

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Guy Thomas,)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-2008-0248</u>
)	
Evergreen Lakes Water Supply,)	
)	
Respondent.)	

ORDER GRANTING MOTION TO SUSTAIN PRIOR COMMISSION
ORDER AND SETTING REVISED DEADLINE FOR ORDERED RELIEF

Issue Date: October 6, 2008

Effective Date: October 6, 2008

On August 12, 2008,¹ the Commission issued its *Order Granting Relief by Default* ("Order") in this matter. This Order directed, *inter alia*, that Evergreen Lakes Water Supply ("Evergreen") and the Commission's Staff do as follows:

3. Evergreen Lakes Water Supply shall, without charge, dig up the unused meter setting in Mr. Thomas' yard and cap the service line at the main by no later than September 15, 2008.
4. Evergreen Lakes Water Supply shall, without charge, level to grade and install lids on both valve boxes in Mr. Thomas' yard by no later than September 15, 2008, unless they are not active valve locations, in which case the company is ordered to remove the inactive valve boxes or bury them completely by no later than September 15, 2008.
5. The Staff of the Missouri Public Service Commission shall investigate Evergreen Lakes Water Supply to determine if it is in compliance with this order and file a report of its investigation no later than September 23, 2008.

¹ All dates throughout this order refer to the year 2008 unless otherwise noted.

On September 19, the Commission's Staff filed a pleading requesting an extension of time for effectuating the Commission's Order and for Staff to file its report. The reasons articulated by Staff for the requested extensions are as follows:

Staff informs the Commission that due to heavy rains and flooding occurring over the last few weeks Evergreen has not been able to perform the grading, installation, removal and capping of service lines, the unused meter setting and lids. Complainant Mr. Thomas also informs Staff that he does not want Evergreen entering his yard to remove the meter pit until the ground has dried out so as to avoid damage to the yard. The Company echoes this concern. In fact, Mr. Thomas has expressed that he does not want the meter pit removed at all. Staff also notes that Evergreen does not own a backhoe and therefore must rent or hire an operator with a backhoe to complete the required grading, installation, removal and capping.

Staff cited to Section 386.420.3 in support of its requests. Section 386.420.3 provides as follows:

If an order cannot, in the judgment of the commission, be complied with within thirty days, the commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

Staff requested an extension until October 20, 2008, for completion of ordered paragraphs 3 and 4 of the Commission's Order or to advise the Commission of further developments in this matter. Staff further requested an extension for filing the report of its investigation from September 23 to October 28.

On September 23, the Commission issued an order finding good cause, i.e. the inclement weather and the desire for a change in the relief ordered, for granting the extension of time for compliance with the Commission's Order. In that order, the Commission also directed the parties to jointly file a pleading outlining a joint agreement and a plan for corrective action to resolve Mr. Thomas's complaint.

On September 25, Staff filed a motion to sustain the Commission's Order stating that removing the unused meter setting, despite Mr. Thomas' latest request to leave it in place,

was necessary to eliminate a possible source of contamination. On October 2, Staff filed a pleading stating the parties were all in agreement that the meter setting should be removed and outlined a planned course of action to complete its removal while protecting the condition of Mr. Thomas' yard. Consequently, the Commission shall grant Staff's motion to sustain its prior order and set a new deadline for completion of the actions Evergreen was ordered to perform.

THE COMMISSION ORDERS THAT:

1. Staff's Motion to Sustain Prior Commission Order filed on September 25 is hereby granted.
2. No later than October 31, 2008, Evergreen Lakes Water Supply shall comply with the provisions of the Commission's August 12, 2008, *Order Granting Relief by Default*.
3. No later than ten days following the completion of the ordered relief, as is referenced in ordered paragraph 2 of this order, the Staff of the Missouri Public Service Commission shall file with the Commission a report informing the Commission whether Evergreen Lakes Water Supply is in compliance with the Commission's August 12, 2008.
4. This order shall become effective immediately upon issuance.

(S E A L)

BY THE COMMISSION



Colleen M. Dale
Secretary

Harold Stearley, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 6th day of October, 2008.