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

In the Matter of the Petition for an Interim )  
Receiver and for an Order Directing the )  
General Counsel to Petition the Circuit )  
Court for the Appointment of a Receiver for )  
Misty Water Works )

**Case No. WO-2024-0036**

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**POST-HEARING BRIEF**

Respectfully Submitted,

**Carolyn H. Kerr**  
Senior Counsel  
Missouri Bar No. 45718

Attorney for Staff of the  
Missouri Public Service Commission

December 5, 2023

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

In the Matter of the Petition for an Interim Receiver and for an Order Directing the General Counsel to Petition the Circuit Court for the Appointment of a Receiver for Misty Water Works. )  
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 ) **Case No. WO-2024-0036**  
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 )

**POST-HEARING BRIEF**

**COMES NOW** the Staff of the Missouri Public Service Commission (“PSC Staff” or “Staff”), by and through counsel, and files its Post-Hearing Brief:

**BACKGROUND**

When all other attempts to obtain consistently safe and adequate water service for the residents of the Misty Water Works well systems failed, the PSC Staff (“PSCS”) petitioned the Commission for the appointment of an interim receiver under the authority of § 393.145, subsections .1 and .2, RSMo.<sup>1</sup> After receiving several complaints in early 2023 from residents of homes served by wells apparently owned and operated by Leon Travis Blevins, protesting about their water bills being raised “dramatically,” the staff of the Water, Sewer & Steam Department began investigating Mr. Blevins’ business practices. The Staff had also been contacted by the Missouri Department of Natural Resources (“DNR”), notifying them of the same consumers complaining about their bills, in addition to various water quality and safety issues with those same well systems.<sup>2</sup>

The Commission Staff undertook its investigation by speaking with the residents who submitted consumer complaints, by meeting personally with Mr. Blevins, reviewing

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<sup>1</sup> *Petition for an Interim Receiver and for an Order Directing the General Counsel to Petition the Circuit Court of Cole County for the Appointment of a Receiver for Misty Water Works and Motion for Expedited Treatment*, Case No. WO-2024-0036, filed by Staff on August 15, 2023.

<sup>2</sup> Tr. V. II, 26: 8-13; Tr., V.III, 10: 20-24; Ex. 6

his records, visiting the well sites and taking photos, reviewing public land records and documents presented to them by the residents, holding a public open house in Waynesville and inviting the community to offer public comments, ask questions, and get information from both DNR and PSCS, and as well as being available by phone and email to answer questions and take comments on an ongoing basis during the investigation.<sup>3</sup> The Staff's findings and residents' complaints were consistent across the board. Staff's investigation revealed that not only did Mr. Blevins own and operate an unregulated water corporation and public utility without certification from the Commission under the business name of Misty Water Works, but that he was doing so in an unsafe and inadequate manner, under both PSC and DNR standards.<sup>4</sup>

The Staff first filed a *Complaint* on April 10, 2023, alleging Mr. Blevins and his wife, doing business as Misty Water Works, were operating a public utility without certification or other authority from the PSC and were operating those well systems in an unsafe and inadequate manner.<sup>5</sup> Staff asked for injunctive relief, that Mr. Blevins be subject to penalties, and that Mr. Blevins be ordered to file an application requesting a certificate of convenience and necessity ("CCN"). Upon being served with the *Complaint*, Mr. Blevins then filed an *Application* for a CCN on June 13, 2023, in Case No. WA-2023-0418 for Misty Water Works, including all of the well systems which are at issue in this case.<sup>6</sup> The Commission ordered, and the Staff filed its *Staff Recommendation* in that case, advising that the Commission deny Mr. Blevins' request for a CCN.<sup>7</sup> The recommendation filed in

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<sup>3</sup> Tr.VII, 37:1-9; 42:17-25; 63:2-15, 18-25; 85:19-21; Tr.VIII, 14-25; Ex. 2, 3, 4, 6.

<sup>4</sup> Exhibit 6.

