

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

June 29, 2017

Jefferson City, Missouri

Volume 1

In the Matter of )  
Michael Brower )  
v. ) File No. WC-2017-0207  
Branson Cedars Resort Utility )  
Company, LLC. )

NANCY DIPPELL, Presiding  
REGULATORY LAW JUDGE

REPORTED BY:

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P R O C E E D I N G S

JUDGE DIPPELL: This is June 29th, 2017, In the Matter of Michael Brower versus Branson Cedar Resort Utility Company, LLC. It's Case File WC-2017-2 -- 0207. My name is Nancy Dippell and I'm the regulatory law judge assigned to this case. And we've come here today for a procedural conference, in order to discuss how things will go from here and possible settlement. I'll let you -- give you all a chance to talk about settling this case so that it doesn't have to go to an actual hearing.

I have the Complainant and the Respondent both on the conference call. And I have staff and public counsel in the room with me. I'm going to go ahead and let the attorneys and then the Complainant make their entries of appearance. And I'm just going to start with staff counsels, right here.

MR. WESTEN: This is Jacob Westen, counsel for staff of the Public Service Commission. My contact information has been previously provided to the court reporter.

JUDGE DIPPELL: Mr. Smith.

MR. SMITH: This is Ryan Smith for the Office of Public Counsel. I'm senior counsel. And my information has also been provided.

1 JUDGE DIPPELL: Mr. Poppen.

2 MR. POPPEN: Yeah, I'm Jud Poppen on behalf  
3 of Branson Cedar Resort Utility Company, LLC. And I  
4 also have Michael Iams here, my corporate  
5 representative -- or company representative. And I  
6 believe my information has previously been provided on  
7 the pleadings here.

8 JUDGE DIPPELL: And then Mr. Brower, do you  
9 just want to make yourself known to the -- to the  
10 official record?

11 MR. BROWER: Yes, Michael Brower, along with  
12 my wife, Darla Brower, is also on the phone.

13 JUDGE DIPPELL: All right. Thank you. So,  
14 like I say, the reason that we came here today is kind  
15 of to discuss where we go from here. And we had some  
16 issue as to the ownership of the property, I believe,  
17 was brought up as an issue.

18 Mr. Poppen, did you all have anything else to  
19 add about that?

20 MR. POPPEN: Actually, we can withdraw that  
21 portion of it.

22 JUDGE DIPPELL: Okay.

23 MR. POPPEN: There was a -- I think, there  
24 were some nightly rentals made out in a company name,  
25 and so we weren't quite sure who the customer actually

1 was. But we pulled deeds on the property and it does  
2 appear to be in Mr. Brower and Mrs. Brower's name, so  
3 we'll withdraw that portion.

4 JUDGE DIPPELL: Okay. Okay. Other than  
5 that, we have basically that the main issue is whether  
6 or not this should be charged as a -- a one unit, or  
7 two units under the -- the company's tariff. Is that  
8 an accurate statement?

9 MR. POPPEN: I believe that is.

10 JUDGE DIPPELL: Okay. Well, how these things  
11 would typically play out, would be then with a formal  
12 hearing if you all can't reach some agreement. And  
13 that can be done locally where you all are, but in  
14 order to, you know, avoid that issue, I'm hoping that  
15 you all can discuss this, along with staff and public  
16 counsels' assistance, and perhaps reach -- reach an  
17 agreement or a settlement of the issues. If you can't,  
18 then I would like to see a procedural schedule agreed  
19 to for when -- how we can move this forward.

20 The Public Service Commission in more -- more  
21 formal hearings has, what we call, pre-filed testimony.  
22 I wouldn't expect that to be the issue in a case like  
23 this. I would expect there to be, you know, basically  
24 live testimony and evidence presented to me. But  
25 even -- even with that, some stipulation as to the

1 basic facts can often help and -- and make things move  
2 along.

3 So again, I'd like you to discuss settlement.  
4 I'd like you to discuss a procedural schedule if you  
5 can't reach a settlement. And I'd also like you to  
6 discuss maybe the basic facts that could be stipulated  
7 to.

8 Does anybody have any formal issues or  
9 questions that they'd like to bring up to me at this  
10 time?

11 MR. POPPEN: Judge, Jud Poppen on behalf of  
12 Respondent. I mean, I think that that is probably our  
13 approach, as well. I think that we probably are going  
14 to get with Mr. Brower and the rest of counsel and  
15 discuss a resolution of this. Obviously, fees of going  
16 down these paths get quite expensive for what we're  
17 looking at.

18 I think there is some disagreement as to the  
19 application of the facts to the law and whether this  
20 duplex fits that two-unit meaning. But I think we are  
21 going to try to attempt to try to talk that out and see  
22 what resolution can be made. If it can't, then, yes, a  
23 procedural schedule of a short hearing. I cannot  
24 imagine a formal hearing taking longer than a couple  
25 hours at the very most, probably an hour, the facts

1 kind of what they are on some portion.

2 JUDGE DIPPELL: And Mr. Brower, do you  
3 understand all that, or is there any questions that you  
4 have for me about the proceedings and where things  
5 stand?

6 MR. BROWER: There's no question -- no,  
7 there's no question -- I have no question about the  
8 proceedings. I'm not sure I understood -- no, there's  
9 no -- I don't have any questions about the proceedings.

10 In this -- in this pre-hearing, if I  
11 understand everything correctly, we will discuss a  
12 potential settlement in this meeting here?

13 JUDGE DIPPELL: If possible, I -- we won't do  
14 that on the formal record. I will go off the record at  
15 that time, and then leave you all to discuss it among  
16 yourselves so that I remain a neutral party in the --  
17 in the proceedings and only have the evidence that's  
18 presented -- excuse me -- that's presented formally to  
19 me.

20 MR. BROWER: Okay.

21 JUDGE DIPPELL: Okay.

22 MR. BROWER: Yes, ma'am.

23 JUDGE DIPPELL: Are there any other questions  
24 then? I'm not -- I don't -- there's not a lot of  
25 issues in this case, so other than the procedure

1 there's -- there's not a lot to deal with here this  
2 morning.

3 MR. WESTEN: Staff has nothing.

4 JUDGE DIPPELL: Okay.

5 MR. POPPEN: I agree -- I agree with that.  
6 Thank you, Judge.

7 JUDGE DIPPELL: Okay, then. Seeing no  
8 further issues -- and Mr. Brower, you are welcome to,  
9 you know, ask the other attorneys for Public Counsel  
10 and staff about procedures and those kinds of things.  
11 They can't give you specific legal advice, but they can  
12 point you to the -- the way things work around here and  
13 help you in that regard.

14 MR. BROWER: Yes, ma'am. Thank you.

15 JUDGE DIPPELL: Okay. So I will go ahead  
16 then and go off the record. We can conclude the  
17 on-the-record part of this hearing.

18 (Hearing concluded.)  
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24  
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C E R T I F I C A T E

STATE OF MISSOURI     )  
                                      ) ss  
COUNTY OF BOONE     )

I, Ashley M. Rouse, Certified Court  
Reporter for the firm of Tiger Court Reporting, do  
hereby certify that the above and foregoing is a true  
and accurate transcription, to the best of my ability,  
of the pre-hearing of the Missouri Public Service  
Commission held In the Matter of Michael Brower v.  
Branson Cedar Resort Utility Company, LLC, Case File  
No. WC-2017-0207, on June 29, 2017.

*Ashley M. Rouse*

Ashley M. Rouse  
TIGER COURT REPORTING

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