

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Pre-Hearing Conference

July 6, 2015

Jefferson City, Missouri

Volume 2

In The Matter of the Application)
of Ridge Creek Water Company,)
LLC for a Certificate of)
Convenience and Necessity)
Authorizing it to Construct,) File No. WA-2015-0182
Install, Own, Operate, Control)
Manage, and Maintain a Water)
System for the Public Located in)
an Unincorporated Area in)
Pulaski County, Missouri.)

KIM BURTON, Presiding
REGULATORY LAW JUDGE

REPORTED BY:
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FOR: Staff of the Missouri Public Service Commission

1 JUDGE BURTON: We are on the record in
2 the matter of the application of Ridge Creek Water
3 Company, LLC for certificate of convenience and
4 necessity authorizing it to construct, install, own,
5 operate, control, manage and maintain a water system
6 for the public located in an unincorporated area in
7 Pulaski County, Missouri; File Number WA-2015-0182.

8 And the reason we are conducting this
9 pre-hearing conference today is because Ridge Creek,
10 you have requested a pre-hearing conference or an
11 evidentiary hearing. So at this time we'll go ahead
12 and have the parties enter their appearance on the
13 record. And let's go ahead and begin with the
14 applicant.

15 MR. COMLEY: Let the record reflect the
16 entry of Mark W. Comley of Newman, Comley and Ruth,
17 PC, 601 Monroe Street, Jefferson City, Missouri on
18 behalf of Ridge Creek Water Company, LLC.

19 JUDGE BURTON: Okay. Thank you.

20 And on behalf of the Staff of the
21 Missouri Public Service Commission.

22 MR. THOMPSON: Thank you, Judge. Kevin
23 Thompson and Marcella Mueth for the Staff of the
24 Missouri Public Service Commission, Post Office Box
25 360, Jefferson City, Missouri 65102.

1 JUDGE BURTON: Thank you.

2 And on behalf of the Public Counsel.

3 MS. BAKER: Thank you. Christina Baker,
4 PO Box 2230 Jefferson City, Missouri 65102 appearing
5 on behalf of the Office of the Public Counsel and the
6 customers.

7 JUDGE BURTON: And are there any other
8 parties present?

9 MS. FOLTA: Yes. Thais Folta from the
10 Attorney General's office on behalf of DNR.

11 JUDGE BURTON: Okay. Thank you. And if
12 you'd like to go and have a seat up at the table.

13 MS. FOLTA: That's fine. I just would
14 prefer not to have my back to you. That's why -- it
15 seems rude, so --

16 JUDGE BURTON: That would be fine.

17 Well, let's go ahead and begin. I know
18 that there have been some issues in dispute here and
19 that Staff has submitted their recommendation. We've
20 had some local public hearings in this matter. So if
21 everyone can please pull up their calendars and we can
22 kind of get an idea of what the time frame is that the
23 parties are looking at.

24 Obviously the parties can work for a
25 procedural schedule off the record, but let's go ahead

1 and try to get some ideas on an evidentiary hearing
2 date so I can go ahead and get it set on the calendar,
3 and let me know if we think one day would be
4 sufficient.

5 MR. THOMPSON: I think one day would be
6 plenty.

7 MR. COMLEY: I think one day would be
8 plenty.

9 MS. BAKER: More than sufficient.

10 JUDGE BURTON: Okay. That's fine. We
11 are obviously in the beginning of July. Realistically
12 what month or what week are we looking at just so I
13 get an idea? Are we thinking any discovery needs to
14 be conducted?

15 MR. COMLEY: Well, discovery's ongoing
16 right now, Judge, but I think maybe it's coming to a
17 conclusion. I was going to ask for another 30 days
18 before any Direct Testimony was going to be filed.
19 And I'm mentioning that because I'm hoping that there
20 may be some opportunities to compromise on some
21 adjustments and perhaps dispense with the hearing
22 altogether. That's optimism, but I wanted to express
23 it on the record.

24 JUDGE BURTON: I appreciate optimism.

25 MR. COMLEY: So if we're working on

1 30 day intervals, I think the earliest we would be
2 looking at setting a hearing would be within 90 days.

3 JUDGE BURTON: Okay.

4 MR. COMLEY: Or later.

5 MR. THOMPSON: Well, Judge, I think Staff
6 would like to see this matter resolved sooner than
7 that. I think even if we take 30 days from today in
8 order to get Direct Testimony filed, that we could
9 have a hearing in say mid-September.