<sup>5</sup> *Staff Complaint*, Case No. WC-2023-03536, filed by Staff on April 10, 2023

<sup>6</sup> *Application, In the Matter of Misty Water Works for a Certificate of Convenience and Necessity Authorizing it to Own, Operate, Maintain, Control and Manage Water Systems in Pulaski County, Missouri*, Case No. WA-2023-0418, filed by Leon Travis Blevins, June 13, 2023.

<sup>7</sup> *Staff Recommendation*, Case No. WA-2023-0418, filed by Staff on August 15, 2023.

the CCN case is the same document offered and entered into evidence as Exhibit 6 by Adam Stamp, the Staff investigator, in this case. That document outlined the complaints received from the homeowners regarding the billing issues they had with Mr. Blevins, the water quality and safety problems they experienced with the water being provided to their homes through the well systems being operated and maintained by Mr. Blevins, including an eight-month boil order by the DNR for the Topo well which was never resolved, and the lack of follow through in fixing and addressing all of those problems by Mr. Blevins.<sup>8</sup>

Having determined that Mr. Blevins was operating a water corporation without a certificate, Staff's initial goal was to get Mr. Blevins to comply with PSC law, as well as repair or upgrade his systems to a point where the consumers would obtain consistently safe and adequate drinking water until Mr. Blevins could get a CCN. They had hoped that his wells would be repaired to a point where DNR was satisfied that he was compliant with their regulations and standards and both DNR and the Commission could certify Mr. Blevins' operations.<sup>9</sup> However, it rapidly became clear that this did not happen, and Staff took action to safeguard the consumers.<sup>10</sup>

On August 15, 2023, Staff filed its *Petition for an Interim Receiver and for an Order Directing the General Counsel to Petition the Circuit Court of Cole County for the Appointment of a Receiver for Misty Water Works and Motion for Expedited Treatment (Petition for Interim Receiver)* in this case. The allegations repeat those in Staff's *Complaint*, filed on April 10, 2023. And, as the evidence showed during the hearing, not much has changed since that filing nor since the complaints began arriving at the

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<sup>8</sup> Exhibit 6.

<sup>9</sup> Tr. VIII, 27:8-18.

<sup>10</sup> Tr. VIII, 28: 1-13.

Commission, or since DNR contacted Staff in early 2023, when Mr. Stamp began his investigation of this case. The water quality to some of the residents served by the wells and well structures owned and operated by Mr. Blevins is still unsafe.<sup>11</sup> Mr. Blevins has failed to show his capability to provide safe and adequate water service and to fix and maintain those wells in a safe and consistent manner.<sup>12</sup> His poor business practices are unsustainable to maintain a public water utility company that can meet the needs of its customers on a daily basis.<sup>13</sup>

Therefore, appointing an interim receiver to take over the assets – private wells and DNR-designated public water systems (PWS<sup>14</sup>) – owned by Mr. Blevins (and his wife) and oversee the business – Misty Water Works – operated by him is necessary to safeguard the welfare of the residents who consume the water coming from those wells into their homes and assure that they are charged a fair and adequate rate for their consumption of that water. In fact, although Mr. Blevins disagreed with many of the allegations and made assurances to fix or otherwise resolve some of the issues brought up by DNR and the Staff, on several occasions he also agreed with the Commission entering an order placing Misty Water Works into receivership.<sup>15</sup>

The next step, according to § 393.145.2, RSMo, would be for the Commission to authorize its general counsel to petition the Cole County circuit court for the appointment of a receiver under subsection 1 of the statute. Because Staff believes action needs to be taken in the meantime to begin taking control of the assets owned by Mr. Blevins and

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<sup>11</sup> Tr.VII, 68:2-12; 235:4-10.

<sup>12</sup> Tr.VII, 68:7-15, 69:3-4; 166:9-25

<sup>13</sup> Tr.VII, 110:22-25; 118:18-20; 169:1-21 Tr.VIII, 33:7-19.

<sup>14</sup> Under, 10 CSR 60-2.010, a “public water system” is a well system that “m has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.” Tr.VII, 26:23-24.

