

In the Matter of:

LOUIS DeFOE

v.

MISSOURI-AMERICAN WATER COMPANY

WC-2021-0075, VOL. 1

September 02, 2021



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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Procedural Conference

September 2, 2021

Jefferson City, Missouri (WebEx)

Volume 1

Louis DeFeo,)	
)	
Complainant,)	
)	
vs.)	File No. WC-2021-0075
)	
Missouri-American)	
Water Company,)	
)	
Respondent.)	

PAUL GRAHAM, 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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1 (September 2, 2021)

2 JUDGE GRAHAM: Let's go on the record.
3 Today's date is September 2, 2021, hearing scheduled for
4 10:00 a.m. Informally I understand that everyone is
5 here.

6 The Commission has set this time for a
7 procedural conference in the case captioned as Louis
8 DeFeo, Complainant vs. Missouri-American Water Company,
9 Respondent. The case file is WC-2021-0075. My name is
10 Paul Graham. I'm the Regulatory Law Judge in this
11 matter.

12 We'll begin by the attorneys and parties
13 making their entries of appearance. Mr. DeFeo, do you
14 want to state your name for the record and make your
15 appearance, please, just state you're here?

16 MR. DeFEO: Louis DeFeo, Complainant.

17 JUDGE GRAHAM: Good enough. I'm sorry. I
18 interrupted you. Go ahead.

19 MR. DeFEO: I just said I'm here.

20 JUDGE GRAHAM: Okay. Thank you, sir. Who is
21 here for Missouri-American Water Company?

22 MS. HERNANDEZ: Good morning, Judge. This is
23 Jennifer Hernandez and Mr. Jesse Craig. We're with the
24 law firm of Brydon, Swearngen & England, PC. The
25 court reporter has our contact information, and we are

1 representing Missouri-American Water Company today.

2 JUDGE GRAHAM: All right. Thank you very
3 much. Who is here for the Commission Staff today and
4 would they make their appearance?

5 MS. ASLIN: Casi Aslin for Commission Staff.
6 My address is 200 Madison Street, Jefferson City,
7 Missouri 65102.

8 JUDGE GRAHAM: All right. And I don't believe
9 we have anyone here for the Office of Public Counsel. I
10 believe we've gotten everybody in as a matter of record
11 now.

12 Are there any preliminary matters to be taken
13 up at this time before I turn this over to you folks to
14 confer and put together a procedural order? Any
15 preliminary matters?

16 MR. DeFEO: Judge, just for my benefit, the
17 other people are members of the staff are Curtis
18 Gateley, Sarah Fontaine? I just don't know those
19 people.

20 JUDGE GRAHAM: Is this Mr. DeFeo speaking?

21 MR. DeFEO: Yes, it is. I'm sorry.

22 JUDGE GRAHAM: That's fine. And when you
23 speak of the staff, I assume you're referring to the
24 Commission's staff?

25 MR. DeFEO: Correct. They must have been

1 introduced before I got on.

2 JUDGE GRAHAM: Well, it's like any law firm,
3 Mr. DeFeo. I guess they picked somebody to appear and
4 handle the matter in this hearing today. And if you had
5 communications with or dealt with other staff personnel,
6 Commission staff personnel, then I guess all I can say
7 is they aren't here today, but Ms. Aslin is the attorney
8 of record for the Commission Staff for the purposes of
9 this particular procedural conference. That's who we
10 have.

11 Now, before I turn this over, when may I
12 expect to see a procedural, a proposed procedural order?
13 In say a week or how much time do you need?

14 MS. HERNANDEZ: This is Jennifer Hernandez,
15 Judge. I think a week is fine to get it hammered out
16 and then on file.

17 JUDGE GRAHAM: Okay. And this is a consumer
18 complaint case.

19 THE COURT REPORTER: Judge, you were cutting
20 out in what you just said.

21 JUDGE GRAHAM: I'm sorry. Can you all hear me
22 now? I didn't lose you, did I? Hello?

23 THE COURT REPORTER: No, you're fine.

24 JUDGE GRAHAM: I went off speaker phone. I
25 don't know quite why I was on speaker phone, but now

1 I've got it in my hand. Perhaps you can all hear me
2 better. I was just confirming that I did not need to
3 assign the job to anyone to make sure I got a
4 procedural, proposed procedural order. I understand
5 from Ms. Hernandez that I'll be getting one within about
6 a week. Fair enough?

