

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

The Office of the Public Counsel,)
An agency of the State of Missouri,)

Complainant)

v.)

Case No. WC-2015-0290

Ridge Creek Development, LLC,)
Ridge Creek Water Company, LLC,)
Mike Stoner, Denise Stoner,)

Respondents)

**SEPARATE ANSWER OF RIDGE CREEK DEVELOPMENT, LLC, MIKE STONER
AND DENISE STONER TO COMPLAINT AND MOTION TO DISMISS**

Come now Respondents, Ridge Creek Development, L.L.C, Mike Stoner and Denise Stoner, (“Separate Respondents”) by and through counsel, and submit this separate answer and response to the Office of Public Counsel’s complaint paragraph by paragraph as follows:

1. Separate Respondents admit that the Office of Public Counsel is an agency of the State of Missouri having an official mailing address and authority, duties, powers and responsibilities as set out by specific state statutes which speak for themselves. Separate Respondents deny each and every other allegation of paragraph 1.

2. Denied.

3. Admitted.

4. The allegations of Paragraph 4 relate to Ridge Creek Water Company, LLC and an answer or other response thereto is not required from Ridge Creek Development LLC or Mike Stoner or Denise Stoner. Refer to the separate answer of Ridge Creek Water Company, LLC.

5. Separate Respondents admit that Mike Stoner and Denise Stoner are husband and wife and have a mailing address in Dixon, Missouri. Otherwise, Separate Respondents deny each and every other allegation of paragraph 5.

6. Denied.

7. Complainant cites and quotes from statutes of the State of Missouri to which no answer or other response is required from Separate Respondents. The statutes of the state speak for themselves. Separate Respondents admit that the Commission has an official address and has powers, duties and authority as provided in state law. Otherwise, Separate Respondents deny each and every other allegation of paragraph 7.

8. Complainant cites and quotes from state statutes rules of the Commission in paragraph 8 to which no answer or other response is required from Separate Respondents. The statutes of the state and the rules of the Commission speak for themselves. Separate Respondents admit that the Missouri Public Service Commission has authority to hear complaints filed by authorized parties but Separate Respondents deny each and every other allegation of paragraph 8.

9. Complainant cites and quotes from statutes of the State of Missouri to which no answer or other response is required from Separate Respondents. The statutes of the state speak for themselves. Separate Respondents admit that the laws of the state of Missouri permit agencies to assess penalties as authorized or provided therein, but otherwise Separate Respondents deny each and every other allegation of paragraph 9.

10. Paragraph 10 in part is a legal conclusion or interpretation of law concerning a statute of the State of Missouri to which no answer or other response is required from Separate Respondents. To the extent complainant cites and quotes from statutes of the State of Missouri,

no answer or other response is required from Separate Respondents. The statutes of the state speak for themselves. Separate Respondents admit that the laws of the state of Missouri permit agencies to assess penalties as authorized or provided therein, but otherwise Separate Respondents deny each and every other allegation of paragraph 10.

COUNT I

11. Separate Respondents reassert and adopt by reference as if fully set forth each and every answer, defense or other response set forth in paragraphs 1 through 10 of this separate answer.

12. Separate Respondents admit that Ridge Creek Subdivision was developed as a housing community by Ridge Creek Development LLC. Ridge Creek Development LLC also created a water system to serve Ridge Creek Subdivision and in accordance with property restrictions and well use agreements with property owners, Ridge Creek Development LLC charges for water service connections. Except as admitted herein, Separate Respondents deny each and every allegation of paragraph 12.

13. Complainant cites and quotes from statutes of the State of Missouri to which no answer or other response is required from Separate Respondents. The statutes of the state speak for themselves. Separate Respondents admit that “water system” and “water corporation” are statutorily defined but otherwise, Separate Respondents deny each and every other allegation of paragraph 13.

14. Complainant cites and quotes from statutes of the State of Missouri to which no answer or other response is required from Separate Respondents. The statutes of the state speak for themselves. Separate Respondents admit that “water system” and “water corporation” are

statutorily defined but otherwise, Separate Respondents deny each and every other allegation of paragraph 14.

