

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

FEB 02 2000

Missouri Public
Service Commission

David A. Turner)
)
)
and Michele R. Turner)
)
)
Complainants,)
)
)
vs.)
)
)
Warren County Water and Sewer)
Company,)
)
)
Respondent.)

Case No.

WC-2000-474

COMPLAINT AND REQUEST FOR EXPEDITED TREATMENT

Complainants reside at 2818 Magnolia Drive

Foristell, MO. 63348

Complainants can be reached by telephone at (314) 636-1234 or (314) 636-4163-160

1. Respondent, Warren County Water and Sewer Company, of 1248 Mimosa Court, Post Office Box 150, Foristell, Missouri 63348, is a public utility under the jurisdiction of the Public Service Commission of the State of Missouri.

2. Complainants respectfully request expedited treatment of this matter because of the immediate public health danger caused by the situation described below.

3. As the basis for this complaint, complainants state the following facts (attach additional sheets if necessary): See attached

4 The complainants have taken the following steps to present this complaint to the respondent, Warren County Water and Sewer Company (attach additional sheets if necessary): See attached

WHEREFORE, Complainants now request the following relief and expedited

treatment of this complaint: See attached

1/31/2000
Date

Dan R. Tunny
Signature of Complainant

[Signature]
Signature of Complainant

3. As the basis for this complaint, complainants state the following facts:

This is a list of things that have happen to us while building our house in Incline Village by Warren County Water & Sewer. For more details, see attached letters:

1. Told we had to purchase lift station from Warren County Water & Sewer
2. GTE phone cables cut and lines remarked by W. Co. W&S.
3. Cooper pipe to run water from the house to the road, cut and taken
4. Lift station not installed by W.Co. W&S, as paid for, until several complaints were made
5. Water valve not installed properly
6. Lift station check valve not installed and this allowed pit to fill up with sewage from everyone down the line from us and fill our tank and overflow into our yard and run into Incline Village Lake

The following are problems that occurred after we moved into our new house 12-1998:

1. Original pump that was installed did not work properly from 12/1998 until 4/1999-would set off alarm, not pump out tank, over flow onto yard, came up laundry room floor drain
2. Floats found to be defective and replaced after several requests
3. Cummins informed us that the pump that was originally installed, was used. New pump was installed 4/1999

After new pump installed 4/1999 we had no further problems until 12/1999. Alarm started going off several times a week. Gary Smith would be called every time. He would come down and manually pump the system and leave. In the last several weeks sewage has overflowed from pump onto yard several times. Sewage has came up through laundry room floor drain. Both of us have had to go out on a daily basis to manually drain the tank in order to prevent it from backing up into the house. Gary has taken the bolts that hold the lid on the tank, if the tank was sealed, the sewage would come up through our drains. The tank is leaking from two places and this causes it to fill up sometimes three times a day.

On 1/27/2000 my husband came home from work to pump the system for the second time that day. He could tell that Gary had not been there all day. He called Gary to come down so he could see what Gary was planning to do about the problem. Gary told him we were the only people having any problems and he did not know how to fix it. David asked him what we should do, hire a lawyer or call the police? Gary told him to go ahead. Since the confrontation, Gary has only drove by the house. He has not once got out of his truck and checked into any problems. On 1/29, David pumped the tank three times. On 1/30 he pumped it three more times but did not catch it in time and it did over flow onto the ground. This morning it overflowed onto the ground and all over my laundry room again.

We have also noticed that the water meter does not match with his readings. He came and read the meter 1/28 and I read the meter as soon as he left. The meter read 128.4 and when I received the bill, it said the current reading was 65000 and we were billed for 10,000 gallons.

4. The complainants have taken the following steps to present this complaint to the respondent, Warren County Water and Sewer Company:

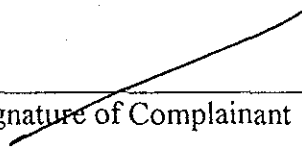
4. As stated above, we had called Gary Smith and informed him of all problems up until 1/27/2000 when he told us he didn't know how to fix the problem and to go ahead and call the police or get an lawyer that he was not going to do anything to fix the problem. We have tried to be reasonable and work with Gary.

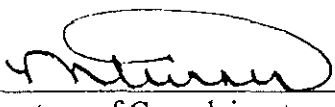
Wherefore, Complainants now request the following relief and expedited treatment of this complaint:

We would like to see the current problems with the lift station fixed. We would also like to be compensated for any damages to our property that have resulted from Gary Smith's negligence, that have occurred or may occur in the future, such as damage to our laundry room floor and it's surrounding area and it's contents.

Date

1/31/2000


Signature of Complainant


Signature of Complainant



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.ecodev.state.mo.us/psc/>

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. Although many private mediators charge as much as \$250 per hour, the University of Missouri-Columbia School of Law has agreed to provide this service to parties who have formal complaints pending before the Public Service Commission at no charge. Not only is the service provided free of charge, but mediation is also less expensive than the formal complaint process because the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The mediator will not possess any specialized knowledge of the utility industry or of utility law.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case.

If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

Date: January 25, 1999

Dale Hardy Roberts
Secretary of the Commission