



**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Filed
June 14, 2012
Data Center
Missouri Public
Service Commission

Eric C. Larson,)
 Complainant)
)
 v.)
)
Woodland Manor Water Company, LLC,)
 Respondent)

Case No. WC-2011-0409

STAFF'S RECOMMENDATION AND REPORT

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through the undersigned counsel, and submits to the Missouri Public Service Commission (Commission) the following *Recommendation and Report (Recommendation and Report)*:

1. On June 27, 2011, Eric C. Larson (Larson) filed a formal complaint with the Commission against Woodland Manor Water Company (Woodland Manor).

2. On June 27, 2011, the Commission issued a *Notice of Contested Case and Orders for Small Formal Complaint (Order)* including that Staff shall investigate the complaint and file a report detailing Staff's findings and recommendations no later than August 11, 2011. This filing is meant to comply with that *Order*.

3. Woodland Manor filed a Response to the Complaint on July 21, 2011 and, upon further direction from the Commission, its attorney, Gregory Gibson, entered his appearance and filed an Answer on August 5, 2011.

4. Staff files this *Recommendation and Report*, as more fully described in Staff's Report which is attached and incorporated herein as Appendix A, with attached affidavit, recommending that the Commission issue an order finding that Mr. Larson is responsible for repairing the leak, or in the alternative, setting this matter for hearing so the parties are able to present argument to the Commission.

Staff Exhibit No. F
Date 5-30-12 Reporter S R
File No. WC-2011-0409

WHEREFORE, Staff respectfully submits this *Recommendation and Report* for the Commission's information and consideration.

Respectfully submitted,

/s/ Rachel M. Lewis

Rachel M. Lewis
Deputy Counsel
Missouri Bar No. 56073

Attorney for the Staff of the
Missouri Public Service Commission
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or by electronic mail to all counsel of record on this 11th day of August, 2011.

/s/ Rachel M. Lewis

Staff Report
Case No. WC-2011-0409
Prepared by David A. Spratt
Water and Sewer Department
August 10, 2011

Background

Mr. Eric Larson (Mr. Larson or Customer), a customer of Woodland Manor Water Company (Woodland Manor or Company), called the Missouri Public Service Commission (Commission) on June 8, 2011 with an informal complaint. Mr. Larson indicated that there was a water leak along the north edge of the street in front of his property, Kimberling Oaks Resort. Kimberling Oaks Resort is a resort that consists of several individual cabins and other buildings owned by Mr. Larson. Mr. Larson called the Commission because after he brought the leak to the attention of the Company, the Company did not fix the leak and indicated that the leak was the Customer's responsibility. Mr. Larson believes that the leak should be the Company's responsibility to repair, not his. The Staff of the Commission's Water and Sewer Department (Staff) met Mr. Larson on site on June 9, 2011 to begin its investigation of the informal complaint. Staff observed the excavation performed by Mr. Larson as well as the location of the two meters and valve boxes that serve Kimberling Oaks Resort. Staff also spoke with Mona Fennema, owner of Woodland Manor Water Company, and reviewed various records and photographs related to the property involved in this Complaint. Staff also reviewed the Company's tariff, and attaches and incorporates pertinent sections as Attachment A. After finishing its initial investigation, Staff spoke with Mr. Larson on June 15, 2011 and informed him that even though the water leak occurred under the street, it involved his Customer's Water Service Line and was his responsibility to repair, based on Woodland Manor's tariff.

The informal complaint process did not resolve the matter. Staff then informed Mr. Larson of the procedure for filing a formal complaint before the Commission. Mr. Larson filed this formal complaint on June 27, 2011, which is the subject of this recommendation.

In the Commission's *Notice of Contested Case and Order Directing Filings* effective on June 27, 2011, the Commission ordered Staff to investigate and file a report by August 11, 2011. This report is intended to comply with that order.

