

RECEIVERSHIPS FOR SMALL WATER AND SEWER COMPANIES

March 12, 2008

Governor Office Building, Room 130

Presented by Keith Krueger, Missouri Public Service Commission

WORKSHOP OUTLINE

- I. **Overview** 10:00 – 10:10
 - A. **Governing Law**
 - Section 393.145, RSMo.
 - No case law
 - Seldom used until recent years
 - Now favored by commissioners
 - B. **Companies Eligible for Receivership**
 - Subsection 1 of statute
 - Applies to water and sewer companies only
 - No more than 8000 customers
 - C. **Authority of the Receiver**
 - Subsection 6 of the statute
 - Operate utility, preserve assets, serve best interest of customers
 - “Steps into the shoes” of the owners to manage the company
 - Ownership does not change; only management
 - But receiver may be authorized to liquidate assets
- II. **Appointment of the Receiver** 10:10 – 10:20
 - A. **Grounds**
 - Subsection 1 of the statute
 - Unable or unwilling to provide safe and adequate service
 - Actually or effectively abandoned by the owners
 - Defaulted on a financial obligation
 - B. **Procedure**
 - Commission determination
 - Right to a hearing
 - Standard of proof
 - Time required to process case before Commission
 - Petition to circuit court
 - Venue
 - Trial de novo
 - C. **Time required to process case**
 - Impossible to predict; can be very brief or very protracted

- D. Appointment of an interim receiver**
Subsection 2 of the statute
Authority and qualifications
Duration of appointment
History of this legislation
- III. Administration of the Receivership Estate** 10:20 – 10:30
Subsection 6 of the statute
Bond required
Preserve assets; protect customers
Operation of the business
Litigation
Compensation
Immunity from personal liability
Return control to the owners
Authorization to sell or liquidate assets
Approval of the sale contract
- IV. Compensation of the Receiver** 10:30 – 10:35
Permanent receiver
Amount to be determined by the court
Interim receiver
Amount to be determined by the Commission
Availability of funds to pay receiver
- V. When to Seek Receivership** 10:35 – 10:45
Need for an exit strategy
Can the company be rehabilitated?
Is there a potential buyer of the assets?
Identify qualified receiver
Subsection 5 of the statute
Qualifications
Lawyer, engineer, technician, customer
Qualifications of interim receiver are not specified
- VI. Case Studies** 10:45 – 11:30
A. Warren County Water and Sewer Company
B. Osage Water Company
C. Hickory Hills
D. Missouri Utilities
E. Rogue Creek Utilities
F. Cases where receivership was not pursued
- VII. 'Voluntary' Receiverships** 11:30 – 11:35

Statutes make no reference to this
Receiver must still be appointed by court
But owners may consent to their appointment
Rogue Creek

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| VIII. Alternative to Receivership | 11:35 – 11:45 |
| Stoddard County Sewer Company | |
| Blue Lagoon | |
| Section 393.146, RSMo | |
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IX. Strategic Decisions |
11:45 – 11:50 |
| “Trial” at Commission level or circuit court level | |
| Will owners resist? Why or why not? | |
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X. Questions and Discussion |
11:50 – 12:00 |