10 MR. COMLEY: I'm not opposed to that.

11 JUDGE BURTON: Okay. And the other
12 parties?

13 MS. FOLTA: That's agreeable, Judge.

14 MS. BAKER: And I would point out that
15 the customers are being charged without a tariff and
16 so they are being charged in violation of the statute.
17 So sooner is better for Public Counsel.

18 MR. COMLEY: Your Honor, we're still
19 contending that there's lawful service being provided
20 to the customers there pursuant to other kinds of
21 contractual arrangements by deed. So I would take
22 offense at the remark about -- we are taking offense
23 so -- at any rate, yes, the customers are still being
24 charged.

25 JUDGE BURTON: I am aware that there are

1 some complaints I believe that are still outstanding
2 for those files. But right now we're not going to be
3 addressing the issues for consolidation. If that's
4 something that the parties are going to be seeking
5 during your discussions off the record, let me know
6 and I will obviously accept any filings on those
7 issues.

8 But Office of Public Counsel, do you have
9 any strong opposition to us setting a date let's say
10 in the middle of September?

11 MS. BAKER: I assume that would be fine,
12 because there will need to be, I'm assuming,
13 testimonies so yes.

14 JUDGE BURTON: And obviously there's
15 nothing that prevents the applicant from submitting an
16 interim tariff, let's say, for approval.

17 Let's take a look then at Wednesday,
18 September 16th. Any objections to that date? And I'm
19 just pulling out dates. So if parties have any other
20 dates --

21 MR. THOMPSON: That's acceptable to
22 Staff.

23 MS. FOLTA: It's acceptable to DNR,
24 Judge.

25 MR. COMLEY: I'm gazing -- I'm engaging

1 in the Blackberry prayer here.

2 JUDGE BURTON: That's fine.

3 MR. COMLEY: The 16th is fine.

4 JUDGE BURTON: Thank you.

5 Public Counsel?

6 MS. BAKER: I believe that would be fine.

7 JUDGE BURTON: Okay. Let's go ahead and
8 schedule the evidentiary hearing to begin at nine
9 o'clock, September 16th.

10 MR. THOMPSON: Very good.

11 JUDGE BURTON: Now, I know there's been
12 some discussion of discovery being near conclusion and
13 I've just heard obviously from applicant's
14 perspective. I don't know if the other parties would
15 agree with that assessment.

16 MR. THOMPSON: No.

17 JUDGE BURTON: Fair enough then. Let's
18 go ahead and identify what I would -- I would request
19 if Staff would do this, file -- after the parties have
20 an opportunity to discuss -- a proposed procedural
21 schedule. And what I would be looking at is time
22 frames for the conclusion of discovery and for the
23 submission of let's say Direct and Rebuttal and
24 Surrebuttal. That should be sufficient. Correct?

25 And what I would like to see, based on

1 what the Commissioners would like to see, is
2 sufficient time for the position statements and a list
3 of issues to be addressed. And by that I mean let's
4 try to work that out for the first week of September
5 so that the Commissioners will have the time to --
6 opportunity to evaluate what the issues are and what
7 the positions are before they enter the hearing.

8 MS. BAKER: So you're saying that you
9 would like the list of issues and the position
10 statements filed the first week of September?

11 JUDGE BURTON: That's correct.

12 MS. BAKER: So by the 4th?

13 JUDGE BURTON: That's correct. And I'll
14 let the parties work on what specific dates within
15 that week works for you. And the Data Center has
16 graciously requested that any deadlines that are based
17 off of the time frames being restricted for discovery,
18 being addressed by a date certain; not just five days
19 from the end of this date. It's a five-day response
20 or a three-day response time frame. So let me know a
21 specific date when response to discovery will change
22 or what those deadlines would be.

23 Now, does -- if it appears that we're
24 going to need to -- Gesundheit -- to include any
25 discovery conference, I would prefer that the parties

1 just follow the Commission rules and just let me know
2 and request that, rather than having a specific
3 ongoing weekly or biweekly time set aside.

4 And are there any other issues that we
5 need to address while we are on the record today?
6 Okay. This room is yours for the rest of the day so
7 feel free to duke it out about those deadlines. And
8 let's say how about giving me a proposed procedural
9 schedule by Monday, the 13th of July? Is that
10 sufficient? That way you guys can check with your
11 schedules and talk to your witnesses.

12 MR. THOMPSON: That would be fine, Judge.

13 JUDGE BURTON: Okay. If there is nothing
14 else, we can go ahead and go off the record. Do I see
15 any hands? All right. Well, thank you very much.
16 And I hope you all have a very pleasant afternoon. We
17 can go ahead and go off the record.

18 (Whereupon, the pre-hearing conference
19 was adjourned.)
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CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Tracy T. Taylor

Tracy Thorpe Taylor, CCR



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