7 Okay. Are there any other matters that need
8 to be addressed by the Commission at this time?

9 MS. ASLIN: Judge, this is Casi Aslin.

10 JUDGE GRAHAM: Yes, Casi.

11 MS. ASLIN: I just have a question. In July
12 there was a Notice of Satisfaction filed in this case,
13 and I was just curious just I guess from Mr. DeFeo or
14 Missouri-American, did that not resolve the complaint?

15 JUDGE GRAHAM: Well, I'm not sure that I
16 should be in on that conversation, Ms. Aslin. That
17 would be a good question for you to take up with those
18 folks after I go away. All I can see is what is in
19 EFIS. That matter was filed during the midst of
20 mediation when my supervision of this case had been
21 suspended. So why don't you all take that matter up in
22 a moment after I go away. Thank you for bringing it up,
23 because I saw it too. Is there any other preliminary
24 matter that I can deal with at this time?

25 MS. HERNANDEZ: Judge, this is Jennifer

1 Hernandez. Just in response, the Company does plan to
2 file a formal motion to dismiss, because we do believe
3 with the Notice of Satisfaction and the credit of
4 Mr. DeFeo's account the complaint is now moot. So we
5 will be getting a motion to dismiss on file.

6 JUDGE GRAHAM: Okay. Well, since you've gone
7 ahead and moved forward discussing this matter in my
8 presence, I need to let Mr. DeFeo respond to that now if
9 Mr. DeFeo has any response at all. Do you want to say
10 anything at this time, sir?

11 MR. DeFEO: Judge, Lou DeFeo. To twist the
12 phrase, this is my first rodeo. I'm not aware of these
13 procedural orders. Could you give me a little
14 background?

15 JUDGE GRAHAM: Well, I can't instruct you, of
16 course, but a complaint was filed. Hello?

17 MR. DeFEO: Just the process.

18 JUDGE GRAHAM: Right. I'm going online here.
19 Bear with me because a complaint was filed in this case
20 and you filed it. I've got to move away from one field
21 and go to another. What I'm looking for is the
22 complaint and I'll get there. If you'll all be patient
23 with me a minute.

24 Just about there. Yeah, I'm looking at the
25 complaint now. It is as I recall. Mr. DeFeo, in

1 paragraph 5 of your complaint you alleged that the
2 amount at issue is about \$250, but the more important
3 issue is fairness to the customers. I quoted your
4 complaint exactly. And the Company then -- I'm getting
5 there again. Just a second -- on July the 13th filed a
6 Notice of Satisfaction. And in that document -- and I'm
7 going to open it. I do recall it -- but the Company
8 states, I want to get it right, the Company states that
9 it hereby provides notice that it has satisfied your
10 complaint as of July 13, 2021, by providing a credit to
11 you in the amount of \$250, and then the Company goes on
12 -- well, maybe they don't go on. Yes, they do. In the
13 previous paragraph the Company states Commission Rule 20
14 CSR 4240, so forth, states in part that the notice from
15 the Commission, that was the notice that I sent out or
16 the Commission sent out, at the time you filed your
17 complaint, Mr. DeFeo, that the notice from the
18 Commission concerning the complaint states that, quote,
19 that the matter complained of -- the Company is to file
20 a pleading that states the matter complained of is
21 satisfied or that the complaint be answered and
22 basically then within 30 days. So the options were laid
23 on the table for the Company at that time either to
24 answer, you know, to deny or affirm or whatever they're
25 going to do with respect to your complaint or to make

1 satisfaction of your complaint.