<sup>15</sup> Tr.VIII, 57:16; 74:20-21.

his (and Misty Water Works) business operations, it should, in the same order appoint an interim receiver, as allowed by § 393.145.2, RSMo.

### **ISSUES**

The issues in this case revolve around whether the Commission should appoint an interim receiver pursuant to § 393.145, subsections .1 and .2, RSMo, to take over the water systems owned and operated by Mr. Blevins d/b/a Misty Water Works in Pulaski County, Missouri, due to his inability and/or unwillingness to provide safe and adequate water service to the residents and customers being served by those systems. The facts presented by Staff establish cause for the Commission to appoint an interim receiver to oversee and take over the operations of a system of private wells and three DNR-designated PWSs, collectively known as Misty Water Works, which are made up of three well systems (Misty Mountain, Rolling Hills, and Charity PWS), and establish that Mr. Blevins and his wife own and operate an unauthorized water corporation and public utility and proved that this collective utility system is subject to commission jurisdiction, control, and regulation and to the provisions of chapter 386, RSMo.

### **BURDEN OF PROOF**

The Staff petitioned the Commission pursuant to § 393.145, subsections .1 and .2, RSMo, to appoint an interim receiver to oversee and take over the operations of a system of private wells and three DNR-designated public water systems, collectively known as Misty Water Works, which Staff contends is an unauthorized water corporation and public utility owned and operated by Mr. Blevins, alleging that he is unable or unwilling to provide safe and adequate water service to his customers. To meet its burden, Staff must meet the requirements of § 393.145.1, RSMo, which state as follows:

If, after hearing, the commission determines that any sewer or water corporation that regularly provides service to eight thousand or fewer customer connections is unable or unwilling to provide safe and adequate service, has been actually or effectively abandoned by its owners, or has defaulted on a bond, note or loan issued or guaranteed by any department, office, commission, board, authority or other unit of state government, the commission may petition the circuit court for an order attaching the assets of the utility and placing the utility under the control and responsibility of a receiver.

As such, Staff carried the initial burden of proof. In its pleadings, by the documentary evidence presented, and throughout the hearing, Staff offered evidence to establish that the wells being operated by Mr. Blevins d/b/a Misty Water Works are subject to Commission jurisdiction, control, and regulation and to the provisions of chapter 386, RSMo. It then used that evidence to explain the reasons why an interim receiver should be appointed to take over Mr. Blevins' business so that the customers being served by Mr. Blevins can be assured of getting safe and adequate water service.

Once the Staff establishes grounds for the appointment of an interim receivership, the burden then shifts to Mr. Blevins to prove that the Commission's action is unlawful or unreasonable.<sup>16</sup> According to § 386.430, RSMo, "in all trials, action, suits, and proceedings arising under the provisions of this chapter or growing out of the exercise of the authority and powers granted herein to the commission, the burden of proof shall be upon the party adverse to such commission" action or who seeks to "set aside any

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<sup>16</sup> *State ex rel. Praxair, Inc. v. Missouri PSC*, 344 S.W.3d 178, 184 (Mo.banc 2011).

determination, requirement, direction or order of said commission.” In this case, Mr. Blevins must “show by clear and satisfactory evidence that the determination, requirement, direction or order of the commission ... is unreasonable or unlawful as the case may be.”

Mr. Blevins is a private individual who owns and operates Misty Water Works. The business he runs is not a corporation and serves customers who buy the water from his wells for their residential use. Therefore, under the Commission’s rules, Mr. Blevins can represent himself and does not need to be represented by an attorney at the PSC.<sup>17</sup> The courts have held that pro se litigants are held to the same standards as attorneys and must satisfy their burden of proof.<sup>18</sup> Pro se litigants are not entitled to any leniency and are to be treated the same as if they were represented by counsel.<sup>19</sup> “Judicial impartiality, judicial economy, and fairness to all parties preclude courts from granting pro se litigants preferential treatment.”<sup>20</sup> The Western District Court of Appeals held in *Portwood-Hurt v. Hurt* that a lay person appearing pro se should be held to the same standard as counsel, and stated that a lay person’s ignorance of the law did not give merit to a claim requiring the court to provide a pro se litigant with findings of facts and conclusions of law.<sup>21</sup> In *Tatum v. Tatum*, the court required pro se litigants to comply with all Supreme Court rules, including rules setting out the requirements for appellate briefs.<sup>22</sup> Pro se litigants are subject to the same procedural rules as a party represented by counsel.<sup>23</sup> As a pro se litigant, Mr. Blevins is to be held to the same standards that he

