

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
  
TRANSCRIPT OF PROCEEDINGS  
  
Procedural Conference  
  
April 19, 2017  
  
Jefferson City, Missouri  
  
Volume 2

In The Matter of the Petition )  
an Interim Receiver And for an )  
Order Directing the General )  
Counsel to Petition the Court ) File No. WO-2017-0236  
for the Appointment of a )  
Receiver For Ridge Creek Water )  
Company, LLC, and for Ridge )  
Creek Development, LLC. )

MORRIS L. WOODRUFF, Presiding,  
CHIEF REGULATORY LAW JUDGE.

REPORTED BY:

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1 PROCEEDINGS

2 JUDGE WOODRUFF: All right. The clock on the  
3 wall says it's one o'clock, so we'll go ahead and get  
4 started. We're here today for a Procedural Conference  
5 in File No. WO-2017-0236, which concerns a Petition for  
6 an Interim -- Appointment of Interim Procedure -- or  
7 Receiver for the Ridge Creek Water Company and Ridge  
8 Creek Development, Incorporated.

9 We'll begin today by taking entries of  
10 appearance beginning with Staff.

11 MR. WESTEN: My name is Jacob Westen. I am  
12 Deputy Counsel for Staff. My contact information has  
13 been provided to the court reporter.

14 JUDGE WOODRUFF: And for Public Counsel.

15 MR. SMITH: Ryan Smith, Senior Counsel with  
16 the Office of the Public Counsel.

17 JUDGE WOODRUFF: And is there anyone here  
18 today on behalf of Ridge Creek?

19 I don't see anyone in the room I don't  
20 recognize, so I guess not.

21 Have you had any contact with Ridge Creek?

22 MR. WESTEN: Actually, Your Honor, I have. I  
23 reached out to both Ms. Stoner and Mr. Stoner to try to  
24 notify them of a possible hearing date prior to their  
25 filing of consent in this case. Mr. Stoner returned my

1 call, but I was unable to take it and left a voice  
2 mail. That's the extent of the contact that we've had.  
3 The Staff did hire a private process server who has  
4 served Mr. Stoner.

5 JUDGE WOODRUFF: Okay.

6 MR. WESTEN: We have received a return  
7 receipt on that. It has not yet been filed in the  
8 case. It happened approximately the same time that  
9 they filed the consents that came in on Friday.

10 JUDGE WOODRUFF: Okay. Well, let's -- while  
11 we're talking about this, let's talk about the consent  
12 to appointment. How did that come about?

13 MR. WESTEN: I do not have an answer for you,  
14 Judge.

15 JUDGE WOODRUFF: Okay. It wasn't something  
16 that was prepared by Staff and --

17 MR. WESTEN: It was not prepared by Staff. I  
18 was notified by the registered agent for the water  
19 company, Mr. Mark Comley, that he had obtained the  
20 consents and that we could expect that to be filed. I  
21 learned that from him on Friday. And, indeed, on  
22 Friday both companies filed their consent.

23 JUDGE WOODRUFF: Okay. What is the situation  
24 with the system now? Is this an indication that they  
25 want to abandon the system?

1           MR. WESTEN: That's how the Staff would take  
2 this, Your Honor, that they are willing to -- they are  
3 either actually or effectively abandoning the system  
4 that they are consenting to this receivership action so  
5 there would be no need for a hearing. I spoke with the  
6 employee who does the billing for the water company  
7 this morning. She is still conducting billing. They  
8 are still doing that process, so that at the present  
9 time it's not like the company has completely stopped.  
10 They understand that a receiver must be appointed first  
11 --

12           JUDGE WOODRUFF: Okay.

13           MR. WESTEN: -- for them to cease operations.  
14 But I will note that Staff does have the concern that,  
15 until such time a receiver is appointed on an interim  
16 basis, there is a concern that with this consent they  
17 may view that as a relinquishing of any responsibility  
18 that they would still otherwise have.

19           JUDGE WOODRUFF: Right.

20           MR. WESTEN: And so the more timely we can  
21 have an interim receiver appointed, the less likely,  
22 should there be an incident, there would be confusion  
23 over who was supposed to be responsible.

24           JUDGE WOODRUFF: Okay. And I assume we  
25 have -- Staff as somebody out there monitoring the

1 situation or keeping an eye on it?

2 MR. WESTEN: We have the contact numbers of  
3 the two businesses. They have our information --

4 JUDGE WOODRUFF: These are busine-- you mean  
5 the owners of the system?

6 MR. WESTEN: The owners of the system, Mr.  
7 and Ms. Stoner and the two companies, yes.

8 JUDGE WOODRUFF: Okay. And I assume the  
9 customers of the utility would know to contact Staff if  
10 there was problems?

