you
6 is not information you can use.

7 MR. SCOTT: Okay. As long as I can read it,
8 then that's fine with me, I'd like to see exactly what
9 their records show on this because I paid these people
10 more than \$300 in a single period in a period of a
11 couple months. I'd like to see where this missing money
12 that they're talking about is and where they're applying
13 my payments.

14 JUDGE JACOBS: Okay. So would you state for
15 us it sounds like Ms. Hernandez has a letter from you
16 that asked for billing records. Ms. Hernandez, do you
17 have that in front of you? Are you able to tell us what
18 was asked for there?

19 MS. HERNANDEZ: Are you referring to the
20 October letter?

21 JUDGE JACOBS: Yeah, yes, the October letter.

22 MS. HERNANDEZ: Yes. Essentially it's -- I
23 can see if I can pull it up on my computer and do a
24 screen share, but essentially it reads exactly -- The
25 November 16 letter is essentially the one that he sent

1 to me directly in October.

2 JUDGE JACOBS: Okay.

3 MS. HERNANDEZ: What he's requesting is that

4 --

5 JUDGE JACOBS: So is it payment history for
6 the past 18 months, because that's what it says in the
7 motion to dismiss.

8 MS. HERNANDEZ: He asked for, in the October
9 letter, the difference is he asked for 24 months
10 starting at September 2018.

11 JUDGE JACOBS: Okay. So in the October letter
12 he has 24 months and then here in this November 16 it
13 was 18?

14 MS. HERNANDEZ: Correct.

15 JUDGE JACOBS: Okay. And then the Company had
16 actually put together the 24 month?

17 MS. HERNANDEZ: Yes. That is in response to
18 Staff DR 4, and so that information was sent on the
19 thumb drive along with the other responses to Staff's
20 data request on September --

21 JUDGE JACOBS: Does anybody happen to know
22 what Staff DR 4 was, what was the request?

23 MS. HERNANDEZ: Sure, I can --

24 MR. PRINGLE: Staff DR 4, Judge?

25 JUDGE JACOBS: Yes. If someone else is going

1 to answer, that person needs to be identified so the
2 court reporter knows who they are. So please introduce
3 yourself.

4 MR. PRINGLE: That was Travis Pringle. Sorry.

5 JUDGE JACOBS: You're right in front of me. I
6 didn't see you talking. I thought it was another staff
7 member. I apologize. I am really doing well today.
8 Thank you, Mr. Pringle. Do you know what the request
9 was? I just wanted the scope of the request. That's
10 all.

11 MR. PRINGLE: DR 4 we were asking for payment
12 history from March 15, 2018 through July 1, 2020.

13 JUDGE JACOBS: So March 15, what was the year?

14 MR. PRINGLE: 2018.

15 JUDGE JACOBS: 2018 through the last date you
16 said was?

17 MR. PRINGLE: July 1, 2020.

18 JUDGE JACOBS: Okay. And so that's -- And
19 then, Mr. Scott, you want -- What range of payment
20 information were you asking for?

21 MR. SCOTT: What he's saying is true in the
22 first request it was a 24-month period. In the second
23 request, it was 18 months. The reason for that is
24 because I was trying to establish the \$300 missing that
25 they claim they're owed and I know I paid them that 300

1 some dollars that they're talking about because I have
2 records to confirm that.

3 JUDGE JACOBS: Okay. So we're not going to
4 argue -- we're not arguing any of that today. Okay.
5 So looks like in response to a request from Staff, the
6 Company would have put together is it excess payment
7 records or is it the billing and payment for March 15,
8 2018 through July 1, 2020; is that right?

9 MS. HERNANDEZ: So this is essentially the
10 response to the DR. So it's the payment ledger. Can
11 you see that?

12 JUDGE JACOBS: Yes, I can see it. So it has
13 amounts that would have been indicated on invoices and
14 then any payments that would have come in?

15 MS. HERNANDEZ: Correct. So the data like
16 what is due based on the bill, here's your credit.
17 Payments that have been made and other notations on the
18 account and then the current balance portions --

19 JUDGE JACOBS: Okay. So that's what would be
20 provided in response?

21 MS. HERNANDEZ: Correct. I would print this
22 out.

23 JUDGE JACOBS: And you know, I have looked --
24 There is a document that looks a lot like that that
25 actually Mr. Scott attached to his complaint.

1 MS. HERNANDEZ: Correct.

2 JUDGE JACOBS: I have looked at that. It
3 looks to me like what happens on these payment records
4 is that sometimes payments appear and then it's almost
5 like it's a temporary thing and then when it finally
6 goes through it appears again. So it looks like there
7 can be some duplicates on there.

8 MS. HERNANDEZ: Correct, Your Honor. Ms.
9 Figueroa might be able to explain this better than I.
10 If a customer calls in and says I want to go to
11 Schnuck's or other pay station and I'm going to make,
12 for example, like a \$50 payment, what the Company does
13 is it will note in its ledger that a \$50 payment is
14 going to be made. So for example, you see this August
15 5.

16 JUDGE JACOBS: Uh-huh.

17 MS. HERNANDEZ: The customer indicated I'm
18 going to pay \$50. So when that payment actually is
19 received, they debit the account again \$50 but then
20 you'll see a reversal because essentially this is taking
21 away \$100 versus the 50 that was actually paid. So this
22 is just a way that the customer called in to be
23 expecting a payment, this is important, if there's a
24 pending disconnection or something like that the account
25 will show the customers called and said they will make a

1 payment.