Staff's Discussion and Findings

An aerial map of the Kimberling Oaks Resort is attached and incorporated as Attachment B to visually depict the situation. As shown on the map, there are two meters, a two-inch (2") meter and a one and one half inch (1-1/2") meter, and two valves that serve Kimberling Oaks Resort. The blue line on the south side of Holiday Drive represents the Company's Water Main (Main), which is defined in the tariff on Sheet No.6, Rule 1(d). The black lines represent the Service Connection, which is defined in the tariff on Sheet No. 6, Rule 1(f). The orange line represents the Customer's Service Line (Service Line), which is defined in the tariff on Sheet No. 6, Rule 1(e). The leak in dispute in this matter occurred on the portion of pipeline depicted in orange on Attachment B.

The leak in the water Service Line occurred under the asphalt street, between valve number one and valve number two. Mr. Larson contacted Woodland Manor about the leak. The Company investigated the leak and discovered that water was surfacing on the north edge of the Holiday Drive in the gravel within six inches of the road pavement. Water was not observed on the south side of the road where the Company's Main is located. When valve number one was turned off, the water leak stopped. The Company determined at that time that since the leak was on the customer's side of the meter, it was the Customer's responsibility to repair it. Mr. Larson disagrees and argues the Company should be responsible for the repair, largely because it was in place before he purchased the property and because it is in the roadway.

Woodland Manor's tariff, specifically, Sheet 11, Rule 5(b), states: "The Service Connection from the water main to the Customer's property line, the meter installation and setting shall be constructed, owned and maintained by the Company. *Service Line construction and maintenance from the property line or meter setting, including the connection to the meter setting, to the building shall be the responsibility of the Customer, and is subject to inspection by the Company.*"(Emphasis added) Since turning off valve number one stopped the flow of water to the leak, it shows that the leak occurred on the Customer's side of the meter and is therefore part of the Customer's Service Line. Staff finds that that the portion of the pipeline where the leak occurred constitutes the Customer's Service Line, and is therefore the Customer's responsibility to maintain and repair because it occurs after the meter and was "used to conduct water to the customer's unit from the outdoor meter setting" as stated on Sheet No. 6, Rule 1(e). Staff agrees that the valves and the curved pipeline (depicted in orange) may have existed prior to Mr. Larson purchasing Kimberling Oaks Resort and may have been in service as a Main at one time; however, Staff finds that the pipeline is now abandoned as a Main and is not in service for that use. Further, the location of the meter benefited only Kimberling Oaks Resort for eleven years before this leak occurred, because the cabins owned by the Customer were able to receive water through an existing pipe that was in the ground and the Customer did not have to install new pipes or connect valve number two to the first meter, set in 2000, to continue providing service to any of the existing facilities after it was purchased.

Conclusion and Recommendation

Staff finds that Mr. Larson was responsible to repair the leak that occurred on the Service Line serving the Customer including pavement repairs, based on the Company's tariffs. The fact that portions of what is now the Service Line may have been constructed by another entity or individual as a Main is irrelevant, because original construction is not a factor that controls maintenance responsibility. The Service Line, regardless of its origination, is in fact in use today as a Service Line for the benefit of Kimberling Oaks Resort and no other customers. Therefore, the Staff concludes that the repairs made to the water Service Line by Mr. Larson, or alternatively plumbing modifications that could be made to allow abandonment of a portion of the Service Line, were and are the Customer's responsibility. Further, lost water as a result of the leak is also the responsibility of the Customer. Staff recommends that the Commission issue an order finding that Woodland Manor has not violated any of its rules or tariffs and that Mr. Larson, as the Customer, is responsible for repairing the leak that he discovered on June 8, 2011 and is the subject of this Complaint. In the alternative, Staff recommends the Commission set this matter for hearing so Mr. Larson and Woodland Manor are able to present argument to the Commission.