15. Paragraph 15 is a legal conclusion based upon complainant's interpretation of a statute of the State of Missouri to which no answer or other response is required from Separate Respondents. To the extent the Commission deems an answer is required, Separate Respondents admit that the Commission has jurisdiction over public utilities but otherwise deny each and every allegation of paragraph 15.

16. Complainant describes the holding or rulings of Missouri courts, the same being conclusions of law to which no answer or other response is required from Separate Respondents. To the extent the Commission deems a response or answer is required to this paragraph, Separate Respondents deny the same.

17. Complainant cites and quotes from statutes of the State of Missouri to which no answer or other response is required from Separate Respondents. The statutes of the state speak for themselves. Separate Respondents admit that state law forbids collection of unjust charges or rates for service but otherwise deny each and every allegation of paragraph 17.

18. Complainant cites and quotes from statutes of the State of Missouri to which no answer or other response is required from Separate Respondents. The statutes of the state speak for themselves. Separate Respondents admit that state law forbids collection of unjust charges or rates for service but otherwise deny each and every allegation of paragraph 18.

19. Complainant describes the holding or rulings of Missouri courts, the same being conclusions of law to which no answer or other response is required from Separate Respondents. To the extent the Commission deems a response or answer is required to this paragraph, Separate Respondents deny the same.

20. Complainant cites and quotes from rules of the Commission to which no answer or other response is required from Separate Respondents. The rules of the Commission speak for themselves. Separate Respondents admit that the Commission rules define “tariff” but otherwise they deny each and every allegation of paragraph 20.

21. Paragraph 21 is a conclusion of law to which no answer is required from Separate Respondents. To the extent the Commission deems an answer is required to this paragraph, Separate Respondents deny the same.

22. Admitted. Further answering Separate Respondents are not required by law to tariff rates for water service in Ridge Creek Subdivision.

23. Denied.

24. Separate Respondents deny all other allegations, statements, and declarations contained in all paragraphs of Office of Public Counsel’s complaint including all allegations, statements and declarations contained in any prayer for relief, not specifically admitted herein.

MOTION TO DISMISS

The complaint against Separate Respondents should be dismissed because there is another complaint pending before the Commission between the same parties and for the same cause.

On July 14, 2015, the Staff of the Missouri Public Service Commission filed a complaint against Ridge Creek Development, LLC, Mike Stoner and Denise Stoner contending that Separate Respondents were providing water service without proper authorization in violation of the laws of the state of Missouri. The Commission assigned File Number WC-2015-0011 to the complaint. Public Counsel is a party to that action by virtue of responsibilities imposed on the office by law. Separate Respondents timely filed their answer to the complaint. The complaint

is still pending. Because Ridge Creek Water Company, LLC is applying for authority to provide water service in File Number WA-2015-0182, the Commission has not established a procedural schedule in Staff's complaint against Separate Respondents. Public Counsel has not moved to establish a procedural schedule in the Staff complaint action (File Number WC-2015-0011).

Because a complaint against the same parties, in which Staff and Office of Public Counsel are also parties, is currently pending before the Commission, the present complaint is redundant, a waste of the Commission's resources and improvidently filed to the detriment and unnecessary expense of Ridge Creek Development LLC and Mike Stoner and Denise Stoner. The complaint should be dismissed and, in fairness, Separate Respondents should be awarded their costs to date in defending it.

WHEREFORE, having fully answered and otherwise responded to Office of Public Counsel's complaint, and setting out their grounds for dismissal of the same, separate respondents Ridge Creek Development, L.L.C, Mike Stoner and Denise Stoner respectfully request that Office of Public Counsel's complaint be dismissed, Separate Respondents discharged and awarded their costs herein expended.

Respectfully submitted,

/s/ Mark W. Comley

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Attorneys for Ridge Creek Development, L.L.C,
Mike Stoner and Denise Stoner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via email, on this 19th day of May, 2015, to Kevin Thompson at kevin.thompson@psc.mo.gov; General Counsel's Office at staffcounsel@psc.mo.gov; Christina L. Baker at christina.baker@ded.mo.gov; and Office of Public Counsel at opcservice@ded.mo.gov.

/s/ Mark W. Comley