

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

Staff of the Public Service Commission	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. WC-2008-0079
	)	
Universal Utilities, Inc. and Nancy Carol	)	
Croasdell,	)	
	)	
Respondents.	)	

**RESPONDENTS' MOTION FOR RECONSIDERATION**

COME NOW Respondents, pursuant to § 386.500, RSMo. and 4 CSR 240.160(1), and submit this Application for Reconsideration on the grounds that the Commission lacked jurisdiction to issue its January 3, 2008 Order Compelling Production of Books and Papers. The Order is further arbitrary and capricious and an abuse of discretion in that it did not allow Respondents an opportunity to seek rehearing or in the alternative to comply prior to the effective date.

As Respondents have previously pointed out "Questions of jurisdiction may be raised at any point."<sup>1</sup> A tribunal must *sua sponte* determine if it has subject matter jurisdiction.<sup>2</sup> As set forth in detail below, Respondents are not a public utility under the Commission's regulatory purview. As a creature of statute, the Commission has no jurisdiction to issue any Order concerning Respondents.<sup>3</sup> Accordingly, the Commission should reconsider its Order and dismiss this matter for lack of subject matter jurisdiction.

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<sup>1</sup> *Gosserand v. Gosserand*, 230 S.W.3d 628, 631 (Mo.App. W.D. 2007) quoting *Davis v. Davis*, 799 S.W.2d 127, 130 (Mo.App. 1990).

<sup>2</sup> See *Gilstrap v. Gilstrap*, --- S.W.3d ----, 2007 WL 2826941 (Mo.App. W.D. 2007).

<sup>3</sup> See *State ex rel. GS Technologies Operating Co., Inc. v. Public Service Commission*, 116 S.W.3d 680, 696 (Mo.App. W.D. 2003).

The Commission's Order directing the production of records was issued on Thursday, January 3, 2008 and became effective Monday, January 7, 2008. Respondents did not become aware that the Commission had issued the Order until after the close of business on January 7, 2008. It was thus impossible for them to seek reconsideration or in the alternative comply with the Order. The Order is on its face arbitrary and capricious.

**Conclusion**

For the foregoing reasons, Respondents request the Commission to grant reconsideration of its Order and dismiss this matter for lack of jurisdiction.

Dated: January 21, 2008

Respectfully submitted,

LATHROP & GAGE, L.C.

*/s/ Paul S. DeFord*

Paul S. DeFord                      Mo. #29509  
2345 Grand Boulevard, Suite 2800  
Kansas City, MO 64108-2612  
Telephone: (816) 292-2000  
Facsimile: (816) 292-2001  
E-mail: pdeford@lathropgage.com

Aimee D.G. Davenport              Mo. #50989  
314 East High Street  
Jefferson City, MO 65101  
Telephone: (573) 893-4336  
Facsimile: (573) 893-5398  
E-mail: adavenport@lathropgage.com

*Attorneys for Universal Utilities, Inc. and  
Nancy Carol Croasdell*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion to Dismiss Staff's Amended Complaint and Suggestions in Support has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 22nd day of January, 2008, to:

General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
GenCounsel@psc.mo.gov

Lewis Mills  
Office Of Public Counsel  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opcservice@ded.mo.gov

Steven Reed  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
steven.reed@psc.mo.gov

*/s/ Paul S. DeFord*