Attachments: A. Selected Woodland Manor Tariff Sheets
 B. Map of Affected Area

Attachment A

Selected Woodland Manor Tariff Sheets

Cancelling P.S.C.MO. No. _____

{ Original
Revised }

SHEET No. _____

Bob Connell d/b/a

Woodland Manor Water Company

For Kimberling City, Missouri

Name of Issuing Corporation

Community, Town or City

RULES AND REGULATIONS GOVERNING RENDERING OF WATER SERVICE

Rule 1 DEFINITIONS

Bob Connell d/b/a

- (a) The "COMPANY" is the Woodland Manor Water Company acting through its officers, managers, or other duly authorized employees or agents.
- (b) The "CUSTOMER" is any person, firm, corporation or governmental body which has contracted with the Company for water service or is receiving service from Company, or whose facilities are connected for utilizing such service.
- (c) The word "UNIT" shall be used herein to define the standard user or property served and shall pertain to any building whether residential or commercial owned or leased. Mobile homes or rental units are considered as separate units for each single family or firm occupying same as a residence or place of business.
- (d) A "MAIN" is a pipeline which is owned and maintained by the Company, located on public property or private easements, and used to transport water throughout the Company's service area.
- (e) A "CUSTOMER'S WATER SERVICE LINE" is a pipe with appurtenances installed, owned and maintained by the customer, used to conduct water to the customer's unit from the property line or outdoor meter setting, including the connection to the meter setting. If the property line is in a street, then the said customer's water service line shall be deemed to begin at the edge of the street abutting the customer's property.
- (f) A "SERVICE CONNECTION" is the pipeline connecting the main to the customer's water service line at the property line, or outdoor meter setting, including all necessary appurtenances.

*Indicates new rate or text

+Indicates change

Public Service Commission

NOV 12 1992

DATE OF ISSUE

month day year

DATE EFFECTIVE

DEC 12 1992

month day year

ISSUED BY

Bob Connell

name of officer

Bob Connell

Sole Prop.

P.O. Box 151

title

Kimberling City, MO 65686

address

FORM NO. 13

P.S.C.MO. No. _____

1

{Original}

SHEET No. 11

{Revised}

Cancelling P.S.C.MO. No. _____

{Original}

SHEET No. _____

{Revised}

Bob Connell d/b/a

Woodland Manor Water Company

For Kimberling City, Missouri

Name of Issuing Corporation

Community, Town or City

RULES AND REGULATIONS GOVERNING
RENDERING OF WATER SERVICE

Rule 5 INSIDE PIPING AND CUSTOMER WATER SERVICE
LINES

- (a) The Company will provide the Customer water service at the outdoor meter, or at the property line. Separate units shall be served through separate service lines.
- (b) The Service Connection from the water main to the Customer's property line, the meter installation and setting shall be constructed, owned and maintained by the Company. Service line construction and maintenance from the property line or meter setting, including the connection to the meter setting, to the building shall be the responsibility of the Customer, and is subject to inspection by the Company. Customers shall be responsible for the cost of repairing any damage to the Company's lines, meters, and meter installations caused by the Customer, his agent, or tenant. Customer shall be responsible for a fee to Company for inspection of the initial connection of service.
- (c) Existing water service lines may be used in connecting with new buildings only when they are found by examination and testing not to constitute a hazard to the health and safety of any Customer or the Company's facilities.
- (d) The Customer's water service lines shall be brought to the unit at a depth of not less than 36 inches and have a minimum inside diameter of 3/4 of an inch upon entering the building. The service line shall be valved. This valve must be kept in good repair in order to shut off the water supply and drain the inside plumbing, if necessary.

*Indicates new rate or text

+Indicates change

DEC 12 1992

92 - 83

Public Service Commission

DATE OF ISSUE NOV 12 1992

DATE EFFECTIVE DEC 12 1992

ISSUED BY Bob ConnellBob Connell
Sole Prop.P.O. Box 151
Kimberling City, MO 65686

