

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 10th day
of July, 2007.

In the Matter of the Request of the Staff of the)	
Missouri Public Service Commission for an Order)	
Directing the General Counsel to Petition the Circuit)	<u>Case No. WO-2007-0344</u>
Court of Cole County for the Appointment of a)	
Receiver for Rogue Creek Utilities, Inc., and for the)	
Appointment of an Interim Receiver)	

**ORDER GRANTING DEFAULT AGAINST ROGUE CREEK
UTILITIES, INC., AND ORDER APPROVING STIPULATION AND
AGREEMENT AMONG NON-DEFAULTING PARTIES**

Issue Date: July 10, 2007

Effective Date: July 20, 2007

Syllabus: This order finds Rogue Creek Utilities in default, and approves a Stipulation and Agreement among the remaining parties.

On March 21, 2007, the Staff of the Commission filed the above-captioned complaint against Rogue Creek Utilities, Inc. Staff alleged that Rogue Creek regularly provides water and sewer service to fewer than eight thousand customers, and that Rogue Creek would soon be unwilling or unable to provide safe and adequate service due to the deteriorating health of its sole owner and director, William J. Rummel.

Staff asked for an order finding that Rogue Creek is now, or will soon be, unable to provide safe and adequate service. Further, Staff asked the Commission for authority to petition the Circuit Court of Cole County for an order attaching the assets of Rogue Creek, and to place that company under the control and responsibility of a receiver. Noting that

Mr. Rummel has handed day-to-day operations of Rogue Creek to Rita and Joe Coleman, Staff asked that the Commission appoint Rita Coleman as an interim receiver, and that she be compensated from Rogue Creek's assets in an amount to be determined by the Commission. Furthermore, Staff asked the Commission for authority to seek a finding from the circuit court that control and responsibility for the company should not be returned to Mr. Rummel, and that the assets of the company should instead be liquidated in the manner provided by law.

Rogue Creek

On March 22, the Commission issued a Notice of Complaint that informed Rogue Creek and Mr. Rummel of Staff's application, and directed them to respond no later than April 23. The Notice of Complaint was delivered to Rogue Creek and Mr. Rummel by certified mail, return receipt requested, on or about March 27.

Mr. Rummel filed a timely answer, admitting virtually all of Staff's allegations. However, in that answer, Mr. Rummel's counsel explicitly stated that the answer was limited to Mr. Rummel personally, and did not include Rogue Creek. On June 11, Staff filed a Motion for Order Finding Rogue Creek in default. Rogue Creek failed to respond to Staff's motion.

Commission Rule 4 CSR 240-2.070(9) provides that if a respondent fails to timely respond to a complaint, the Commission may deem the complaint admitted, and may enter an order granting default.¹ Rogue Creek has failed to respond to Staff's petition.

¹ That rule also allows the Commission to set aside a default order if the respondent files a motion to set aside the order within 7 days of the issue date of the order granting default, and if the Commission finds good cause for the respondent's failure to timely respond to the complaint.

Therefore, the Commission finds that Rogue Creek is in default and that Staff's allegations against Rogue Creek are admitted.

Stipulation and Agreement

Also on June 11, Staff, the Office of the Public Counsel, William J. Rummel, Joe Coleman and Rita Coleman filed a stipulation and agreement. In that stipulation, the parties agree that Rogue Creek regularly provides water and sewer service to fewer than eight thousand customers, and that it would soon be unwilling or unable to provide safe and adequate service due to the deteriorating health of its sole owner and director, William J. Rummel. Moreover, they agree that appointment of a receiver is necessary, and they agree to recommend that control and responsibility for the company should not be returned to Mr. Rummel, but that Rogue Creek should instead be liquidated in the manner provided by law.

Further, the parties agree that Joe Coleman should be the interim receiver, and that he should receive \$1,000 per month from Rogue Creek as compensation, provided that all other direct operating and maintenance expenses are paid first. Also, the parties consent to Staff filing a petition in the Circuit Court of Cole County, in which Staff will ask the court to appoint Joe Coleman as receiver. Finally, so long as Staff seeks relief against Rogue Creek alone, and not against Mr. Rummel personally, Mr. Rummel agrees that he will not oppose Staff's circuit court petition.

The Commission has reviewed the stipulation and agreement, finds it to be a lawful and reasonable resolution of the issues, and will approve it.

IT IS ORDERED THAT:

1. Default is hereby entered against Rogue Creek Utilities, Inc., and Staff's allegations against Rogue Creek Utilities, Inc., are deemed admitted.

2. The Stipulation and Agreement filed by the Staff of the Commission, the Office of the Public Counsel, Rita Coleman, Joe Coleman, and William J. Rummel on June 11, 2007, is approved, and those parties are ordered to abide by their stipulation.

3. The General Counsel of the Commission is directed to petition the Circuit Court of Cole County for an order attaching the assets of Rogue Creek Utilities, Inc., and placing that company under the control and responsibility of a receiver, and that Staff shall recommend that the Circuit Court of Cole County appoint Joe Coleman as the receiver.

4. The General Counsel of the Commission is directed to seek a finding from the Circuit Court of Cole County that control and responsibility for Rogue Creek Utilities, Inc., should not, in the best interest of the company's customers, be returned to the owner of the company and that the receiver should be directed to liquidate the assets of the company in the manner provided by law.

5. Joe Coleman is appointed as interim receiver for Rogue Creek Utilities, Inc., and Joe Coleman shall receive \$1,000 per month during his tenure as interim receiver, provided that all other direct operating and maintenance expenses are paid first.

6. This order shall become effective on July 20, 2007.
7. This case shall be closed on July 21, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Pridgin, Senior Regulatory Law Judge