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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Prehearing Conference
May 12, 2010
Jefferson City, Missouri
Volume 1

Roman Dzhurinskiy,)
)
Complainant,)
)
v.) File No. WC-2010-0215
)
Missouri American Water Company,)
)
Respondent.)

DANIEL JORDAN, Presiding,
REGULATORY LAW JUDGE

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

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APPEARANCES:

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FOR: Staff of the Missouri Public
Service Commission.

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

2 JUDGE JORDAN: The Commission will call
3 File No. WC-2010-0215, Roman Dzhurinskiy vs. Missouri
4 American Water Company. We're here for a prehearing
5 conference.

6 I'm Daniel Jordan. I'm the Regulatory Law
7 Judge assigned to this case. I will begin by taking
8 entries of appearance. Mr. Dzhurinskiy, please state your
9 name and spell it for the court reporter. Hello?

10 MR. DZHURINSKIY: I'm here.

11 JUDGE JORDAN: Okay. Mr. Dzhurinskiy, will
12 you spell your name for the court reporter, please.

13 MR. DZHURINSKIY: My name is Roman
14 Dzhurinskiy. I live at 32 Crabapple Court, St. Louis,
15 Missouri 63132.

16 JUDGE JORDAN: Thank you very much. And
17 for Missouri American Water Company.

18 MR. JONES: For Missouri American Water,
19 this is Ken Jones, and my address is 727 Craig Road,
20 St. Louis 63141.

21 JUDGE JORDAN: Thank you. And for the
22 Commission Staff.

23 MR. THOMPSON: Kevin Thompson, Chief Staff
24 Counsel, Missouri Public Service Commission, P.O. Box 360,
25 Jefferson City, Missouri 65102, for the Staff of the

1 Missouri Public Service Commission.

2 JUDGE JORDAN: Thank you, counselor. And I
3 see that you have a couple of representatives of your
4 client with you today. Would you care to introduce them
5 on the record, please?

6 MR. THOMPSON: I have Jim Busch, manager of
7 the Commission's water and sewer department, and I have
8 Steve Loethen, who is -- what's your title?

9 MR. LOETHEN: Utility operations technical
10 specialist.

11 MR. THOMPSON: -- utility operations
12 technical specialist within the water and sewer
13 department.

14 JUDGE JORDAN: Thank you. And insofar as
15 I'm in Jefferson City and can't see what's happening at
16 the other end of this telephone line in the Wainwright
17 Building, is there anyone else that's present today?

18 MR. JONES: No one else, Judge, besides
19 Mr. Dzhurinskiy's wife.

20 JUDGE JORDAN: Okay. Thank you very much.
21 All right. Well, here's what we're going to do today.
22 I'm going to give a quick rundown of what hearing
23 procedure looks like for all the parties so that everyone
24 is informed of what will happen if this case goes to
25 trial. That part will be on the record, and after we have

1 dealt with that matter, I'm going to leave this telephone
2 line open so that the parties may discuss the issues
3 further while everyone is all together. That part will
4 not be on the record, so everyone can feel free to speak
5 freely and openly and candidly.

6 I will -- I will close the record for the
7 prehearing conference. I'll leave the room. The parties
8 can stay and discuss the issues. When that's over, I'll
9 ask Staff to disconnect the phone, if you please.

10 I'll also ask counsel for Staff to file a
11 memorandum, say, tomorrow to inform the Commission as to
12 whether there's been any progress towards settlement, just
13 kind of a general impression as to whether we will need to
14 schedule a hearing or whether the parties would like some
15 more time to discuss the issues.