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<sup>17</sup> 20 CSR 4240-2.040

<sup>18</sup> *Pruett v. Pruett*, 280 S.W.3d 749, 751 (Mo.App. W.D. 2009).

<sup>19</sup> *Morfin v. Werdehausen*, 448 S.W.3d 343, 349 (Mo.App. S.D. 2014).

<sup>20</sup> *Id.*

<sup>21</sup> *Portwood-Hurt v. Hurt*, 988 S.W.2d 613, 620-21 (Mo.App. W.D. 1999).

<sup>22</sup> *Tatum v. Tatum*, 577 S.W.3d 146, 149 (Mo.App. E.D. 2019).

<sup>23</sup> *Porter v. Santander Consumer USA, Inc.*, 590 S.W.3d 356, 357 (Mo. App. E.D. 2019).



would be held to if he was represented by an attorney. Mr. Blevins must satisfy his burden of proof to prevail in this case.

## **DISCUSSION**

The Commission should direct its General Counsel to petition the circuit court of Cole County, Missouri for an order attaching the assets of Misty Water Works and placing it and all private wells and Public Water Systems owned and operated by Leon Travis Blevins d/b/a Misty Water Works under the control and responsibility of a receiver because PSC Staff established by competent and substantial evidence at the hearing that Mr. Blevins d/b/a Misty Water Works is unable and/or unwilling to provide safe and adequate water service to residents using those wells.<sup>24</sup>

**The water being provided to the residents of water systems in Pulaski County, Missouri, including the Misty Mountain PWS, Rolling Hills PWS, and Charity PWS, for which Mr. Blevins charges fees, is unsafe, has been for months, and will likely continue to be for the foreseeable future.**

The DNR witnesses went into great detail about the multitude of deficiencies, violations, and failures to follow through on compliance by Mr. Blevins related to the wells and well systems he owns and operates. Sebastien Clos-Versailles explained that a well providing “safe and adequate” water is one in which “there are no openings in the water system itself. So any type of opening that can allow bacteria to enter either the well itself, the storage tanks or the lines themselves.”<sup>25</sup> Throughout his testimony, and that

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<sup>24</sup> See, *Osage Utility Operating Co., Inc., v. Mo. PSC*, 637 S.W.3d 78, 97 (Mo.App.W.D. 2021); § 393.145, RSMo.

<sup>25</sup> Tr.VII, 129: 11-20.

of DNR staff Jackie Johnson's, and Mr. Stamp's testimony, examples of unsafe water service and failure to maintain safe drinking water were detailed.

All three witnesses spoke about the eight-month boil order that went into effect on the Topo well. What happened with that well is a prime example of Mr. Blevins' failure to operate and maintain a safe and adequate water supply. Simply put, "the Topo Drive well on the Misty Mountain system failed bacteria tests in August of 2022. DNR then put that well onto a boil order and requested that Mr. Blevins act to fix the problem. It remained on boil order and failing tests until April of 2023, when it failed permanently, failed bacteria tests."<sup>26</sup> Furthermore, all three PWSs "had significant deficiencies," including openings in the wellheads and missing screens which "could allow bacteria to get in" and residents "getting sick" and "complaining about mud in the water which could have been in a leak in their own lines."<sup>27</sup> Over the course of DNR's involvement, Ms. Johnson stated, "I think there are times where there are customers that don't have water. I think there were customers that definitely did not have safe water. There have been a lot of total coliform positive samples outside of Topo Drive well. There have been a lot of unsafe bacteriologically drinking water samples but not all the time."<sup>28</sup>

Mr. Blevins never denied the allegations or findings made by DNR over the course of its years' long investigation, which is on-going and has yet to be resolved at the time of hearing. In fact, DNR is still waiting for Mr. Blevins to take actions to bring the wells into compliance with DNR regulations.<sup>29</sup> Exhibit 7 was entered into evidence without objection to show the extent of DNR's investigations and the safety violations found at the

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<sup>26</sup> Tr.VII, 53:7-12;

<sup>27</sup> Tr.VII, 164:14-22; 168:5-15.

