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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

October 18, 2007
Jefferson City, Missouri
Volume 1

The Staff of the Missouri Public)
Service Commission,)
Complainant,)
v.) Case No. WC-2008-0079
Universal Utilities, Inc., and)
Nancy Carol Croasdell,)
Respondents.)

MORRIS L. WOODRUFF, Presiding,
SENIOR REGULATORY LAW JUDGE.

REPORTED BY:
KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

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APPEARANCES:

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Service Commission.

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

2 JUDGE WOODRUFF: All right. Let's go on
3 the record. Good afternoon, everyone. This is Case
4 No. WC-2008-0079, which is the case of Staff vs. Universal
5 Utilities, Incorporated and Nancy Carol Croasdell. We're
6 here today for a prehearing conference.

7 We'll begin today by taking entries of
8 appearance, beginning with Staff.

9 MR. REED: Yes, Judge. Steve Reed for the
10 Staff of the Commission. My address is P.O. Box 360,
11 Jefferson City, Missouri 65102.

12 JUDGE WOODRUFF: Thank you. For Universal
13 Utilities?

14 MR. DeFORD: Thank you, your Honor. Paul
15 DeFord with the law firm Lathrop and Gage, 2345 Grand
16 Boulevard, Kansas City Missouri 64108, on behalf of
17 Universal Utilities.

18 JUDGE WOODRUFF: And for Public Counsel?

19 MS. BAKER: Thank you. Christina Baker,
20 Assistant Public Counsel, P.O. Box 2230, Jefferson City,
21 Missouri 65102, appearing on behalf of the Office of
22 Public Counsel and the ratepayers.

23 JUDGE WOODRUFF: All right. Thank you. I
24 believe that's all the parties and all the attorneys in
25 the room. And the reason I scheduled this prehearing

1 conference was so that we could get started on developing
2 a procedural schedule. I know at the time Staff filed its
3 complaint, it asked that the Commission issue a decision
4 by November 30th. Is that still Staff's goal?

5 MR. REED: Judge, there have been some
6 developments, and I don't want to talk too specifically
7 about those, except to say that some of the facts of this
8 particular case may be changing. I don't think that
9 changes with regard to the penalty portion of the case.
10 There are really two different -- to bring this company
11 under jurisdiction, the other is for penalties.

12 When we had a break, what I wanted to talk
13 about was potentially the Staff may be seeking to amend
14 this complaint, and that is also dependent upon discovery
15 issues that we want to talk about as well. So I think
16 many things are contingent upon other things. I can't say
17 for certain right now whether we're going to stick to the
18 November 30 deadline because when we get into issues of
19 amending this complaint, I anticipate that this case may
20 grow much larger. So that's where we are right now,
21 Judge.

22 JUDGE WOODRUFF: Okay. Well, I'm not going
23 to press you today to try and give me a date or anything.
24 What I will ask the parties to do is to discuss this
25 amongst yourselves today and give me a proposed procedural

1 schedule by October 23rd, which would be next Tuesday.

2 MR. REED: Can I, Judge, before you --
3 before you make that definitive, I do want to bring up a
4 couple of these issues that we wanted to talk about on the
5 record.

6 JUDGE WOODRUFF: Go ahead.

7 MR. REED: One is the issue of discovery,
8 which Mr. DeFord and I had discussed last week briefly as
9 well as today. I think before Mr. DeFord entered an
10 appearance, we had issued data requests which were served
11 directly upon the company on the 28th of September,
12 according to the certified mail receipt, the return
13 receipt. That would make those data requests due today.
14 Mr. DeFord indicated that he had filed an objection, I
15 think by letter, but I hadn't seen it, Judge. No doubt
16 Mr. DeFord filed that timely. I just haven't seen it. I
17 think my co-counsel, Jennifer Heintz, may have that in her
18 possession. I haven't seen it.

19 But nevertheless, given that the objections
20 were filed, the discovery would be due today, I was hoping
21 that we could take this opportunity, Judge, to at least
22 have our informal discussion about those discovery
23 requests. In anticipation of any written motion that I
24 would file later, I would like to get that out of the way.

25 JUDGE WOODRUFF: We can certainly do that.

1 Mr. DeFord, I haven't given you a chance to speak yet.

2 What's your take on all this?

3 MR. DeFORD: I agree with Mr. Reed. I
4 think that some material facts have changed since the date
5 of the filing of the complaint, and I think we did object
6 to discovery frankly based on some of the changed facts
7 that are now going forward.

8 And I really think that probably what we
9 will end up doing is filing a motion to dismiss, at least
10 dismiss Universal Utilities. The complaint may -- I think
11 it may grow, as Mr. Reed suggests, and it may morph into
12 something that wouldn't have much, if anything, to do with
13 my client.

14 JUDGE WOODRUFF: And I notice when you
15 entered your appearance, you entered an appearance only
16 for Universal Utilities and not for Nancy Croasdell.

