

ROMAN DZHOJINSKIY

Complainant

v

Missouri American Water Company

CASE NO. WC-2010-0215

FILED²

AUG 10 2010

Missouri Public
Service Commission

Request for a subpoena for production of documents

As I stated in my memo I tried to contact the MAWC legal counsel Mr. Ken C Jones unsuccessfully. On July 16, 2010 accordingly by the MPSC rules 4CSR 240-2.090 I sent a Request for production of documents to Mr. K Jones by FAX. Since then I have never heard from him or the company.

Regarding the MPSC rules 4CSR 240-2.090(2) if the MAWC hasn't responded to me I ask the MPSC apply the rule 4CSR 240-2.100 to subpoena the documents I will need to prepare for the future hearing. These documents include, but not limited at this point as such:

1. The report from the first service employee who was on my property on December 4, 2009. his full name, home address, title and if possible his phone #.
2. The report from the 2nd crew employees who were phoned by the first one, and arrived on my property in 30 min. later on December 4, 2009. Their contact information.
(This document will reflect which tests were conducted on my property and resolutions.
3. Graphic recording water pressure in the main pipes of 24 hours duration on December 4, 2009 at various points on the system (It will reveal the water pressure fluctuations which triggers water backflow from my pipes into main system).
4. The report from the service employee dated April 16, 2010 between 9am-11am on property located 7 Crabapple Ct, St. Louis, MO 63132. indicating a reason for service and results found. (It will reveal a customer call the company for the same reason which I have - no water pressure and fluctuation in the service pipes inside home).
5. The report(s) from the MAWC 3 employees (representatives) who were on my property May 18, 2010 to install a backflow preventer.
(It might reveal in details a reason why it wasn't installed, employees discussions with St. Louis County Inspector(s) and MPSC staff after the new facts appeared. Their statement to each other about water backflow into main pipes from my home).

Sincerely,

ROMAN DZHOJINSKIY

32 Crabapple Ct. St. Louis, MO 63132
PA. #1314/692-0224

08-06-2010

Roman Dzhurinskiy

Complainant

Case NO. WC-2010-0215

v.

Missouri American Water Company

MEMO

As of May 12, 2010 I and MAWC had a prehearing meeting to mediate and settle our case. There were several more staff present (over the phone conference) from the MPSC, including the investigator. Before the conference I discussed the issue with the MAWC representative, including some new facts available, such as: their employees conducted the investigation in our neighborhood on the eve of filing their response to the MPSC and I was a witness to see how it was conducted. Some of my neighbors across the street were not pleased how it was done. Moreover, she told me she had already complained to the MAWC of having problems like mine (not water pressure and fluctuation). The MAWC representative told me he wasn't aware of the facts and the company stated in their report, they didn't have intention to mediate and even settle the case. It was a big surprise to me when they agreed to provide labor and me to pay for the device to be installed in the watermeter pit. This proposition was initiated by the staff and when I raised some technical issues about installation (and it was also presented in my previous memos) the staff cut me off, telling everyone he knows how to do this (installing loop). It was a good and fair deal for me because to hire a licensed plumber would cost me a fortune to do this job. So, we had a deal (oral) contract in presence of all MPSC staff. No other technical issues or conditions of installation were raised.

On May 18, 2010 there were 3 different groups of people on my property to watch the installation of the device. One - the Staff, Second - Director of St. Louis County Plumbing Inspectors Department and inspector with him to provide inspection on the spot. Third - 3 employees from the MAWC, including a technician.

I invited the MAWC employees to check my appliances inside of my house, but they declined. So, the St. Louis C. inspector followed by himself. He checked everything possible for the leak or use of water, performed some (the same) tests which had been done by the MAWC employees and the staff before. He even went further, to check the air pressure in the expansion tank twice. Nothing was wrong and in compliance with the code.