<sup>28</sup> Tr.VII, 235:4-10.

<sup>29</sup> Tr.VII, 187: 1-13; 193:11-20.

wells owned and operated by Mr. Blevins. To put it into perspective, Mr. Clos-Versailles stated, “Some of those things I highlighted to him when I originally met with him in March of 2022 and were in the same exact state once I did the inspection in June of 2023,” and “I think multiple times he’d say his technician will go out there and they’d go take care of it and again a year and half later, year and a few months later, we still had the same issues .... urge them to do something more and still nothing was done.”<sup>30</sup>

This failure to maintain and operate a safe water system is a “potential health risk” that should not be overlooked nor allowed to continue. Not only does potentially contaminated drinking water pose risks to the health of those coming into contact with and consuming the water, but it also affects the environment in terms of introducing E. coli to the groundwater, microinvertebrates, and chemical contamination.<sup>31</sup> As Curt Gateley testified, “Any company that [PSC Staff] oversees that would allow folks to be exposed to contaminated water for eight months will have a complaint filed before the Commission. That’s not acceptable. It’s not acceptable to anyone.... I would call it a callous disregard for customer safety and their health when you know you’re providing water that can make people sick.”<sup>32</sup>

**The service Mr. Blevins provides the residents of water systems in Pulaski County, Missouri, including the Misty Mountain PWS, Rolling Hills PWS, and Charity PWS, for the use of that public utility service is inadequate, has been for months, and will likely continue to be for the foreseeable future.**

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<sup>30</sup> Tr.VII, 193:11-20.

<sup>31</sup> Tr.VII, 230: 5-24.

<sup>32</sup> Tr.VIII, 25:17-22; 33:17-19.

Mr. Blevins owns and operates at least eight wells, or perhaps up to 16, some of which are regulated by the DNR as public water systems, and some “private wells” that fall outside of DNR’s direct regulatory purview.<sup>33</sup> These wells provide residential water service to upwards of 100 households in Pulaski County, Missouri.<sup>34</sup> Mr. Blevins has for, several years, been charging these residents for the water they receive from his wells.<sup>35</sup> Although he does not send out formal “bills,” Mr. Blevins does ask for payment.<sup>36</sup> In fact, much like a water corporation or other business, Mr. Blevins has sent those residents demands for payment for the use of the water his wells provide their households, including “Agreements to Furnish Water” demanding payment, letters informing customers of their upcoming rate payments, and notices of rate increases or “Notice of Change.”<sup>37</sup>

As such, Mr. Blevins d/b/a Misty Water Works is operating as a public utility and water corporation, as those terms are defined by §§ 386.020(43) and (59), and is therefore subject to commission jurisdiction. However, at no time, prior to Staff filing its Complaint, had Mr. Blevins sought approval to operate or otherwise be authorized by the Commission to operate a water corporation or public utility in Missouri pursuant to § 393.170.2, RSMo.<sup>38</sup> Although he filed an application for a CCN on June 13, 2023, requesting such authorization, Mr. Blevins operated for years without any oversight or regulation by the PSC. He continues to do so. And, as outlined above, PSC Staff does not recommend a CCN be issued to Mr. Blevins or Misty Water Works for the reasons set forth in Exhibit 6.

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<sup>33</sup> Tr.VII, 128: 1-8; 132:3-14Tr.VIII, 87: 15.

<sup>34</sup> Tr.VII, 62: 10-11; 90:23-25.

