

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3
4
5 TRANSCRIPT OF PROCEEDINGS
6 Pre-hearing Conference
7 May 30, 2007
8 Jefferson City, Missouri
9 Volume 1
10
11 In the Matter of Missouri-)
12 American Water Company's)
13 Application for Expansion of its)
14 Certificate of Convenience and)
15 Necessity Authorizing It to) Case No.
16 Participate in the Extension,) SA-2007-0316
17 Construction, Operation,)
18 Maintenance, Removal, Replacement,)
19 Control, and Management of a)
20 Sewer Utility in Platte County,)
21 Missouri.)
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

1 A P P E A R A N C E S

2
3 LARRY W. DORITY, Attorney at Law
4 JAMES M. FISCHER, Attorney at Law
5 Fischer & DORITY
6 101 Madison, Suite 400
7 Jefferson City, MO 65101
8 (573) 636-6758

9 FOR: Platte County Regional Sewer
10 District.

11
12 ROBERT H. SHAW, Attorney at Law
13 McGinness & Shaw, L.L.C.
14 303 Marshall Road
15 Platte City, MO 64079
16 (816) 858-2630

17 FOR: Platte County Regional Sewer
18 District.

19
20 CHUCK REINEKE, Executive Director
21 Platte County Regional Sewer District
22 414 State Route 273
23 Tracy, MO 64079
24 (816) 858-2052

25 KEITH R. KRUEGER, Deputy General Counsel
26 200 Madison Street
27 P.O. Box 360
28 Jefferson City, MO 65102
29 (573) 751-3234

30 FOR: Staff of the Missouri Public
31 Service Commission.

32
33 CHRISTINA BAKER, Assistant Public Counsel
34 200 Madison Street
35 P.O. Box 2230
36 Jefferson City, MO 65102
37 (573) 751-5565

38 FOR: Office of the Public Counsel and
39 the rate payers.

40

1 P R O C E E D I N G S

2 JUDGE LANE: It's May 30, 2007 about
3 10:05 a.m. I am Benjamin Lane, I am sitting in for
4 Judge Nancy Dippell today and will be presiding over
5 the on-the-record portion of this procedural
6 conference, or pre-hearing conference. Our court
7 reporter today is Mindy Vislay. Thank you very much
8 for being here.

9 This is the Case No. SA-2007-0316 that's
10 captioned; in the matter of Missouri-American Water
11 Company's application for expansion of its Certificate
12 of Convenience and Necessity authorizing it to
13 participate in the extension, construction, operation,
14 maintenance, removal, replacement, control and
15 management of a sewer utility in Platte County,
16 Missouri.

17 It's my understanding, after having reviewed the
18 pleadings in this case, this involves an application
19 by Missouri-American Water Company for a Certificate
20 of Convenience and Necessity which would expand its
21 ability to provide sewer service in Platte County to a
22 residential subdivision known as Montebella. There
23 was notice issued and an intervention deadline set.
24 We did get an intervener; mainly, Platte County
25 Regional Sewer District. That application for

1 intervention was granted by the Commission's order of
2 May 15, and the District has stated that it opposes
3 any further extension of Missouri-American service
4 area into its jurisdictional area and opposes the
5 present application. Therefore, the matter is
6 contested and a hearing will be required, should the
7 case not settle before then.

8 So, we're here at the pre-hearing conference or
9 procedural conference. I see it as having two major
10 goals. The first one is to provide an opportunity --
11 possibly the last/best opportunity -- for the parties
12 to pursue settlement discussions, if that's going to
13 be possible.

14 Please feel free -- and we certainly do encourage
15 the parties -- to discuss this case amongst
16 yourselves. As you know, nothing that's said in the
17 confines of this proceeding, once we go off the
18 record, would be admissible into evidence unless it's
19 independently verified by other evidence, evidence not
20 the result of what happens here today. And if you --
21 it appears to me that there may possibly be some basis
22 for the parties to compromise, that's not for me to
23 say, but I do want to let you know that we certainly
24 do encourage settlement of these types of matters if
25 possible.

1 The second major thing that we would like to
2 achieve at this procedural conference is a procedural
3 schedule. As you know, the Commission has already
4 ordered a procedural schedule to be filed, either
5 separately or jointly, by June 6th, 2007. We have
6 this room and this line available to five o'clock
7 today, so that ought to be plenty of time to hash-out,
8 or at least get the contours of a procedural schedule
9 done, and you'll just get that done as soon as
10 possible.

11 Before we go, I want to ask a few questions of the
12 parties, but before I do that, I know you have --
13 several of you -- that have entered your written
14 entries of appearance, those that are present here
15 today, but if you would please also enter your oral
16 entry of appearance.

17 Let's start with Missouri-American Water Company.

18 MR. JONES: This is Kenneth Jones
19 representing Missouri-American Water Company, address
20 is 727 Craig Road, St. Louis, Missouri 63141.

21 JUDGE LANE: Thank you, Mr. Jones.

22 Platte County Regional Sewer District.

23 MR. DORITY: Thank you, Your Honor.

24 Appearing this morning for Platte County Regional
25 Sewer District, Larry W. Dority and James M. Fischer

1 of Fischer and Dority, P.C., our address is 101
2 Madison, Suite 400, Jefferson City, Missouri 65101.
3 Also appearing, via telephone conference, is Robert H.
4 Shaw, McGinness and Shaw, L.L.C., 303 Marshall Road,
5 Platte City, Missouri 64079, and also participating
6 this morning with Mr. Shaw, in his office, is Mr.
7 Chuck Reineke who is the Executive Director of the
8 Platte County Regional Sewer District.