11 MR. WESTEN: Yes. The customers of the  
12 system are aware of that. The PSC is the agency to  
13 contact should there be any issues.

14 JUDGE WOODRUFF: Okay. Well, I'll ask you  
15 both, how would you like to proceed in this matter?

16 MR. WESTEN: Well, if I may, Ryan?

17 MR. SMITH: Yeah. I don't mind. Go ahead.

18 MR. WESTEN: At this point Staff would  
19 request the Commission to go ahead and issue an order  
20 appointing the interim receiver and authorizing and  
21 directing General Counsel to pursue a general  
22 receivership in Circuit Court in Cole County. Because  
23 the two companies, Ridge Creek Water Company, LLC and  
24 Ridge Creek Development, LLC, and both of their members  
25 have signed and stated that they're willing to consent

1 and agree to the entry of a receivership without a  
2 hearing, that satisfies the -- that satisfies State ex  
3 rel Rex Deffenderfer, Inc., the Public Service  
4 Commission, which says that if there is no objection  
5 there's not contention that no hearing is required. We  
6 think that's been met.

7 We also think that the requirements of the  
8 Statute 393.145 have been satisfied at this point. And  
9 the next step is to issue an order appointing the  
10 interim receiver.

11 JUDGE WOODRUFF: Let me grab that statute  
12 here.

13 MR. WESTEN: I actually have a copy for you  
14 at hand, Judge, if you --

15 JUDGE WOODRUFF: Thank you. We do have our  
16 new books back here, so --

17 MR. WESTEN: Oh, great.

18 JUDGE WOODRUFF: All right. Well, the  
19 statute does talk about after hearing.

20 MR. WESTEN: Yes.

21 JUDGE WOODRUFF: And I understand  
22 Deffenderfer sometimes allows that to be waived by the  
23 consent of the parties.

24 MR. WESTEN: Yes. I believe that consent is  
25 obtained in the filing that occurred this past Friday.

1 I keep saying Friday and I don't have the date. I  
2 think it was April 14 --

3 JUDGE WOODRUFF: Fourteenth.

4 MR. WESTEN: But their filing does say,  
5 Without trial or adjudication of any issue or fact or  
6 law herein, hereby consent and agree to the entry of a  
7 Commission order appointing the receiver as an interim  
8 receiver authorizing the general counsel and to  
9 expedite the matter; with which we agree.

10 JUDGE WOODRUFF: Well, I do have some  
11 concerns about whether there's actually enough basis in  
12 the record at this point to -- for the Commission to  
13 make a decision, both as a matter of law and as a  
14 practical matter, in that the Commission is probably  
15 going to want to know something about what's actually  
16 going on in this situation before they sign off on an  
17 interim receiver.

18 I'm thinking it may be appropriate to have  
19 a -- have an evidentiary hearing in which Staff could  
20 present the basis for the appointment of a receiver.

21 MR. WESTEN: Okay. Staff has the ability to  
22 do that and can do that. I don't necessarily think we  
23 need to, but I absolutely understand the concern of the  
24 Commission.

25 JUDGE WOODRUFF: Okay. The statute, I



1 believe requires ten days notice for any hearing unless  
2 there's an emergency threat to the health and public  
3 safety sort of thing.

4 MR. WESTEN: Yes.

5 JUDGE WOODRUFF: Do we have ten days in this  
6 case --

7 MR. WESTEN: I --

8 JUDGE WOODRUFF: -- or is there some sort of  
9 emergency that we need to do it faster?

10 MR. WESTEN: It depends on how you want to  
11 define emergency, Judge. Staff believes and has  
12 pursued the receivership because we do not believe and  
13 feel we have ample evidence to show that the companies  
14 have not provided and are not currently providing safe  
15 and adequate service. At this point in time, I  
16 personally do not know and I do not -- I do not think  
17 anyone on Staff knows, because they would have  
18 mentioned to me if anyone was without water. If there  
19 was a situation currently at the system that required  
20 an immediate response, that being said, that could  
21 happen at any time.

22 JUDGE WOODRUFF: I understand.

23 MR. WESTEN: It is serendipitous that this  
24 past winter no frozen pipes occurred that we did not  
25 ave customers without water for the longer period than

1 the 14 days for that one customer.

