

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

The Staff of the Missouri Public Service)	
Commission,)	
)
Complainant,)	
)
v.)	Case No. WC-2022-0295
	SC-2022-0296
)
I-70 Mobile City, Inc.)	
d/b/a I-70 Mobile City Park)	
)
Respondent.)	

**RESPONDENT’S OBJECTION TO COMPLAINANT’S REQUEST FOR
PERMISSION FOR ENTRY UPON LAND FOR INSPECTION AND
MOTION FOR PROTECTIVE ORDER**

I-70 Mobile City, Inc., by and through counsel, and for its Objection to Complainant’s Request for Permission for Entry Upon Land for Inspection and Motion for Protective Order, states as follows:

Background

1. On April 22, 2022, the Staff of the Missouri Public Service Commission filed a complaint against I-70 Mobile City, Inc. alleging I-70 is unlawfully providing water and sewer services to the public for gain without certification from the Commission.

2. On May 31, 2022, I-70 filed its Answer and Affirmative Defenses asserting, among other defenses:

- The Commission previously dismissed a nearly identical complaint against Aspen Woods Apartment Associates L.L.C. See File No. WC-2010-0027, Order Dismissing Complaint (October 5, 2011).

- The Commission has never sought to regulate I-70 Mobile City before and currently does not regulate other similarly situated entities; and
- I-70 is not within the Commission’s jurisdiction since it (i) does not provide water or sewer services to the public (ii) does not provide water or sewer services to all individuals within the park; and (iii) only provides water or sewer services to certain individuals pursuant to contract.

3. On June 3, 2022, Complainant filed its Request for Permission for Entry Upon Land for Inspection. See Exhibit A.

Objection

4. I-70 objects to Complainant’s Request for Permission for Entry Upon Land for Inspection on the basis that it seeks irrelevant information, is unduly burdensome and is not proportional to the needs of this case. Complainant has not asserted any claim to which the requested information is relevant, and the request appears to be made for the purpose of vexing and harassing Respondent. Furthermore, the request is duplicative of the thirty-two (32) data requests already submitted by Complainant. Finally, the Staff has not carried its burden to show good cause for why the inspection should be allowed.

Motion for Protective Order

Discovery is governed by Commission Rule 20 CSR 4240-2.090(1), which provides that discovery “may be obtained by the same means and under the same conditions as in civil actions in the circuit court.” The applicable Missouri civil procedure rule is Rule 56.01. That rule provides that generally parties may obtain discovery regarding any relevant matter that is not privileged. In deciding whether discovery is to be had, the court is to consider

whether the discovery is:

proportional to the needs of the case considering the totality of the circumstances, including but not limited to, the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expenses of the proposed discovery outweighs its likely benefit.

Here, the parties' resources do not justify the travel required for an in-person inspection request. Not only has Staff failed to justify the use of taxpayer resources for an unprecedented in-person inspection, but also it would be expensive and burdensome for the Respondent. The President of I-70 Mobile City, Jennifer Hunt, lives in Texas. Having been in operation for nearly thirty years and never having had an encounter with the Public Service Commission previously, she strongly desires to be present for any in-person "inspection." Especially an "inspection" as broad and open-ended as that being requested by the Staff. Such an expense given the parties resources is not justified and the burden of such travel outweighs any benefit of an in-person inspection.

Rule 56.01 also requires that discovery must be limited if the tribunal determines that:

- (A) The discovery sought is cumulative, duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;
- (B) The party seeking discovery as had ample opportunity to obtain the information by discovery in the action; or
- (C) The proposed discovery is outside the scope permitted by this Rule 56.01(b)(1).

The discovery sought by Complainants is duplicative in at least two respects Respondent's Answer already admits that Respondent is providing water and sewer service to certain tenants and it has a permitted lagoon. *See Exhibit B.* As a result, there is simply no need to "inspect" a premises to determine what has already been admitted in the case.

In addition, Complainants issued 32 Data Requests on June 6, 2022. *See Exhibit C.* The requests already encompass inquiries regarding water and sewer service connections, water meters, and the wastewater treatment facility and lagoon. The discovery sought in the inspection requests is duplicative of the information requested in the data requests (which are more convenient, less burdensome and less expensive for both parties). At the very least, the Commission should prohibit the inspection until after the time to respond to the data requests has passed such that a determination of whether the inspections are duplicative of such responses can be made.

The party seeking discovery has the burden of establishing relevance. Missouri Rules of Civil Procedure 56.01(b)(1). The parties here do not disagree on the basic facts. *See Exhibit B (Answer).* The case is largely a disagreement on the law. Here, Complainants have not met their burden of the relevance of the inspection requests and thus the inspection should not be allowed by the Commission.

Finally, with respect to the issuance of an order for the inspection of property, the party seeking such inspection must demonstrate good cause for the same. Failing such showing, such inspection is not warranted. *See, e.g., State ex rel. Bostelmann v. Aronson, 235 S.W.2d 384, 390 (Mo. banc 1950)* (“We think the evidence offered in support of the motion [to inspect] was wholly insufficient...to show ‘good cause’ for the issuance of the order [to inspect]...”); *State ex rel. Headrick v. Bailey, 365 Mo. 160, 278 S.W.2d 737 (Mo. banc 1955).* Here, the Staff has made no showing of any cause, much less good cause, for state action to enter into property, harass residents and employees, and disrupt operations. Absent such showing, the inspection request should be stopped by the Commission.

WHEREFORE, for the foregoing reasons, the Commission should grant