<sup>35</sup> Tr.VIII, 90:23-25; 91:1-3.

<sup>36</sup> Tr.VIII, 79:10, 19-20.

<sup>37</sup> Exhibit 5.

<sup>38</sup> Tr. VIII, 11:22.

Specifically, Staff considered the five *Tartan Factors* or *Criteria*<sup>39</sup> in its analysis when reviewing Mr. Blevins' CCN application. They found a current and future need for the water service being provided by Mr. Blevins d/b/a Misty Water Works, but that his "failure to meet DNR regulations relating to water quality and to maintain adequate facilities such that the residential customers can rely on safe and adequate drinking water prevents [Mr. Blevins d/b/a Misty Water Works] from providing for the current and future need for water service." Staff's investigation found that Mr. Blevins "is unable to properly operate a utility business," as he "is not qualified to provide the service, and is currently unable and unwilling to provide safe and adequate water service." With regard to Mr. Blevins' financial ability to successfully maintain operations, Staff wrote, "The Applicant has failed to demonstrate its financial ability to successfully maintain operations .... If Misty Water Works does have the financial capability to provide service, it has not shown it." When it analyzed the feasibility of Mr. Blevins' proposal outlined in his CCN application, the Staff could "not ascertain the boundaries of [his] requested CCN," nor could Mr. Blevins' calculations show that his own proposed rates were feasible for supporting his business plan. Staff stated, "Mr. Blevins fails to demonstrate he possesses the financial resources necessary to bring the water systems into a state of compliance and dependable service." Finally, Staff concluded, based on the information uncovered that Mr. Blevins d/b/a Misty Water Works' CCN Application "does NOT promote the public interest." (Emphasis in original.) It was Staff's position that "the current

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<sup>39</sup> The *Tartan Criteria* contemplate the following: 1) need for service; 2) utility's qualifications; 3) utility's financial ability; 4) economic feasibility of the proposal; and 5) promotion of the public interest.

situation is unsustainable, and will continue to get worse without a drastic change in the provision of water service.”<sup>40</sup>

Not only is the service being provided to the residents unsafe, but Staff contends that the quality of the service is inadequate. Adequate service means more than just obtaining clean water from a reliable source. It includes preventative maintenance, “compliance with our rules and how you bill, how you have customer contacts,” customer service, “basic utility service,” etc.<sup>41</sup> It requires an ability and desire “to bring facilities into compliance and operate them properly.”<sup>42</sup> Mr. Blevins has demonstrated his failure to do so.

The reason the PSC Staff became involved in the first place was based on customer complaints regarding Mr. Blevins’ business practices.<sup>43</sup> Not only did the homeowners complain about the quality of service they were receiving, but many of their concerns revolved around how they were being billed and whether Mr. Blevins even owned the wells from which the homeowners were getting their water.<sup>44</sup> Mr. Blevins’ manner of billing his customers is not regulated, so he charges his customers however and whatever he wants; not based on usage, because none of the homeowners wells are metered, but on how often they want to pay, or how much they owe him in arrears, or how much they’ve negotiated to pay him.<sup>45</sup> Without having done any type of audit to determine what the cost to service the wells and provide the water to the residents actually is, there is no way to determine if the rates Mr. Blevins d/b/a Misty Water Works is charging his

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<sup>40</sup> Exhibit 6.

<sup>41</sup> Tr.VIII, 12:14-25; 13:1-3.

<sup>42</sup> Tr.VIII, 14: 18-20.

<sup>43</sup> Ex. 1

<sup>44</sup> Tr.VII 35:9-19; 64.