2 What's happened here is the Company alleges in
3 this notice of July 13 that they have made satisfaction
4 and thereby responded to the Commission. So that's
5 procedurally where we stand, Mr. DeFeo. And what the
6 Company has done here today, Ms. Hernandez has basically
7 advised me at this point that they're going to file a
8 motion to dismiss on the basis of the posture of these
9 pleadings at this time. I don't know if you want to say
10 anything in response to them. This is a procedural
11 conference today. You need to say nothing, Mr. DeFeo.
12 You simply asked me a question about where we are
13 procedurally. I basically just summarized what I see in
14 EFIS to help you in that regard. So that's basically
15 where we are. So I don't know if you want to say any
16 more. I gave you an opportunity to and you asked a
17 question. Do you have anything you want to say in
18 response to Staff or in response to Ms. Hernandez at
19 this time?

20 MR. DeFEO: Yes, I do. As you read, the \$250
21 was not the only matter in issue, and that's enough for
22 me to say at this point. Secondly --

23 JUDGE GRAHAM: That is enough. That's fine.
24 That is fine. You basically said that not all matters
25 in issue have been disposed of. I expect that Ms.

1 Hernandez and the Company will have a different view on
2 that matter. Why don't you all -- I did not mean to
3 step on you or curtail your statement. Were you done,
4 Mr. DeFeo?

5 MR. DeFEO: Well, I actually asked two
6 questions. I am not familiar with this procedural order
7 or whatever. I'm not sure even the correct name that
8 Jennifer responded they could have it within a week.
9 Since this is my first involvement with the Public
10 Service Commission, I would appreciate if you could give
11 me in a nutshell what is this procedural order? I don't
12 understand that. I'm not talking about --

13 JUDGE GRAHAM: Let's do it this way.
14 Mr. DeFeo, this is starting to morph into you asking me
15 to advise you on how things work, and there's a very,
16 very thin line there between my telling you how things
17 work and my advising you as an attorney, a line of
18 course which I must not cross. I think that you can
19 address these questions directly to Staff counsel in the
20 procedural conference that's about to take place, and I
21 think that you will find that they will demystify you
22 very, very quickly because the answers are simple, but I
23 don't really wish to go further than that because I've
24 got to keep one hat on here. I can't wear two. And I'm
25 the Judge in this case.

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Is there anything else, any other preliminary matters that anyone wishes to address? Okay. We're going to go off the record now. Mr. DeFeo, that does not mean you hang up the phone. That means you stay on the phone and you go to work with these folks. So at this time we're going to go off the record and I'll look for a proposed procedural order from all of you in about a week. Okay? All right. You all take care.

MS. HERNANDEZ: All right. Thank you, Judge.
(Off the record.)

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CERTIFICATE OF REPORTER

I, Beverly Jean Bentch, RPR, CCR No. 640, Certified Court Reporter with the firm of Tiger Court Reporting, LLC, within 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.