16 MR. THOMPSON: Yes, Judge, I'll take care
17 of that.

18 JUDGE JORDAN: I sure do appreciate that.
19 That will be very helpful.

20 Okay. Mr. Dzhurinskiy, this is mostly for
21 your benefit because just about everybody else has been
22 through this procedure before. I want to give you a quick
23 rundown of what this all means. You heard me use the word
24 trial. If this case goes to hearing, it is pretty much
25 like a trial like you see on TV. It is a formal sort of

1 procedure. It will involve the admission of evidence into
2 the record. The Commission if it goes to -- if this case
3 goes to trial, the Commission will make its decision based
4 on evidence that's entered properly into the record. It's
5 like when you see on television people say I object, the
6 Commission through me will have to make a ruling as to
7 whether such evidence will come into the record or not.

8 I'm going to give a citation to the law
9 here that you're going to -- that everyone will find
10 useful in preparing their evidence for hearing, and that
11 is Section 536.070, and that's in the Revised Statutes of
12 Missouri. That will tell you how the law of evidence is
13 changed from its ordinary course for this administrative
14 proceeding. It's 536.070.

15 There's another statute that you may also
16 find useful, and that talks about expert testimony. If
17 there's things that the average Joe does not understand
18 and someone with training, knowledge, education does
19 understand, that person can give an opinion that will help
20 the Commission. Take a look at Section 490.065. That's
21 on expert testimony.

22 Okay. That's what will happen at the
23 hearing, but, you know, what most of what these
24 proceedings involve is preparation. Preparation is almost
25 everything, and we prepare for these proceedings through

1 the process we call discovery, and that is how you find
2 out what the other side's case is, what kind of evidence
3 they will present. That's the stuff that includes things
4 like depositions and interrogatories and requests for
5 admissions. That's all set forth in Supreme Court rules,
6 Missouri Supreme Court rules, and those are grafted onto
7 our procedure as well. Any questions so far?

8 MR. DZHURINSKIY: Everything is clear.

9 JUDGE JORDAN: Okay. Thank you. Thank you
10 for saying so.

11 Let's see. Now, if we do go to hearing,
12 the order of proof I anticipate will be as follows. The
13 first to present evidence would be the Complainant,
14 Mr. Dzhurinskiy, because he is the one bringing the
15 complaint. Then the utility would make its case, and then
16 Staff would offer anything that it has to contribute. In
17 the course of that, I would be ruling on objections.
18 There would be cross-examination, and that's how the
19 record would be made.

20 The hearings proceedings go into a
21 transcript. A reporter, like we have with us today, would
22 be transcribing those proceedings and producing a written
23 transcript. And then the parties also have the right to
24 file written arguments, and in so doing you'll find the
25 transcript very useful, I'm sure.

1 And from all that, from the complaint, from
2 all the pleadings, from the record, from the arguments, I
3 will draft a recommended decision for the Commission, and,
4 of course, the Commission, all five of them as a body, are
5 the final decision-makers in this case.

6 Any questions so far?

7 MR. DZHURINSKIY: I think it's clear.

8 MR. JONES: No, your Honor.

9 JUDGE JORDAN: Very good. Well, I think
10 I've said everything that I have to say to the parties,
11 and so I will wrap up my presentation. I will leave the
12 parties to discuss these matters, and I hope that the
13 parties can come a little closer to a resolution today
14 because my experience is that the resolutions that the
15 parties can come up with are generally -- will generally
16 better fit the parties' needs than something that a third
17 party, a tribunal can come up with.

18 I hope the parties will use this time, work
19 hard to get a little closer to a resolution and
20 understanding of the issues, and I hope that's suitable
21 for everyone. Are there any questions before I leave the
22 room and the court reporter quits taking the record?

23 MR. JONES: No, your Honor.

24 MR. DZHURINSKIY: No.

25 JUDGE JORDAN: Okay. Well, I appreciate

1 everyone being here today. Especially appreciate Staff
2 and Staff counsel being here. They've expressed an
3 interest in helping resolve this matter, and I really do
4 appreciate that. That's very constructive.

5 There being nothing else, I will leave the
6 room, leave the phone on, but we will adjourn this part of
7 the prehearing conference and we will go off the record.

8 WHEREUPON, the recorded portion of the
9 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, 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