<sup>45</sup> Tr.VIII 36:1-2; 24:1-8; 81:24-25; 82:1-9; 83:1-25.

customers or whether the rate increases he proposes are just and reasonable.<sup>46</sup> Everything was just based on an estimate.<sup>47</sup>

Besides his baseless billing practices, Mr. Blevins' methods of land ownership and record keeping further lends credibility to Staff's argument that a receiver should be appointed to take over Mr. Blevins' water utility business. When trying to answer the residents' questions and get information from Mr. Blevins regarding the various complaints, PSC staff found it difficult to understand Mr. Blevins' bookkeeping and accounting records, as much of it was handwritten and not kept in good order.<sup>48</sup> If something happened to Mr. Blevins' office(s) and records, would Mr. Blevins d/b/a Misty Water Works have a continuous plan of operation?<sup>49</sup> "None of that exists based on the customers' experiences they have relayed to us with Mr. Blevins"<sup>50</sup>

Throughout the course of the hearing, witnesses testified about what wells Mr. Blevins owned. At the end of the day, no one knows for sure, not even the Pulaski County, Missouri, Recorder of Deeds.<sup>51</sup> Apparently, only Mr. Blevins knows what he owns, as not all of his property or easement purchases and sales are recorded or even in writing. "If someone else owns that well and they are the ones who are providing the service and someone else approaches you to bill you and they claim they are also providing that service then the customer has no idea who to pay."<sup>52</sup> That's a problem. And, apparently, only Mr. Blevins has the information to untangle that mess. Because, according to Mr. Blevins, "I own some of them by deed. ... I acquired also some wells by

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<sup>46</sup> Tr.VIII, 21: 10-21; 81:7-20; Ex. 5.

<sup>47</sup> Tr.VIII, 81:20.

<sup>48</sup> Tr.VII, 63: 8-11; Tr.VIII 33:1-9; 43:8-20.

<sup>49</sup> Tr.VIII, 32:13-25; 33:1-9.

<sup>50</sup> Tr.VIII, 32:21-22.

<sup>51</sup> Tr.VII, 107:7-25; Tr.VIII, 44:7-22; 82:23.

<sup>52</sup> Tr.VIII, 44:17-22

contract of sale. ... I had no contractual agreement, simply wanted the deed. ... [and] a handshake. ... They've been sold in the same manner in which I purchased them."<sup>53</sup> The customers deserve better. A receiver should take control.

Even if no issue existed with regard to the ownership of the wells, Mr. Blevins' failure to adequately maintain the system of wells such that his customers receive dependably safe and reliable water service supports appointing a receiver. Mr. Stamp testified that the complaints received from residents remained consistent throughout his investigation, including, "water quality issues, issues with the service, lines freezing in the winter, issues with how Mr. Blevins has tried to fix some of the service problems that have happened...."<sup>54</sup> They complained about unreliable service and his failure to timely fix problems that arose with the wells.<sup>55</sup>

Through their testimony and by the various documents contained in Exhibit 7, the DNR witnesses detailed their attempts and frustrations at trying to get Mr. Blevins to repair the various wells he operates, come into and remain in compliance with DNR regulations and health and safety standards for well-maintenance and drinking water quality, and understand the need for such compliance and regulation. Unfortunately, both DNR witnesses stated that many of the problems "were still there a year and a half later, year and two months later;" and that although Mr. Blevins seems to have the ability and capacity to fix the problems and make the changes, he just has not done it.<sup>56</sup> Specifically, with regard to the boil order at the Topo Well, Ms. Johnson stated, "we provided a list of

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<sup>53</sup> Tr.VIII, 51:1-25; 52: 1-13.

<sup>54</sup> Tr.VII, 38:6-9;

<sup>55</sup> Tr.VII, 42:7-9, 15-16; 169:1-21; Tr.VIII, 29:1-7.

<sup>56</sup> Tr.VII, 186:19-20; 187:1-8; 193:6-20; 221:4-5.



ways to try and troubleshoot that .... Those actions were not taken ...that maybe there is an issue with properly operating and maintain the systems.”<sup>57</sup>

Based on the foregoing reasons, and as supported by the evidence presented at the hearing, Staff contends it has met its burden of proof to establish that Mr. Blevins d/b/a Misty Water Works is unable and/or unwilling to provide safe and adequate water service to the residents served by the well systems owned and operated by him and that the Commission, through its General Counsel, should petition the Circuit Court of Cole County, Missouri, for an order attaching the assets of said utility and placing them under a receiver.<sup>58</sup> See timeline, attached hereto as Attachment A. In the same order, Staff requests the Commission appoint an interim receiver for said water utility until a permanent receiver can be appointed by the circuit court.<sup>59</sup>

**WHEREFORE**, Staff submits this Post-Trial Brief for the Commission’s consideration and information.

Respectfully submitted,

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<sup>57</sup> Tr.VII. 234: 1-10.

