

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

The Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	
v.)	
)	<u>Case No. WC-2010-0227</u>
Aspen Woods Apartment Associates, LLC,)	
and National Water & Power, Inc.)	
)	
Respondents.)	

NWP RESPONSE TO STAFF’S MOTION FOR RECONSIDERATION

COME NOW Respondent National Water & Power, Inc. (NWP) and submits the following Response to Staff’s December 13, 2010 Motion for Reconsideration of the Commission’s Order of December 1, 2010:

1. The Commission’s Order of December 1, 2010 merely set an oral argument date for the pending motion for summary determination, and directed the parties to file a report delineating their estimate of the number of Missouri apartment complexes that may be similarly situated to those of Aspen Woods.

2. The Commission’s December 1 Order was procedural in nature, and did not contain any determination of any substantive issue. NWP understood that the Commission’s use of the words “that pass-through costs of utility services” in its Order was intended to be descriptive of the similarly situated complexes for which the Commission desired estimates as to their number. NWP did not interpret the Order as

making any determination as what the issue or issues of the case may be, or how the description of an issue should be worded.

3. To the extent Staff's Motion is based on its desire to control how an issue is worded or "spun", it should be rejected. The Commission is capable of determining the issue to be decided. The Commission does so routinely.

4. There is no useful purpose to be served by the Commission addressing Staff's Motion. It would be a waste of Commission resources to have to address motions for reconsideration every time a party did not like some language in a procedural order, and the Commission should not encourage such motions.

5. This case is at the summary disposition stage. The words used in Staff's Complaint don't determine the issue framed by Respondents' Joint Motion for Summary Determination. That motion raises the issue of whether Respondents have devoted their property to the public use. Respondents' Motion is not based upon statutory definitions of water or sewer utilities, and is not directed to statutory terms such as "for gain".

6. The Commission can decide how to frame the issue when it rules on the Summary Determination Motion.

Wherefore, on the basis of the foregoing, NWP requests that Staff's Motion for Reconsideration be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading was electronically mailed to the following attorneys of record in this proceeding this 16th day of December, 2010:

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/s/ Craig S. Johnson