name of officer

title

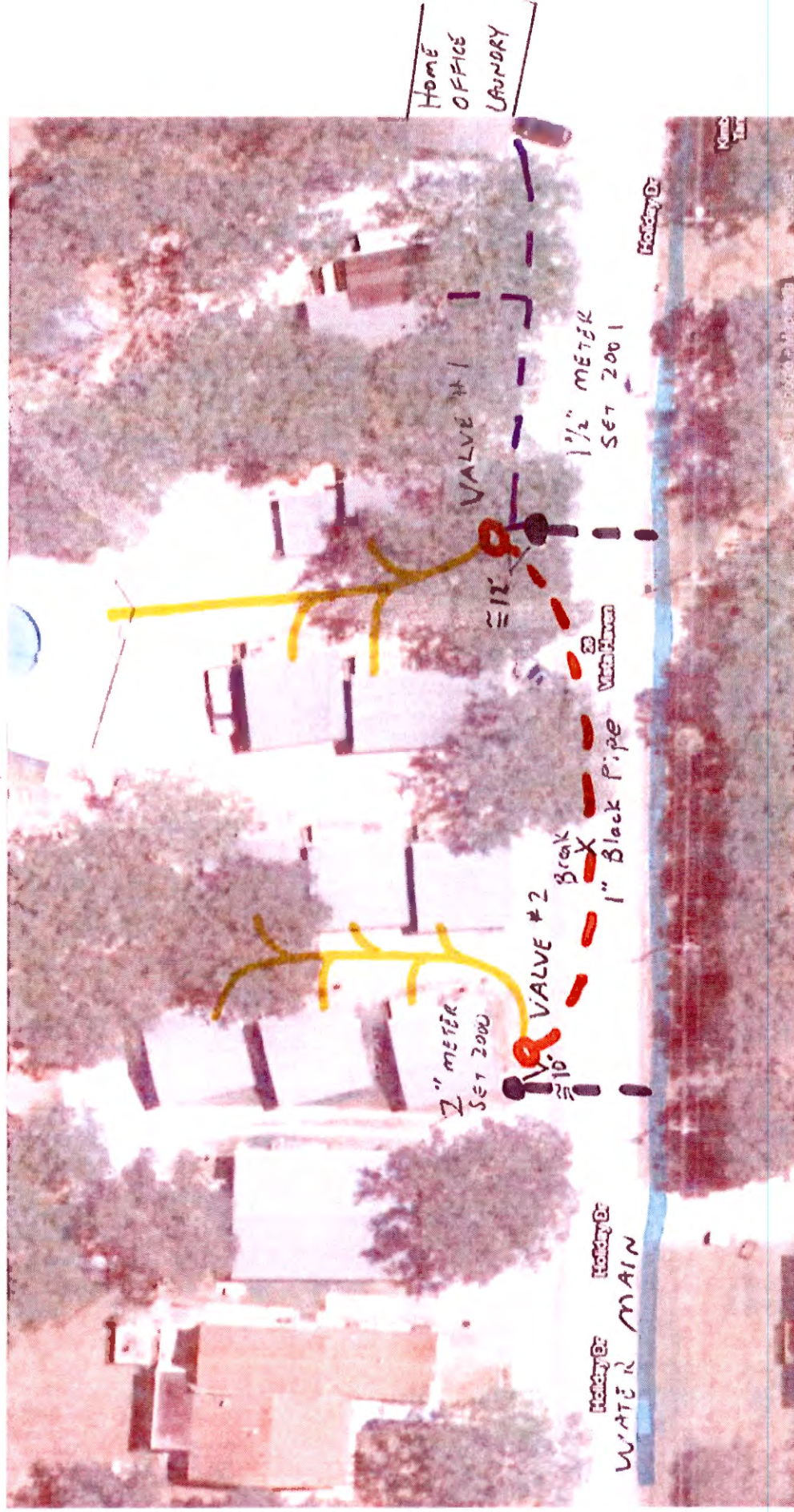
address

Attachment B

Map of Affected Area

Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.



BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

AFFIDAVIT OF DAVID A. SPRATT

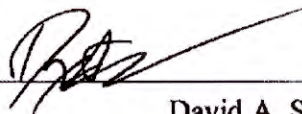
STATE OF MISSOURI)

) ss

Case No. WC-2011-0409

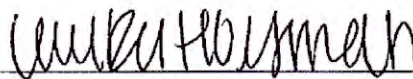
COUNTY OF COLE)

David A. Spratt, of lawful age, on his oath states: (1) that he is a Technical Specialist II in the Water and Sewer Department of the Missouri Public Service Commission; (2) that he participated in the preparation of the foregoing *Staff's Report and Recommendation*; (3) that he has knowledge of the matters set forth in the foregoing *Staff's Report and Recommendation*; and (4) that the matters set forth in the foregoing *Staff's Report and Recommendation* are true and correct to the best of his knowledge, information and belief.



David A. Spratt
Technical Specialist II
Water & Sewer Department
Utility Operations Division

Subscribed and sworn to before me this 10th day of August 2011.



Notary Public

