

IN THE  
Supreme Court of the United States

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STATE OF MISSISSIPPI,  
*Plaintiff,*

v.

STATE OF TENNESSEE, CITY OF MEMPHIS, TENNESSEE,  
AND MEMPHIS LIGHT, GAS & WATER DIVISION,  
*Defendants.*

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**Before the Special Master, Hon. Eugene E. Siler, Jr.**

**JOINT CASE MANAGEMENT ORDER**

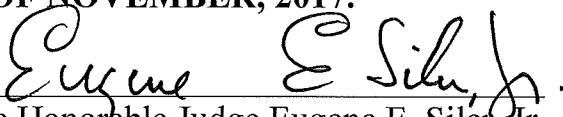
On August 12, 2016, the Special Master issued a memorandum of decision and instructed the parties to conduct such discovery as is necessary to prepare for “an evidentiary hearing on the limited issue of whether the Aquifer and the water constitutes an interstate resource.” Dkt. No. 55. In advance of that hearing, the Special Master stated that the parties “should submit a joint prehearing order” including (among other things) “their stipulated and contested facts” and “intended case presentation.” *Id.* The Special Master subsequently entered a case management order to govern discovery, Dkt. No. 57, which, as amended, *see* Dkt. Nos. 58 and 59, provides that the parties “shall submit a joint proposed order that sets forth a plan for the hearing and any pre-or-post-hearing briefing by October 30, 2017.” Dkt. No 59.

Pursuant to those orders, the parties have now completed the limited discovery necessary for this hearing, and have met and conferred about the most efficient means for proceeding with the case. The parties currently disagree about the scope of evidence which should be considered in the evidentiary hearing in light of the significance of the issue presented, and the propriety of motions for summary disposition before the hearing. To help the parties make progress on those issues of disagreement and develop a more efficient plan for subsequent proceedings, this order sets forth a schedule as follows:

1. By **December 15, 2017**, the parties shall exchange short and concise statements, in numbered paragraphs, of the facts that each party contends are material and shall designate each material fact as being undisputed or disputed. Each undisputed and disputed material fact shall be followed by citation to the record supporting the statement.
2. By **January 29, 2018**, the parties shall exchange responses to the other parties' statements of material facts, admitting or denying that each statement is disputed or undisputed and indicating whether the fact is or is not material. Each response, if it denies that the statement in question is undisputed, shall be followed by citation to the record supporting the response.

3. By **February 16, 2018**, the parties shall meet and confer and file a joint final statement of stipulated and contested facts. This statement shall contain citations to the record for each contested fact therein.
4. By **March 9, 2018**, the parties shall meet and confer regarding the scope and mechanics of the evidentiary hearing, and shall submit a joint proposed order setting forth their proposed plan for the hearing and any pre- or post-hearing briefing. At this point, if the parties cannot agree on certain elements of their proposed plan for the hearing or pre- or post-hearing briefing, they shall set forth their respective positions in letter briefs of not more than five pages, which shall also be filed by **March 9, 2018**.
5. The requirement of citations to the record in this order means that each fact and response must be supported by specific record citation(s) to demonstrate the fact or response. However, the requirement is not intended to be exhaustive, and additional supporting citations may be offered at a later time.

IT IS SO ORDERED, THIS 1 DAY OF NOVEMBER, 2017.

  
The Honorable Judge Eugene E. Siler, Jr.,  
Special Master  
United States Court of Appeals  
for the Sixth Circuit

APPROVED FOR ENTRY

/s C. Michael Ellingburg

*Lead Counsel for Plaintiff State of Mississippi*

/s David C. Frederick

*Lead Counsel for Defendant State of Tennessee*

/s Leo M. Bearman

*Lead Counsel for Defendants City of Memphis  
and Memphis Light, Gas & Water Division*