

B✓  
Ro  
26

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 2nd  
day of December, 1997.

Jeff and Melissa McLard,	)	
Complainants,	)	
	)	
v.	)	<u>Case No. SC-97-339</u>
	)	
Stoddard County Sewer Company,	)	
Respondent.	)	

Jeff and Amy McClain,	)	
Complainants,	)	
	)	
v.	)	<u>Case No. SC-97-343</u>
	)	
Stoddard County Sewer Company,	)	
Respondent.	)	

**ORDER REGARDING COMPLAINTS**

Jeff and Melissa McLard (Complainants) filed a complaint against Stoddard County Sewer Company (Respondent or Company) on February 20, 1997. The McLards alleged that Respondent overcharged them for their sewer hook up. According to the McLards, Respondent charged 12 percent interest on the \$835.00 construction cost since 1983, although the McLards did not purchase their property and begin to construct their home until December of 1996. The McLards also alleged they made a payment under protest to Respondent in the amount of \$2,338.00 for connection charges. The McLards requested that the Commission order Respondent to pay them \$1,303.00 plus twelve percent interest.

Jeff and Amy McClain filed a complaint against Respondent on February 24, 1997. The McClains alleged Respondent overcharged the McClains for their sewer hook up. According to the McClains, Respondent

charged 12 percent interest on the \$835.00 construction cost since 1983, although the McClains did not purchase their property and start construction of their home until April of 1996. The McClains indicated that they made a payment under protest to Respondent in the amount of \$2,298.70 for connection charges. The McClains requested that the Commission order Respondent to pay them \$1,263.70 plus twelve percent interest.

The Commission issued a Notice of Complaint in each case. The Notice of Complaint was issued pursuant to 4 CSR 240-2.070 and advised the Company that it had 30 days in which to file an answer stating legal and factual defenses or to describe the measures taken to satisfy the complaints. The Respondent did not file an answer before 30 days passed in either case.

The Commission issued its Order Regarding Default in each case on May 2. The Commission found that pursuant to 4 CSR 240-2.070(9) the Respondent was in default and that the allegations set out in the complaints were deemed to be admitted absent a finding of good cause to the contrary. The Commission directed the Water and Sewer Department Staff (Staff), along with the Office of General Counsel of the Missouri Public Service Commission, to investigate the allegations set forth in the complaint cases and to file a report by May 30 setting out its findings in these cases.

The Commission extended the filing date of the report, and Staff filed its report of investigation on June 6. Staff reported that Case Nos. SC-97-339 and SC-97-343 pertain to the Contribution in Aid of Construction (CIAC) charge for new service connections. Staff stated that under the Company's current tariff, the McLards and McClains should have been charged \$835.00 for the CIAC charge plus \$200.00 for a service line

installation. According to Staff, the current tariff sheet, P.S.C. MO. No. 1, 2nd Revised Sheet No. 7, provides for a 12 percent per annum increase in the CIAC charge only for homes constructed prior to February of 1981.

Staff's report indicates that Original Sheet No. 8 provided for a 12 percent per annum increase in the CIAC charge. Nevertheless, Staff shows that original Sheet No. 8 was replaced with the 1st Revised Sheet No. 8 on May 1, 1981. The 1st Revised Sheet No. 8 which is currently in effect provides for an optional payment plan for the CIAC charge, but it does not provide for a twelve percent per annum increase in the charge.

Staff recommended that a refund is appropriate in both cases for payments over \$1,035.00 because neither case involves a home constructed prior to February of 1981. Copies of the relevant tariff sheets are attached to Staff's report.

On September 24, 1997, the Commission issued an order setting show-cause hearing in which the Commission directed Respondent to appear and show cause for the Company's failure to respond. On October 14, Respondent appeared for the show-cause hearing and agreed to file answers to each complaint on or before October 28.

On October 23, Respondent filed answers to each complaint. Respondent stated that the appropriate CIAC charge consists of \$835.00 plus 12 percent per annum interest until the date of the service by the customer. Respondent submitted with his answer a copy of the current and original tariff sheets, copies of calculations performed by Staff, and a copy of the order issued by the Commission on April 30, 1981, which approved tariff sheets effective May 1, 1981. The position of Respondent is that the Sheet No. 8, effective May 1, 1981, was intended by both the Company and the Commission as an addendum to the Original Sheet No. 8 which

was effective December 1, 1979, to allow financing of the appropriate CIAC charge.

The Commission finds that the Respondent's tariff sheets which have been in effect since 1981 and 1983 do not allow a 12 percent per annum increase in the \$835.00 CIAC charge. The Commission finds that the 1st Revised Sheet No. 8 which is currently in effect clearly states in the upper right-hand corner that it is the "1st Revised Sheet No. 8" and does not state anywhere that it is an addendum. The Commission finds that regardless of the intent of the Company when it filed the revised tariff sheets, the plain language of the tariff sheets require that the Commission rule in favor of Complainants.

Therefore, the Commission will order Respondent to refund to Complainants Jeff and Melissa McLard the overpayment of \$1,303.00 for the new service connection. The overpayment is computed by subtracting the appropriate CIAC charge of \$835.00 and the \$200.00 charge for service line installation from the actual payment of \$2,338.00 ( $\$2,338.00 - \$835.00 - \$200.00 = \$1,303.00$ ).

The Commission will order Respondent to pay the McLards interest in the amount of 6 percent per annum on the overpayment. Pursuant to 4 CSR 240-60.030(6)(B) sewer utilities pay 6 percent per annum interest on customer deposits.

The Commission will order Respondent to refund to Complainants Jeff and Amy McClain the overpayment of \$1,263.70 for the new service connection. This overpayment is computed by subtracting the appropriate charge of \$835.00 and the \$200.00 charge for service line installation from the actual payment of \$2,298.70 ( $\$2,298.70 - \$835.00 - \$200.00 = \$1,263.70$ ). The Commission will order Respondent to pay the McClains interest in the amount of 6 percent per annum on the overpayment.

**IT IS THEREFORE ORDERED:**

1. That Stoddard County Sewer Company shall refund to Complainants Jeff and Melissa McLard the overpayment of \$1,303.00 for the new service connection along with interest in the amount of 6 percent per annum on the overpayment.

2. That Stoddard County Sewer Company shall refund to Complainants Jeff and Amy McClain the overpayment of \$1,263.70 for the new service connection along with interest in the amount of 6 percent per annum on the overpayment.

3. That this order shall become effective on December 12, 1997.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(S E A L)

Lumpe, Ch., Crumpton, Murray,  
and Drainer, CC., concur.

G. George, Regulatory Law Judge