2 JUDGE WOODRUFF: Is there a particular  
3 concern about the pipes -- about pipes freezing?

4 MR. WESTEN: Well, it -- we're no longer in  
5 the cold months, but --

6 JUDGE WOODRUFF: Sure.

7 MR. WESTEN: -- the pipes are not buried --

8 JUDGE WOODRUFF: Okay.

9 MR. WESTEN: -- much below grade, so there  
10 was certainly an opportunity for that to occur. You  
11 know -- I mean, is there an actual desperate emergency  
12 occurring now? No. Could there be? Yes. And if  
13 there's any confusion about who is responsible, which  
14 there has been, that will linger longer than it should.

15 JUDGE WOODRUFF: Okay. Today's the 19th.  
16 Ten days from now would be Saturday the 29th. So we'd  
17 be looking at a hearing the first week of May.

18 MR. SMITH: Is it the holiday?

19 JUDGE WOODRUFF: May 8th is a holiday.

20 MR. SMITH: Okay.

21 JUDGE WOODRUFF: So we'd be before that.

22 MR. WESTEN: Staff has -- I don't think Staff  
23 has any objection to a hearing taking place the first  
24 week in May. I actually think, based on request for  
25 availability dates, the first days in May were

1 available for most of Staff --

2 JUDGE WOODRUFF: Okay.

3 MR. WESTEN: -- and that that is probably  
4 still the case. I would be -- it would be low for me  
5 to -- and it would be remiss for me to say I am a  
6 little concerned -- based on the previous experiences  
7 of the Staff, that if we delay any longer there, you  
8 know, could always be an emergency or there could be a  
9 problem --

10 JUDGE WOODRUFF: I understand.

11 MR. WESTEN: -- that could crop up in this  
12 time that we won't be able to address.

13 JUDGE WOODRUFF: Okay. Well, of course, if  
14 there is some sort of emergency that does arise, file  
15 an appropriate pleading and the Commission will deal  
16 with it as necessary.

17 MR. WESTEN: Thank you, Judge.

18 JUDGE WOODRUFF: If we need to move the  
19 hearing fast -- sooner than then, we can. I don't  
20 actually have my Commission calendar with me, but I'm  
21 looking at May 1st is a Monday or May 2nd is a Tuesday.  
22 One of those two days that would -- I'm assuming one  
23 day would be sufficient for this?

24 MR. WESTEN: Your Honor, I think one day  
25 would be more than sufficient.

1 JUDGE WOODRUFF: All right.

2 MR. WESTEN: Unless the parties --

3 JUDGE WOODRUFF: Unless something happens  
4 sooner.

5 MR. WESTEN: Right. Or the companies decide  
6 to appear and decide to contest the case, then I can't  
7 predict how long it would take.

8 JUDGE WOODRUFF: Sure. That seems unlikely  
9 at this point, but.

10 MR. WESTEN: I would hope so.

11 JUDGE WOODRUFF: I'll need to go upstairs and  
12 check the calendar, but I'll look for a day on either  
13 the first or the second.

14 MR. WESTEN: Yes, Judge.

15 JUDGE WOODRUFF: And then I'll issue an order  
16 and send it out.

17 MR. SMITH: Judge, would -- I'd like to just  
18 check internally and see -- I believe those days would  
19 be available for Office of Public Counsel. If we could  
20 send a communication and CC in all the parties as to a  
21 conflict --

22 JUDGE WOODRUFF: That would be fine.

23 MR. SMITH: -- as to a conflict, if any. But  
24 I don't believe those days will be of conflict.

25 JUDGE WOODRUFF: Okay. Anything else we need

1 to take up and discuss while we're on the record?

2 MR. WESTEN: I have nothing else other than  
3 to say there are examples of very good orders, which if  
4 the Commission decides it wants to issue an order in  
5 the interim, we think that order from the case -- here  
6 it is; SO-2014-0052 is a perfect example of the type of  
7 order that would be appropriate for this case.

8 JUDGE WOODRUFF: Okay. That was 0052.

9 MR. WESTEN: 0052.

10 JUDGE WOODRUFF: Okay. I will take a look at  
11 that. All right. Anything else while we're on the  
12 record?

13 MR. WESTEN: Thank you, Judge.

14 JUDGE WOODRUFF: All right, then. With that  
15 we are adjourned. You can stay here and discuss this  
16 further if you'd like. And I will be leaving.

17 (Off the record.)

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CERTIFICATE

1  
2 I, Chevon D. McFadden, a Certified Verbatim  
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12 otherwise interested in the outcome of the action.

13  
14  
15  
16 

17 

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Chevon D. McFadden, CVR, CCR No. 1399

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