Beverly Jean Bentch

Beverly Jean Bentch, RPR, CCR No. 640

<p>\$</p> <hr/> <p>\$250 8:2,11 9:20</p> <hr/> <p>1</p> <hr/> <p>10:00 3:4</p> <p>13 8:10 9:3</p> <p>13th 8:5</p> <hr/> <p>2</p> <hr/> <p>2 3:1,3</p> <p>20 8:13</p> <p>200 4:6</p> <p>2021 3:1,3 8:10</p> <hr/> <p>3</p> <hr/> <p>30 8:22</p> <hr/> <p>4</p> <hr/> <p>4240 8:14</p> <hr/> <p>5</p> <hr/> <p>5 8:1</p> <hr/> <p>6</p> <hr/> <p>65102 4:7</p> <hr/> <p>A</p> <hr/> <p>a.m. 3:4</p> <p>account 7:4</p> <p>address 4:6 10:19 11:2</p> <p>addressed 6:8</p> <p>advise 10:15</p>	<p>advised 9:7</p> <p>advising 10:17</p> <p>affirm 8:24</p> <p>ahead 3:18 7:7</p> <p>alleged 8:1</p> <p>alleges 9:2</p> <p>amount 8:2,11</p> <p>answers 10:22</p> <p>appearance 3:13,15 4:4</p> <p>Aslin 4:5 5:7 6:9,11, 16</p> <p>assign 6:3</p> <p>assume 4:23</p> <p>attorney 5:7 10:17</p> <p>attorneys 3:12</p> <p>aware 7:12</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>background 7:14</p> <p>basically 8:22 9:6,13, 14,24</p> <p>basis 9:8</p> <p>Bear 7:19</p> <p>begin 3:12</p> <p>benefit 4:16</p> <p>bringing 6:22</p> <p>Brydon 3:24</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>captioned 3:7</p> <p>care 11:8</p> <p>case 3:7,9 5:18 6:12, 20 7:19 10:25</p> <p>Casi 4:5 6:9,10</p>	<p>City 4:6</p> <p>Commission 3:6 4:3, 5 5:6,8 6:8 8:13,15,16, 18 9:4 10:10</p> <p>Commission's 4:24</p> <p>communications 5:5</p> <p>Company 3:8,21 4:1 7:1 8:4,7,8,11,13,19, 23 9:2,6 10:1</p> <p>Complainant 3:8,16</p> <p>complained 8:19,20</p> <p>complaint 5:18 6:14 7:4,16,19,22,25 8:1,4, 10,17,18,21,25 9:1</p> <p>confer 4:14</p> <p>conference 3:7 5:9 9:11 10:20</p> <p>confirming 6:2</p> <p>consumer 5:17</p> <p>contact 3:25</p> <p>conversation 6:16</p> <p>correct 4:25 10:7</p> <p>counsel 4:9 10:19</p> <p>court 3:25 5:19,23</p> <p>Craig 3:23</p> <p>credit 7:3 8:10</p> <p>cross 10:18</p> <p>CSR 8:14</p> <p>curious 6:13</p> <p>curtail 10:3</p> <p>Curtis 4:17</p> <p>customers 8:3</p> <p>cutting 5:19</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>date 3:3</p>	<p>days 8:22</p> <p>deal 6:24</p> <p>dealt 5:5</p> <p>Defeo 3:8,13,16,19 4:16,20,21,25 5:3 6:13 7:8,9,11,17,25 8:17 9:5,11,20 10:4,5,14 11:3</p> <p>Defeo's 7:4</p> <p>demystify 10:21</p> <p>deny 8:24</p> <p>directly 10:19</p> <p>discussing 7:7</p> <p>dismiss 7:2,5 9:8</p> <p>disposed 9:25</p> <p>document 8:6</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>EFIS 6:19 9:14</p> <p>England 3:24</p> <p>entries 3:13</p> <p>expect 5:12 9:25</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>Fair 6:6</p> <p>fairness 8:3</p> <p>familiar 10:6</p> <p>field 7:20</p> <p>file 3:9 5:16 7:2,5 8:19 9:7</p> <p>filed 6:12,19 7:16,19, 20 8:5,16</p> <p>find 10:21</p> <p>fine 4:22 5:15,23 9:23, 24</p> <p>firm 3:24 5:2</p>
--	--	--	--

