

**In the Circuit Court of Jackson County, West Virginia**

**Southern Jackson County Public  
Service District,**  
Plaintiff,

v.

Case No. CC-18-2022-C-91  
Judge Michael Lorensen

**C.J. Hughes Construction Company,  
Inc.,  
Tri-State Pipeline, Inc.,  
Ferguson Enterprises, LLC,  
Master Meter, Inc.,**  
Defendants

**ORDER REGARDING FURGASON'S MOTION TO COMPEL**

This matter is now pending on Defendant Ferguson Enterprises LLC's motion to compel. The Plaintiff has responded. The matter is now ripe for consideration.

The Plaintiff defends Ferguson's motion by relying on Rule 37(a)(2), which requires in pertinent part:

The motion must include a certification that the movant in good faith ***has conferred or attempted to confer with the person or party failing to make the discovery*** in an effort to secure the information or action without court action.

[Emphasis added.]

Counsel makes a detailed letter, but simply says comply within 10 days or we're moving to compel. That's not a confer; rather it is an ultimatum. It did not invite conversation or debate. These sort of ultimatums are not what are envisioned by Rule 37(d)'s certification requirement. Therefore, counsel are ordered to meet and confer, meaning have a real-time conversation in person to discuss issues arising from the within discovery dispute. Counsel for the movant Ferguson is directed to certify in writing that this has been done or what efforts have been made to do this on or before

January 3, 2024.

The court will reserve judgment until a motion with adequate evidence of an offer to meet and confer is extended to the responding party.

The court will take this up at the scheduled hearing January 5, 2024, as to what if any relief may be required to adjudicate the within motion to compel.

It is hereby ADJUDGED and ORDERED that Defendant Ferguson Enterprises LLC's motion to compel is HELD IN ABEYANCE as detailed in this Order. It is further ORDERED, ADJUDGED and DECREED that the Clerk shall forward a copy of this Order to all counsel of record.

**/s/ Michael Lorensen**  
Circuit Court Judge  
5th Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit [www.courtswv.gov/e-file/](http://www.courtswv.gov/e-file/) for more details.