17 MR. DeFORD: I would be representing her as
18 well. I'm sorry.

19 JUDGE WOODRUFF: Wanted to be sure of what
20 that situation was, too.

21 All right. Well, Mr. Reed, do you want to
22 go ahead and deal with this discovery question? We'll
23 take care of that.

24 MR. REED: I do, Judge. I know you don't
25 have a copy of those discovery requests, but --

1 JUDGE WOODRUFF: Well, actually, I got a
2 notice -- I believe you filed a notice that it had been
3 served, but I don't have the data requests themselves.

4 MR. REED: I frankly don't know the
5 substance of Mr. DeFord's objections, but I can say that
6 the data requests are really designed -- and I can
7 certainly show you a copy, Judge. I'll bring that to you.
8 They're certainly designed in a very broad way to
9 determine not only at Blue Acres Mobile Home Park but
10 anywhere else in Missouri that Universal Utilities is
11 currently operating in some fashion in the water or sewer
12 business.

13 It could be an isolated incident where
14 Universal is operating in a way that we believe causes
15 them to be a water corporation and public utility;
16 whereas, in other places they aren't operating that way.
17 But we believe that the Commission would need to find out
18 that kind of information because if this company needs to
19 be regulated in Blue -- at Blue Acres, it may need to be
20 regulated in all parts of the state where it's currently
21 operating.

22 So the data requests are designed in a
23 rather broad way to obtain that kind of information,
24 throughout the state of Missouri to find out where is
25 Universal operating and how are they operating.

1 Mr. DeFord has objections. I'm not sure of the substance
2 of those, but at least at this point in time we believe
3 they're all proper and that, you know, after this, if
4 Universal doesn't come forward with all the information
5 that we requested, we'd like to go forward and ask the
6 Commission to enforce the discovery.

7 Would you like to take a look at these,
8 Judge?

9 JUDGE WOODRUFF: It's not necessary at this
10 time. Mr. DeFord, what's your client's position?

11 MR. DeFORD: In large part, your Honor, we
12 think that the entirety of the discovery is irrelevant.
13 And I mentioned the facts have materially changed. The
14 facts have changed such that my client is doing two things
15 now. One, it is reading meters. Second, it is sending
16 invoices to residents for rent on behalf of the owner of
17 the mobile home court. That's all my client is doing. We
18 don't believe there is anything here that's even remotely
19 within the Commission's jurisdiction, so all of the
20 discovery is irrelevant.

21 JUDGE WOODRUFF: Well, I don't need to make
22 a decision on this at this point. Mr. Reed's request
23 today was to call this the informal conference before
24 further action, and this has satisfied that requirement.
25 I'll certainly expect the parties to discuss this further

1 during your conversation today.

2 MR. REED: We will, Judge. And that really
3 leads into the second issue, which is the issue of the
4 procedural schedule. I think we had requested expedited
5 treatment by November 30th. Those things will turn upon
6 the discovery issues, because as I foresee it, if a motion
7 to compel were granted and we obtained the information
8 that we believe is out there, the Staff is likely -- would
9 likely seek to amend the complaint.

10 And depending upon how many areas that
11 Universal is serving in a way that we believe subjects
12 them to regulation, the complaint could grow much larger.
13 So that may make it, I guess, less feasible to have this
14 case decided by November 30th.

15 JUDGE WOODRUFF: Is there anything
16 significant about November 30th or is it just the Staff
17 desires to have this done quickly?

18 MR. REED: Done quickly, Judge. There's
19 nothing magical about that date. It appeared to be, I
20 think, a couple months after we had filed it. We thought
21 in an expedited way we hoped to finish it by then.

22 JUDGE WOODRUFF: Okay. All right.
23 Anything else you want to bring up while we're on the
24 record?

25 As I was indicating before, I'll direct you

1 to file a proposed procedural schedule by the 23rd of
2 October. If you can agree upon a procedural schedule,
3 that's great. File a joint proposal. If you can't agree,
4 you can file separate proposals with supporting argument
5 and the Commission will decide how we want to do it.

6 Anything else you want to bring up while
7 we're on the record?

8 MR. REED: I don't think so, Judge.

9 JUDGE WOODRUFF: With that, then, the
10 on-the-record portion of the proceeding is adjourned and
11 I'll leave you to your discussions.

12 WHEREUPON, the recorded portion of the
13 prehearing conference was concluded.

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C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Kellene K. Feddersen, Certified

Shorthand Reporter with the firm of Midwest Litigation
Services, and Notary Public within and for the State of
Missouri, do hereby certify that I was personally present
at the proceedings had in the above-entitled cause at the
time and place set forth in the caption sheet thereof;
that I then and there took down in Stenotype the
proceedings had; and that the foregoing is a full, true
and correct transcript of such Stenotype notes so made at
such time and place.

Given at my office in the City of
Jefferson, County of Cole, State of Missouri.

Kellene K. Feddersen, RPR, CSR, CCR
Notary Public (County of Cole)
My commission expires March 28, 2009.