folks 4:13 6:18 11:5	involvement 10:9	midst 6:19	people 4:17,19
Fontaine 4:18	issue 8:2,3 9:21,25	minute 7:23	personnel 5:5,6
formal 7:2		Missouri 4:7	phone 5:24,25 11:4,5
forward 7:7	J	Missouri-american 3:8,21 4:1 6:14	phrase 7:12
G	Jefferson 4:6	moment 6:22	picked 5:3
Gateley 4:18	Jennifer 3:23 5:14 6:25 10:8	moot 7:4	place 10:20
gave 9:16	Jesse 3:23	morning 3:22	plan 7:1
give 7:13 10:10	job 6:3	morph 10:14	pleading 8:20
good 3:17,22 6:17	Judge 3:2,10,17,20, 22 4:2,8,16,20,22 5:2, 15,17,19,21,24 6:9,10, 15,25 7:6,11,15,18 9:23 10:13,25 11:9	motion 7:2,5 9:8	pleadings 9:9
Graham 3:2,10,17,20 4:2,8,20,22 5:2,17,21, 24 6:10,15 7:6,15,18 9:23 10:13	July 6:11 8:5,10 9:3	move 7:20	point 9:7,22
guess 5:3,6 6:13	L	moved 7:7	posture 9:8
H	laid 8:22	N	preliminary 4:12,15 6:23 11:1
hammered 5:15	law 3:10,24 5:2	notice 6:12 7:3 8:6,9, 14,15,17 9:3	presence 7:8
hand 6:1	lose 5:22	nutshell 10:11	previous 8:13
handle 5:4	Lou 7:11	O	procedural 3:7 4:14 5:9,12 6:4 7:13 9:10 10:6,11,20 11:7
hang 11:4	Louis 3:7,16	Office 4:9	procedurally 9:5,13
happened 9:2	M	online 7:18	process 7:17
hat 10:24	made 9:3	open 8:7	proposed 5:12 6:4 11:7
hear 5:21 6:1	Madison 4:6	opportunities 9:16	providing 8:10
hearing 3:3 5:4	make 3:14 4:4 6:3 8:25	options 8:22	Public 4:9 10:9
Hernandez 3:22,23 5:14 6:5,25 7:1 9:6,18 10:1 11:9	making 3:13	order 4:14 5:12 6:4 10:6,11 11:7	purposes 5:8
I	matter 3:11 4:10 5:4 6:19,21,24 7:7 8:19,20 9:21 10:2	orders 7:13	put 4:14
important 8:2	matters 4:12,15 6:7 9:24 11:2	P	Q
Informally 3:4	means 11:4	paragraph 8:1,13	question 6:11,17 9:12,17
information 3:25	mediation 6:20	part 8:14	questions 10:6,19
instruct 7:15	members 4:17	parties 3:12	quickly 10:22
interrupted 3:18		patient 7:22	quote 8:18
introduced 5:1		Paul 3:10	quoted 8:3
		PC 3:24	

R	<p>speaking 4:20</p> <p>staff 4:3,5,17,23,24 5:5,6,8 9:18 10:19</p> <p>stand 9:5</p> <p>starting 10:14</p> <p>state 3:14,15</p> <p>statement 10:3</p> <p>states 8:8,13,14,18, 20</p> <p>stay 11:4</p> <p>step 10:3</p> <p>Street 4:6</p> <p>summarized 9:13</p> <p>supervision 6:20</p> <p>suspended 6:21</p> <p>Swearngen 3:24</p>	V	
<p>read 9:20</p> <p>recall 7:25 8:7</p> <p>record 3:2,14 4:10 5:8 11:3,6,10</p> <p>referring 4:23</p> <p>regard 9:14</p> <p>Regulatory 3:10</p> <p>reporter 3:25 5:19,23</p> <p>representing 4:1</p> <p>resolve 6:14</p> <p>respect 8:25</p> <p>respond 7:8</p> <p>responded 9:4 10:8</p> <p>Respondent 3:9</p> <p>response 7:1,9 9:10, 18</p> <p>rodeo 7:12</p> <p>Rule 8:13</p>	T	W	<p>view 10:1</p> <p>Water 3:8,21 4:1</p> <p>WC-2021-0075 3:9</p> <p>wear 10:24</p> <p>week 5:13,15 6:6 10:8 11:8</p> <p>wishes 11:2</p> <p>work 10:15,17 11:5</p>
S	<p>table 8:23</p> <p>talking 10:12</p> <p>telling 10:16</p> <p>thin 10:16</p> <p>things 10:15,16</p> <p>time 3:6 4:13 5:13 6:8, 24 7:10 8:16,23 9:9,19 11:6</p> <p>today 4:1,3 5:4,7 9:6, 11</p> <p>Today's 3:3</p> <p>turn 4:13 5:11</p> <p>twist 7:11</p>		
<p>Sarah 4:18</p> <p>satisfaction 6:12 7:3 8:6 9:1,3</p> <p>satisfied 8:9,21</p> <p>scheduled 3:3</p> <p>september 3:1,3</p> <p>Service 10:10</p> <p>set 3:6</p> <p>simple 10:22</p> <p>simply 9:12</p> <p>sir 3:20 7:10</p> <p>speak 4:23</p> <p>speaker 5:24,25</p>	U		
	<p>understand 3:4 6:4 10:12</p>		