2 JUDGE JACOBS: Okay. So by way of explanation
3 to Mr. Scott for what he's going to receive, he's going
4 to see -- for many payments he's going to see those
5 amounts duplicated and then a reversal of one of them or
6 however many duplicates it needs to reverse so that you
7 only get one credit for that payment?

8 MS. HERNANDEZ: Correct.

9 JUDGE JACOBS: Okay. All right. So
10 Mr. Scott, it sounds like Ms. Hernandez has offered to
11 print out a record generated by the Company that covers
12 March 15, 2018 through July 1, 2020 and have that
13 delivered to you.

14 MR. SCOTT: Okay. That's fine. As long as
15 it's readable, that's fine.

16 JUDGE JACOBS: Okay. And so am I to
17 understand that if that is provided to you that that's
18 going to satisfy any discovery requests that you might
19 have in this case because right now we're right on the
20 brink of scheduling another hearing and getting ready to
21 go to hearing. So we're past the point where any new
22 requests for information can be made. I think you guys
23 had agreed that October 16 was the last day that the
24 parties in this case could ask for information. So if
25 you have not asked for it before the 16th, then you at

1 this point generally should not be expecting to get it.
2 Okay?

3 MR. SCOTT: As long as she can send me
4 something that's readable, that's fine.

5 JUDGE JACOBS: I understand from this
6 conversation today that your concern is that payment
7 history that shows the amounts billed to you and then
8 your payments?

9 MR. SCOTT: What it doesn't show what I'd like
10 to see is what the credits are the \$300 that I paid them
11 already.

12 JUDGE JACOBS: Right. So payments being
13 credited. So it's going to cover the period from March
14 15, 2018 through July 1, 2020.

15 MR. SCOTT: Okay. That's fine.

16 JUDGE JACOBS: Okay. Ms. Hernandez, when do
17 you think Mr. Scott would receive this?

18 MS. HERNANDEZ: Tracy, if you're on the line,
19 if you can just let me know whether you could send that
20 to me electronically yet today. If I can get that from
21 her today, I can put it in Fed Ex or UPS and overnight
22 it to Mr. Scott. So tomorrow afternoon.

23 MS. FIGUEROA: This is Tracy Figueroa. Yes,
24 Jennifer, I can get that to you today.

25 JUDGE JACOBS: Okay. So Mr. Scott, does that

1 address the issue that you had in regard to your
2 November 16 document which you had labeled a motion to
3 dismiss?

4 MR. SCOTT: Yes, it does.

5 JUDGE JACOBS: Okay. So I think the way we'll
6 proceed then here is that we are in the process of
7 trying to get this case rescheduled for another hearing
8 and the Company and Staff had provided a date.
9 Unfortunately the Commission was not able to schedule on
10 that day. I have asked the parties to provide some new
11 dates for us and to do so by tomorrow. So if it's
12 helpful to these parties to stay on the line here and
13 possibly talk about dates that are going to work for
14 you, then you can certainly do that since you do have
15 Mr. Scott on the line at this point. I will leave that
16 up to you. I do appreciate you giving us a few dates so
17 that I can work with the commissioners and make sure we
18 actually get this scheduled and get this hearing done.

19 I believe that will cover what we needed to
20 discuss today. I will ask the Company first do you have
21 anything else to talk about today on the record?

22 MS. HERNANDEZ: No, Your Honor. Thank you very
23 much.

24 JUDGE JACOBS: Thank you for your help today,
25 Ms. Hernandez. Mr. Scott, did you have anything else to

1 discuss on the record?

2 MR. SCOTT: No, I don't, no.

3 JUDGE JACOBS: Thank you, sir. Mr. Pringle?

4 MR. PRINGLE: Nothing for on the record, Judge,
5 but I would like for the parties to stay on to discuss
6 the hearing date.

7 JUDGE JACOBS: Let me see if I can make you the
8 host and then I will excuse myself once we get off the
9 record. Okay? All right. So I believe does anyone --
10 I might be hearing someone trying to jump in. This is
11 your last chance to jump in on the record. Okay, no.
12 All right. We're going to be going off the record then,
13 and I'm going to pass the host role off to Mr. Pringle
14 here hopefully and then I will leave the call and the
15 parties can talk about hearing dates if they would like
16 to stay on.

17 MR. SCOTT: Okay. I'm at work. Email me the
18 dates that they have available and I'll just respond to
19 them by email, because it's a lot easier for me to do it
20 that way because of me being here at work today.

21 JUDGE JACOBS: Mr. Pringle, I'm going to get
22 off the line. I would encourage you to give the other
23 parties just a couple more minutes of your time. I
24 understand you're at work. Something needs to be filed
25 tomorrow. It is important for you to cooperate with

1 that process. So I'm going to get off the line now.
2 Thank you all so much for participating today. I
3 apologize for the delays. Have a great day.

4 MS. HERNANDEZ: Thank you. No problem, Judge.

5 MR. PRINGLE: Thank you, Judge.

6 MR. SCOTT: You too.

7 (Off the record.)
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