

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3
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5 TRANSCRIPT OF PROCEEDINGS
6 Settlement Conference
7
8 March 6, 2009
9 Jefferson City, Missouri
10 Volume 1
11
12
13 In the Matter of the Application)
14 of Jerry Reed d/b/a Woodland)
15 Acres Water System for a)
16 Certificate of Convenience and)Case No. WA-2009-0031
17 Necessity to Provide Water)
18 Service in St. Clair County,)
19 Missouri)
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23 KENNARD L. JONES, Presiding,
24 SENIOR REGULATORY LAW JUDGE.
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11 Service Commission.

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

2 JUDGE JONES: Okay. We are on the
3 record with Case Number WA-2009-0031. My name is
4 Kennard Jones. I am the judge assigned to this
5 matter. This is a settlement hearing, and at this
6 time we'll take entries of appearances. Just state
7 your name and who you represent. From Staff first.

8 MS. HERNANDEZ: Yes. This is Jennifer
9 Hernandez. I'm with the Staff of the Missouri Public
10 Service Commission, and with me here I have Jerry
11 Scheible who is an engineer.

12 JUDGE JONES: The Office of the Public
13 Counsel.

14 MS. BAKER: Thank you. Christina Baker,
15 appearing for the Office of the Public Counsel and
16 the customers.

17 JUDGE JONES: And Mr. Reed?

18 MR. REED: Yes, sir.

19 JUDGE JONES: Those are the two
20 attorneys in the room, and there's a couple of other
21 people who are here just sitting in listening to
22 what's going on.

23 MR. REED: Okay.

24 JUDGE JONES: I tried to call Mr. Johns
25 this morning. Are you represented?

1 MR. REED: No. I'm gonna represent
2 myself in this.

3 JUDGE JONES: Okay. And you are doing
4 business as Woodland Acres Water System. Are you
5 incorporated?

6 MR. REED: No.

7 JUDGE JONES: Okay. Well, first, let me
8 start with Staff. You filed the application,
9 Mr. Reed, for a Certificate of Convenience and
10 Necessity?

11 MR. REED: I had Mr. Johns file it, yes.

12 JUDGE JONES: Okay. And what I'm
13 gathering is that you have been offering water
14 service without a certificate; spoke with someone
15 from my staff who said you probably need to get a
16 certificate, and that's what started the whole
17 process?

18 MR. REED: Yes, sir.

19 JUDGE JONES: Okay. And it looks like
20 up to that time, Staff has been working with you
21 trying to organize Woodland Acres Water System in
22 some form, or assist or wait for you to sell the
23 system to the Homeowners Association; is that
24 correct?

25 MR. REED: That's correct, yeah. I've

1 been working with Richard [sic] Scheible on that.

2 JUDGE JONES: Okay. Well, let me ask
3 Staff. What is it that he needs to do?

4 MS. HERNANDEZ: Well, we've been working
5 since June 3rd. Staff sent a demand letter to
6 Mr. Reed on June 3rd, and since then we have been
7 working with him and he filed his application for
8 certificate. After he filed his application for a
9 certificate, it came to light that maybe a better
10 regulation of the system might be a Homeowners
11 Association.

12 So since around October of last year,
13 2008, we have been trying to work with him in getting
14 the proper setup for that. I think there's been some
15 delay due to Mr. Reed working on his own. We have
16 advised him several times that it might be proper to
17 seek legal counsel in this matter. There are issues
18 with his Bylaws and Articles Of Incorporation that
19 need to be addressed, as well as how the transfer is
20 going to occur to the Homeowners Association.

21 JUDGE JONES: What is Staff suggesting,
22 that he incorporate?

23 MS. HERNANDEZ: Well, we're -- in terms
24 of just getting the Bylaws and everything in order
25 for the Homeowners Association under 393.900.

1 JUDGE JONES: Mr. Reed?

2 MR. REED: Yes, sir.

3 JUDGE JONES: Are you able to understand
4 all the things that Staff has been talking to you
5 about?

6 MR. REED: I understand exactly what
7 they're saying. I've been talking to Mr. Scheible on
8 this, and I am trying to turn this thing over. At
9 first I was gonna sell it to the association, and
10 I've been going back and forth. And then they wasn't
11 gonna accept it, so at the present time I'm gonna
12 just give it to them, but they don't even want this
13 system unless there's some money in there.

14 I'm getting ready to send the notices
15 out for the yearly fees, and I will put all that into
16 a checking account for the association so they will
17 have something to work with in case they have
18 problems with the water system.

19 Now, I won't collect all this money
20 probably until around the middle of April before I
21 get it all in, but I will give it all to them and
22 the -- I'm on the association board myself, but
23 there's two other board members. And they told me if
24 I will put at least \$2,000 into a checking account
25 for the water system, that they will accept the water

1 system. And that's where it stands right now.

2 JUDGE JONES: So basically they want you
3 to pay them to take the water system?

4 MR. REED: Well, what they want to do
5 is, they didn't want to take the water system and
6 have no money there in case something -- you know, in
7 case a pump went out or something. So I have agreed
8 to go ahead and collect the water fees in the
9 association -- are you still there?

10 JUDGE JONES: Yeah, we're still here.

11 MR. REED: Okay, into the association's
12 name this year. All the checks be coming into the
13 Woodland Acres Property Owners Association and I'm
14 gonna deposit it into an account under the
15 association. And I've gotten another attorney that's
16 working on these deeds from me to the association.

17 And, of course, I told him that I had to
18 have it by the 1st of April. I just called him a
19 while ago and he's in a jury trial. He said he'd
20 probably start working on the deeds Tuesday for the
21 association.