After finishing inside inspection and finding nothing wrong, I asked all parties to explain the behavior of the water meter (not rotating at nights, on minimal) and the water to flow backward, presenting the digital recording from the staff's investigation. It showed the water fluctuation difference during the daytime from 10% to 15%. The water company admitted (and I insisted before without having this recording) it's possible (and even obvious to a school student) there more water use during days than nights,

so they confirmed the water flows backward and again forward through their water meter indicating use, while no one used water. It didn't rotate for a while under water pressure - indicating no leak. I also asked all parties if installing the device in the pit will resolve the issue completely, because there is still about 10 feet left of the service line pipes between the main pipe and the water meter, so the water could still backflow from this and flow forward again triggering the water meter to count. All of them clearly declared - no guarantee it will work. Also, I raised a question about air coming from the faucet in the home, when it opened. The staff confirmed, if instead of water the air can be blown in the water meter it will trigger the dial to rotate. It was previously confirmed by the manufacturer.

After that the St. Louis C. inspector made a declaration. As he knows all his long entire professional career in this position and experience, there are no backflow preventers installed in the intersection of the main (water company) and service pipes (customers) in all St. Louis County (I don't know about a new code adopted recently and never asked inspector about this). But I am not required to install one by code. That is why the water freely backflows when not enough pressure. On the other hand, the MAWE made their declaration. They said they are not pleased that a customer(s) water backflows into their pipes. It could represent a hazardous health issue (I completely agree. No one exactly knows how much and from which appliance the water backflows). To this day, it appears, no party has contacted either the St. Louis C. Health department and MO Department of Natural Resources. As I stated earlier in my clarification letter I couldn't understand why the staff always insisted that I had a faulty backflow preventer in the intersection and it was my responsibility to fix one. As a professional and former plumber as he told me (I am a construction engineer by education and training) he couldn't but miss this point. Logically, when water gets hot and expands, pushing in the pipes backward for a short period, if no an expansion tank installed. Otherwise, if a backflow was initially installed it would have exploded my water heater, or the best to open the safety valve each time installed on all water heaters by the national code. That is why we had never been required to install an expansion tank - water could freely backflow in the main pipe. Why the St. Louis C. adopted a new code to install an expansion tank is unclear. (at least for the old houses) including above mentioned circumstances. Insisting on the safety measure (the house is more than 50 years old) doesn't make sense.

After hearing all above mentioned facts, including visible, tests, declarations and questions, the water company bulked out of the deal. They refused to install the device insisting: a) they need to make alterations to the system - cutting pipes (no loop could fit as the staff insisted even I told him otherwise, or a smaller water meter installed, which of course is available from the same manufacturer the water company uses). b) it could be frozen in the winter time (a kit is available to protect this). c) They have no license to do this job and if the union find it out they will be angry and file a complaint.

c). They don't want to be responsible for my plumbing system in the future (I could give them disclaimer). I just couldn't believe the water company didn't know about all these facts before. They familiar with all water pits in our area - all of them are the same and a month before they inspected some customers' watermeters in our neighborhood.

So, to me, under this circumstances, it's a breach of the contract. I, as a "customer" don't have to be aware how this work will be done, which methods applied or who will do the job - either the water company by itself or they will hire a contractor. I believe it was another reason why they refused to install the device. As they insisted before, they didn't have intentions to mediate and settle the case, and apparently hoped I will reject the device installation. But if they install the device under our agreement and it will work completely (even they don't know) work partially or doesn't work at all - they could be liable to some point in the future if other similar claims from customers arise. So, they could be hooked up. Otherwise, they could pinpoint their finger to the MPSC because the case was investigated by its staff. I have never believed the MAWC (in their previous responses) was interested to resolve the issue by mediation. But I have tried to do my best.

After all these disappointed events and failed attempts to resolve the issue (and we were to close) I still can't understand, why after learning more material facts, the Staff again insisted of installing a device inside of my house. It seems to me it's unethical and wrong to present in his report that the device will work and telling me otherwise. It's wrong to tell me (the same as the MAWC) to pay just \$20 a year more if I don't try to install the device. He didn't answer how much it will effect my sewer bills and what the water company must do after learning all the facts. I just asked him to present the true picture of the facts he learned and what he said to me. Instead, he said, If I wanted him to recommend to the MPSC to make adjustments to all 400,000 water company customers under these circumstances. It's possible, but I am the only one right now who filed the complaint, so it applies to my case. Why, proving that I don't use water, no leak exists, I have to investigate further and prove my innocence?

