

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

**FILED**

**JUL - 1 2013**

**Missouri Public  
Service Commission**

PAUL SCHAEFER,

Complainant

v.

I.H. UTILITIES, INC.,

Respondent

File No. WC-2013-0357

**RESPONDENT'S POSITION STATEMENT**

**COMES NOW** Respondent I.H. Utilities, Inc., by and through counsel, and hereby submits its Position Statement with regard to the issues for Commission resolution set forth in the Issues List filed on June 25, 2013 as follows:

**1. Is I.H.'s refusal to provide service to Mr. Schaefer's vacant lot for use on Mr. Schaefer's adjacent land lawful?**

I.H. Utilities, Inc. [herein after "IH"] respectfully submits that its refusal to provide service to Mr. Schaefer's vacant lot for use on his adjacent land is lawful. Respondent notes that its currently effective tariff prohibits a service connection to a vacant lot (First Stipulation of Material Fact, Paragraph 15). However, even in the event that Respondent's tariff was amended to allow a service connection to Mr. Schaefer's vacant lot, IH is within its rights to refuse to provide service to the vacant lot for use on Mr. Schaefer's adjacent land.

There is no dispute that the approximately 100 acres owned by Mr. Schaefer adjacent to his vacant lot located at 2322 Itawamba, Cuba MO does not lie within IH's service area. (First Stipulation of Material Facts, Paragraph 5). IH like any regulated utility, is not authorized to provide service to a point outside of its service area. (First Stipulation of Material Facts, Paragraph 6). This prohibition certainly applies to service for use outside of its certificated area

by a direct connection to a location outside of its certificated area. To avoid this prohibition by allowing a connection to a location within the certificated area for the purpose of transport and use outside of its service area would effectively render the certificated area boundaries meaningless. Inasmuch as IH is not authorized to provide service even if by indirect means outside of its certificated area, it is certainly within its rights to refuse to do so.

**1.a. If not, what size meter and piping should be used?**

A typical meter used for a residential customer at Indian Hills Subdivision (where Mr. Schaefer's vacant lot is located) is a five-eighths inch (5/8") meter size meter serviced by a three-quarter inch (3/4") line. (First Stipulation of Material Facts, Paragraph 23).

Complainant has indicated an intention to install a "booster pump" to service a connection to his vacant lot for use on his adjacent property. (Answer of Respondent, Paragraph 2.f.; Staff Report of Investigation, "Sizing Issue", p.5). Such installation of a booster pump could reduce pressure in portions of IH's water distribution system. (Staff Report of Investigation, "Sizing Issue", p.5). Any connection to Complainant's vacant lot should be with a standard 5/8" meter serviced by a 3/4" line, and should be explicitly conditioned upon Mr. Schaefer's agreement –binding upon any successor in interest – not to install a booster pump without Respondent's prior approval.

**2. Can the Commission order I.H. to alter its tariff or certificated area to require I.H. to provide service to Mr. Schaefer's vacant lot for use on Mr. Schaefer's adjacent land?**

IH respectfully asserts that it cannot be compelled against its will to alter its tariff or certificated area requiring it to provide service to Mr. Schaefer's vacant lot for use on his vacant land. The mere fact that Complainant owns property adjacent to the certificated area and desires water service from Respondent does not provide a basis for the expansion of Respondent's certificated area to include Complainant's adjacent property, unless Respondent consents to such

expansion. *State ex rel. Southwestern Bell Telephone Company v. Public Service Commission*, 416 S.W.2d 109 (Mo. Banc. 1967).

Inasmuch as Respondent has not offered, professed or undertaken to serve Complainant's 100 acre parcel lying adjacent to his vacant lot at 2322 Itawamba, Respondent cannot be compelled to expand its service area to include said parcel or any portion thereof; whether by direct connection to said 100 acre parcel or by connection to Complainant's vacant lot for use on said adjacent 100 acre parcel.

**2.a. If so, should the Commission order I.H. to alter its tariff or certificated area to require I.H. to provide service to Mr. Schaefer's vacant lot for use on Mr. Schaefer's adjacent land?**

Even if Commission has the authority to order IH to alter its tariff or certificated area to require the provision of service to Mr. Schaefer's vacant lot for use on his adjacent land, it should not do so. Respondent's opposition to altering its tariff or certificated area to require service to Complainant's adjacent land is based on a number of factors, including equipment requirements, local topography, and the effect of such service on other customers, (particularly since a booster pump might be needed).

In addition, Respondent must anticipate possible future development within the present certificated area, and consider how service could be affected in the future by such an alteration to the tariff or certificated area. For instance, if a new customer of Respondent were to construct a home near Complainant's location, "it could be a difficult matter to resolve without further study of characteristics of this particular area of the Company's distribution system." (Staff Report of Investigation, "Sizing Issue", p.5).

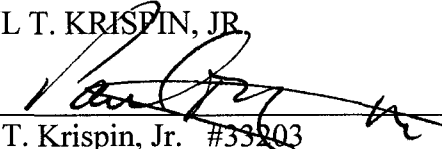
Accordingly, in light of Respondent's legitimate concerns regarding the alteration of its tariff or certificated area to require IH to provide service to Complainant's adjacent land, the Commission should defer to Respondent and not order the alteration.

**2.b. If so, what size meter and piping should be used?**

Respondent restates and incorporates herein by reference its Position Statement to Issue 1.a. above.

Respectfully,

PAUL T. KRISPIN, JR.

  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed with the Public Service Commission of the State of Missouri and served on the following by electronic mail and by mailing a copy of same U.S. Postal Service first class mail, postage prepaid, this 28 day of June, 2013 to:

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