22 I'm just gonna give the water system to
23 him and I'm gonna give him all the payments that I
24 would have been collecting this year, I'm just gonna
25 turn all that over to the association.

1 JUDGE JONES: Okay. Well, just so we're
2 clear, you do realize that in order to offer the
3 water services you're offering, you have to be -- you
4 have to have a certificate from the Commission. You
5 do understand that, right?

6 MR. REED: Yes. That's why I filed for
7 one.

8 JUDGE JONES: Well, how long have you
9 been operating the system?

10 MR. REED: Oh, since '96. I didn't
11 know -- I had no idea I needed a certificate.

12 JUDGE JONES: Okay. Well, I'll leave it
13 at that. And did you want to add something?

14 MS. BAKER: I do have some questions
15 about this bill that you're thinking of sending out.
16 This is Christina Baker.

17 JUDGE JONES: Is this something that I
18 need to hear?

19 MS. BAKER: I guess maybe not. Maybe we
20 will talk about it without --

21 MS. HERNANDEZ: Well, I think we need to
22 put something else on the record --

23 JUDGE JONES: Okay.

24 MS. HERNANDEZ: -- in terms of what
25 Mr. Reed can do. This is Jennifer Hernandez again.

1 Since you do not have a certificate, your idea of
2 sending out a bill is not proper. Maybe what you
3 could do -- and again, I'm not your legal counsel and
4 I'm not trying to give you advice, but if the
5 homeowners were willing to -- to put their assessment
6 into the homeowners account, if such thing even
7 exists, maybe that could be an option for you to get
8 the funds into the account that they wish to see
9 before it's transferred.

10 MS. BAKER: I would say that that's
11 something that we definitely need to talk about
12 before we put that out as an option.

13 MR. REED: Well, may I interrupt here?
14 The letters that's going out for the water services
15 for the fees are going out under the association
16 name. All the checks that people will be sending in
17 will be made out to the property owners association,
18 not to me.

19 MS. BAKER: But you realize that the
20 Homeowners Association is not a certificated water
21 system?

22 MR. REED: Yes, ma'am, I know that.

23 MS. BAKER: Okay.

24 JUDGE JONES: Well --

25 MR. REED: Now, are they gonna -- here's

1 what I've been -- Mr. Scheible's been telling me. If
2 it's turned over to the Homeowners Association, then
3 we dissolve all this stuff.

4 MS. BAKER: Only if they are properly
5 organized.

6 MR. REED: Well, they are organized.

7 MS. BAKER: They may be organized, but
8 we have to make sure that they are properly
9 organized.

10 MR. REED: Well, how -- what do you do?

11 MS. BAKER: There are legal things that
12 we'll talk about.

13 JUDGE JONES: I'm gonna let you-all talk
14 about this, Mr. Reed, in my absence, primarily
15 because I'm the judge in the case and I don't want to
16 play a part in the settlement negotiations.

17 MR. REED: Okay.

18 JUDGE JONES: Okay?

19 MR. REED: All right.

20 JUDGE JONES: I will tell you that it's
21 apparent to me that Staff is trying to keep you from
22 operating the water system without a certificate,
23 which, by law, is what you need, so --

24 MR. REED: Well, I'd be willing to get a
25 certificate. I've been trying to get one.

1 JUDGE JONES: I understand. And also
2 I'll just tell you, you would be better off with an
3 attorney, because by not having an attorney, you put
4 Staff and the Office of Public Counsel, to a certain
5 degree, in a position of walking a thin line of
6 advising you.

7 MR. REED: Okay.

8 JUDGE JONES: And they don't want to
9 have to do that, but at the same time, they don't
10 want to watch you do something that's not right.

11 MR. REED: I understand that, sir.

12 JUDGE JONES: Okay.

13 MR. REED: But as of right now, I have
14 spent \$625 for an attorney, and I haven't gotten one
15 thing for it.

16 JUDGE JONES: Well, I'll tell you, in
17 that instance you may want to contact the Missouri
18 Bar and report that attorney to the disciplinary
19 office. That would be the proper step to handle that
20 matter, okay?

21 MR. REED: All he's done is sent me
22 papers that the Commission has sent him, and he filed
23 for the application -- or for the certificate.

24 JUDGE JONES: Well, again, if you don't
25 think that the attorney has provided the services

1 that you paid him for, then you need to report that
2 to the Missouri Bar, and that's the agency that
3 regulates attorneys in the state.

4 MR. REED: Well, I ain't saying that he
5 didn't represent me --

6 JUDGE JONES: Like I say, I can't do
7 anything about that. I'm telling you how to handle
8 that.

9 MR. REED: Well, I just can't afford to
10 be paying an attorney for something if I get nothing
11 for it.

12 JUDGE JONES: I understand that, and we
13 all probably agree with you. So you need to report
14 that to the Bar Association. At some point if you
15 can't figure out how to do that, just call my office
16 and I'll give you a telephone number, okay?

17 MR. REED: All right.

18 JUDGE JONES: Okay. I'll leave you-all
19 to discuss the matter and see if you can come to a --
20 come to some solution, all right, Mr. Reed?

21 MR. REED: Yes, sir.

22 JUDGE JONES: Thank you. At this point,
23 Mr. Reed, we are going to go off the record, so
24 everything you say hereafter will not be on the
25 record, okay?

1 MR. REED: All right.

2 JUDGE JONES: All right. You-all have a
3 good day.

4 MS. HERNANDEZ: Thank you.

5 MS. BAKER: Thank you.

6 (WHEREUPON, the recorded portion of the
7 settlement conference was concluded.)

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