9 JUDGE LANE: Thank you very much,
10 Mr. Dority, Mr. Shaw and Mr. Reineke, welcome. Thank
11 you for appearing today.

12 The Staff of the Commission.

13 MR. KRUEGER: Keith R. Krueger for the
14 Staff of the Missouri Public Service Commission, my
15 address is P.O. Box 360, Jefferson City, Missouri
16 65102.

17 JUDGE LANE: Thank you, Mr. Krueger.
18 Office of Public Counsel.

19 MS. BAKER: Christina Baker, my address is
20 P.O. Box 2230, Jefferson City, Missouri 60102. I'm
21 appearing for the Office of Public Counsel and the
22 rate payers.

23 JUDGE LANE: Thank you very much. I
24 believe I see Mr. Johansson is with us as well to
25 assist in these matters in the pre-hearing.

1 As I said before, there's two major things that
2 can be achieved here today. One is settlement, two is
3 to hash-out a procedural schedule. I think you have
4 all been involved in enough cases to know the types of
5 things that we'd like to have in a procedural
6 schedule. The order did not spell those out, but
7 should you have any questions about that, I'll be
8 available in my office or, you know -- so that
9 shouldn't be an issue.

10 I guess, at this point, I would normally be
11 getting pretty close to going off the record and
12 letting you do the business that you are here to do
13 today. I do have a couple of questions that I want to
14 ask -- while I've got all the parties here -- just for
15 my understanding -- I realize I'm just sitting in on
16 this -- I would like to understand this case a little
17 bit better.

18 Is it Missouri-American's argument that, the fact
19 that Section 250.010 does not grant exclusive
20 jurisdiction or prohibit private water and sewer
21 companies from providing service in the area in
22 question, is it Missouri-American's position that that
23 statute means that the intervener cannot possibly win,
24 or was that just an argument for opposing intervention
25 in the first place?

1 MR. JONES: Well, Your Honor, I think -- in
2 the first place, I'm not sure that statute deposition
3 has been formally taken by the Sewer District at this
4 point. I think that was contained in a letter that
5 they initially filed with the Commission. So, I'm not
6 positive that is actually the grounds that the
7 Commission -- the Sewer District is proposing for,
8 number one; had proposed for intervention, and number
9 two; now is proposing, or a position to the extension
10 of the certificates.

11 So that being said, I think that, you know, given
12 that, really, lack of guidance about what their
13 official position is, from what I do know from that
14 one letter that they filed, our understanding and
15 position is that that statute, 250.010, neither
16 provided grounds for intervention nor for claiming
17 that the service area was exclusive for the Sewer
18 District.

19 JUDGE LANE: All right. Thank you very
20 much.

21 And I am aware that Staff indicated, although it
22 filed a recommendation, stating if it was staged
23 solely -- if they were making the recommendation based
24 solely on the application and the information that it
25 had in its possession, it would file the

1 recommendation in favor of granting the application,
2 but they're very interested in hearing, I think, what
3 the Sewer District's position is, you know, flushing
4 that out a little bit, what evidence they might have
5 and so forth. So, I tend to agree that it certainly
6 would be good to find out. And that's one of the
7 things you can talk about in the pre-hearing,
8 flush-out what the position is. You don't have to
9 disclose all your evidence, that will all happen, but
10 it will certainly be helpful, I think, for everyone
11 involved to be on the same page, to find out what the
12 Sewer District's actual position is, because all we
13 have at this point is the letter and the application
14 to intervene, which didn't contain a lot of
15 information.

16 I think that's all the questions I've got. Would
17 anyone like to ask me anything, or is there anything
18 else I can do before we go off the record and go to
19 the off-the-record portion of this procedural
20 conference?

21 MR. KRUEGER: Not from Staff, Your Honor.

22 MS. BAKER: Not from OPC.

23 MR. DORITY: Judge, you indicated you would
24 be available today -- I guess to the extent that we
25 would be looking for hearing date availability -- we

1 could contact you and try to get the most up-to-date
2 information available for that?

3 JUDGE LANE: Yes, I will be up in my
4 office, and I'm sure there will be numerous times for
5 breaks and so forth. Just give me a buzz or,
6 Mr. Krueger, you can come up and grab me.

7 MR. KRUEGER: Or try to interpret that
8 calendar?

9 JUDGE LANE: You have to have the eye for
10 it. I've been here eight months, and I'm still not
11 real good at it.

12 So, all right. Well, again, thank you very much
13 for your participation today, and I'm very pleased to
14 see that everyone has brought some support people with
15 them, or people that will be knowledgeable in the
16 various areas, that could help facilitate these
17 discussions. I always like to see it when that
18 happens. So, with that taken care of, I want to thank
19 you very much for coming today and thank Miss Vislay
20 for appearing and transcribing the on-the-record
21 portion, and we are off the record.

22 (WHEREIN, the recorded portion of the pre-hearing
23 conference was concluded.)

24

25

1 CERTIFICATE OF REPORTER

2

3

4 I, Mindy Vislay, Certified Court Reporter with the
5 firm of Midwest Litigation Services, and Notary Public
6 within and for the State of Missouri, do hereby
7 certify that I was personally present at the
8 proceedings had in the above-entitled cause at the
9 time and place previously described; that I then and
10 there took down in Stenotype the proceedings had; and
11 that the foregoing is a full, true and correct
12 transcript of such Stenotype notes so made at such
13 time and place.

14

15

16

17

18 Mindy Vislay, CCR

19

Notary Public (County of Cole)

20

My commission expires March 19, 2011

21

22

23

24

25