<sup>58</sup> § 393.145.1, RSMo.

<sup>59</sup> § 393.145.2, RSMo.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 5<sup>th</sup> day of December, 2023, to all parties and counsel of record.

**/s/ Carolyn H. Kerr**

## Timeline

December 2018	PSC received complaint letter from customer re: spontaneous rate increase
Spring 2019	Staff attempts to contact Mr. Blevins
July 2019	Staff visits Mr. Blevins and requests documentation re: billing, well testing records. Mr. Blevins states he is considering providing requested info.
Fall 2019	Staff visits Mr. Blevins and is shown records but will not allow staff to obtain copies. Mr. Blevins agrees to provide copies of testing records of wells but fails to provide copies.
August 2022	Topo Well is placed on boil order by DNR for failing E. coli tests multiple times. Mr. Blevins is reluctant to find solution. DNR Level 2 Assessment Misty Mountain PWS triggered – Corrective Action Plan and notification sent September 2022
November 2022	DNR Level 2 Assessment Misty Mountain PWS triggered – Corrective Action Plan and notification sent
January 2023	PSC receives consumer complaints from multiple residents complaining of “dramatic” rate increase (Ex. 1)
January 2023	DNR contacts PSC about increasing problems with Misty Water Works and Mr. Blevins’ wells and residents’ complaints about water service and billing issues.
February 2023	Staff visits locations and begins creating maps of Misty Water Works distribution systems and attempts to track and make record of Mr. Blevins’ ownership.
February 2023	DNR issues Intent to Pursue Enforcement Action to Mr. Blevins
March 2023	PSC staff initiates complaint case no. WC-2023-0353 and meets with DNR to discuss situation.
April 2023	Topo Well fails when cracks and succumbs to structural issues beyond repair, leaving customers with no source of water. They have been without water for 8 months. Mr. Blevins has refused to provide bottled water to customers and delayed attempts to fix well. Find connection to Pulaski County Water District #2 and are able to connect homes to it. Mr. Blevins pays deposit and allows connection to be restored to County water. Staff files Complaint in WC-2023-0353. Staff meets with Mr. Blevins, and he indicates he wants to file an application for a CCN with the PSC.
May 2023	Mr. Blevins indicates he sold some of his wells. Response deadline to file Answer to Complaint passes. Staff asks Mr. Blevins for customer list. Notice of public meeting is sent out.
June 2023	PSC host public informational meeting in Waynesville, MO w/ high turn-out of residents. PSC and DNR staff and Mr. Blevins are in attendance. Many complaints and questions fielded by both DNR and PSC staff from residents. Mr. Blevins gives PSC staff copy of CCN Application. CCN Application filed in case No. WA-2023-0418. Staff learns of complaints from residents living near Trisha well regarding members of the Blevins’ family moving trailers onto nearby lot and dumping sewage onto ground near well.
July 2023	DNR Significant Deficiencies and Unsatisfactory Findings issued to Misty Mountain, Charity, and Rolling Hills PWS
Summer 2023	Resident complaints continue to come into staff by email (Ex. 4)
September 2023	Well Determination letters issued to Mr. Blevins re: Misty Mountain, Charity, and Rolling Hills PWS.
August 2023	Staff begins to finalize investigation and submits Staff Memorandum and Recommendation in CCN case – recommends denying CCN in WA-2023-0418 (Ex. 6). Staff meets with residents, visits sites, and takes pictures of well houses (Ex. 3) Attempts to find a receiver to take over operations of Misty Water Works. Files Petition for Interim Receiver in Case No. WO-2024-0036.