As the Staff still has not filed his last report with the new facts learned, after all, there is no reason to wait more time and move the case forward before the MPSC. I don't see a reason to waste time, but unfortunately, spend taxpayers money. I believe the Staff (Investigator) will make a request to be present at the hearing, as he did in prehearing conference and be a material witness.

On July 26, 2010 I received the Staff's status report, which in my opinion, has some mistakes. It states, that in our prehearing conference the MAWC agreed to install a device at the meter on my premises "if practicable". There was no wording "if practicable" mentioned at all, no other terms included, and I object to this.

The report also mentioned I was in the process of hiring an attorney to continue my case before the MPSC. It's just partially true, because I stated I was looking for an attorney, but couldn't find one to look at the case, but mostly for a reason for filing a future class action lawsuit against the HAWC (I mentioned this to the HAWC legal council in the prehearing conference) if the case is not settled.

As I was recently advised I need to complete my case before the MPSC first, and after that to go forward with another court. Unfortunately, it's not working right now, but I believe I will have no attorney to represent me before the MPSC. (My attempt to find one - failed).

On July 15, 2010 I tried to contact the HAWC legal counsel Mr. Kenneth C Jones, and left him a message to call me back. I have never received a respond. On July 16, 2010 accordingly by the MPSC rules I sent a FAX to Mr. K. Jones for "Request for production of documents" (copy is attached). I wanted to review and present them as evidence before the MPSC. I have never received a respond. Based on these facts I would like to ask for help to subpoena the documents I need. (I included a separate request, I also believe, the MPSC will take into consideration the HAWC hostile behavior toward my request and violation of the rules, and will act appropriately).

I would also ask, if possible, when times comes, to have hearing before the MPSC (including my family circumstances and transportation, health issues) to be held in St. Louis County location.

I still hope the MPSC under these circumstances and facts presented will make the right decision, ruling in my favor.

Sincerely,

Roman Dobrinskiy

32 Crabapple Ct. St. Louis, MO 63132

Ph. (314) 692-0224

08-06-2010

Faxed
July 16, 2010

To: Kenneth C. Jones, Missouri American Water Company
From: ROMAN DZHURINSKIY, Complainant v. MAWC, case NO WC-2010-0215
Date: 07-16-2010

Request for production of documents

As we had a prehearing conference on May 12, 2010, including the MPSC staff, and agreed to have a preventer valve installed in the water meter pit on my property, indicating your company will provide labor and I pay for the device, I would like you to know that upon attending my property on May 18, 2010 by your company's 3 employees, the MPSC staff, and St. Louis County Plumbing Department's Director and Inspector, some tests were performed by the Inspector, revealing there was nothing wrong with my plumbing system, and no water leak detected. Some discussions followed after that and some new facts were revealed. Your company and St. Louis County exchanged some statements. I also actively participated in that. After all, your company refused to install the device presenting facts that are not sufficient, in my opinion, not to install the device. Please note, your company never raised the issue about my improper plumbing or water leak, while they witnessed otherwise the water meter dial movement. But they acknowledged the water flow fluctuation in the main pipe in 24 hours period upon seeing the digital recording taken by the MPSC staff before.

Since then I have never heard from you company again. Considering this and having no choice, unless you can propose other solutions to resolve our case, I would like to have some documents submitted to me such as:

1. The report from the first service employee who was on my property on December 4, 2009, his full name, home address, title and if possible his phone #.
2. The report from the 2 (second crew) employees who were phoned by the first one, and arrived on my property 30 min. later on December 4, 2009, their full names, home address, title and if possible their phone #.
3. Graphic recording water pressure in the main pipes of 24 hours duration on December 4, 2009, at various points on the system.

I hope I will receive these documents timely.

If you have any questions regarding this letter or our case, feel free to contact me any time convenient for you.

ROMAN DZHURINSKIY - Roman Dzhurinsky