

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

PAUL SCHAEFER,)	
)	
Complainant,)	
)	File No. WC-2013-0357
v.)	
)	
I.H. UTILITIES, INC.,)	
)	
Respondent.)	
)	

RESPONDENT'S MOTION FOR SUMMARY DETERMINATION

COMES NOW Respondent, I.H. Utilities, Inc., by and through counsel, and pursuant to 4 C.S.R. 240-2.117 moves for a summary determination in favor of Respondent and against Complainant because there is no genuine issue of material fact as to Complainant's Formal Complaint filed herein, and the undisputed facts clearly show that Respondent is entitled to judgment as a matter of law. In support thereof, Respondent states as follows:

A. TIMELY FILING

Respondent's Motion for Summary Determination is timely pursuant to 4 C.S.R. 240-2.117(1) in that said Motion is filed in compliance with the Order Setting Procedural Schedule issued by the Commission on May 23, 2013.

B. STATEMENT OF FACTS

Pursuant to 4 C.S.R. 240-2.117(1)(B) Respondent propounds the following material facts regarding which there is no genuine issue:

1. Complainant filed his Complaint herein seeking water service to a vacant lot he owns in Indian Hills Subdivision located at 2322 Itawamba, Cuba, Missouri. *First Stipulation of Material Facts*, ¶¶ 2 and 3.
2. Complainant's vacant lot is within the Respondent's service area. *First Stipulation of Material Facts*, ¶4.

3. Complainant also owns approximately 100 acres adjacent to his aforementioned vacant lot; but said 100 acres is not within Respondent's service area. *First Stipulation of Material Facts*, ¶5.

4. Complainant states that his plan is to construct a water service line (with service provided by Respondent) along his driveway through the vacant lot, initially to provide irrigation to vegetation and water service through an outdoor hydrant, and at a recreational shelter he constructed which is approximately 1,000 feet from Complainant's vacant lot, and then ultimately at some time in the future, to provide residential service to a home that Complainant is proposing to build on the 100 acres, which lie outside Respondent's service area. *First Stipulation of Material Facts*, ¶11.

5. Respondent's currently effective tariff, P.S.C. Mo. #3, Original Sheet No. 12, Rule 5(f) effective October 27, 2009, states:

"The Company will not install a service connection to a vacant lot." *First Stipulation of Material Facts*, ¶15.

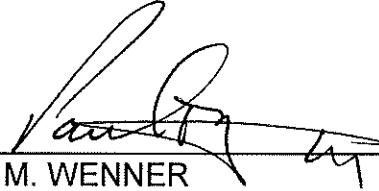
6. Prior to the tariff revision, which became effective on August 27, 2009, Respondent was authorized to provide service to vacant lots and Respondent, under prior tariff language, initiated and has maintained service to vacant lots. *First Stipulation of Material Facts*, ¶16; Joint Notice of Material Error Contained in First Stipulation of Material Facts, ¶6.

7. Respondent, like any regulated utility, is not authorized to provide service to a point outside of its certified area. *First Stipulation of Material Facts*, ¶6.

8. Respondent extended to Complainant an "Installation Agreement" which proposed in part that Respondent would install a 3/4" service connection to customer's vacant lot along with a 3/4" meter at a cost of \$650.00 and a provision that the customer [Complainant] will make no attempt to extend water service off of the vacant lot. Complainant refused to agree to the terms of said "Installation Agreement". *First Stipulation of Material Facts*, ¶¶20 and 21.

WHEREFORE, for the reasons stated herein and in Respondent's Memorandum in Support of this Motion, Respondent herein respectfully requests that the Commission

sustain Respondent's Motion for Summary Determination and enter the determination in favor of Respondent and against Complainant.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Respondent's Motion for Summary Determination was filed with the Public Service Commission of the State of Missouri and served on the following by electronic mail and by mailing a copy of same U.S. Post Office first class mail, postage prepaid, this 28 day of May 2013 to:

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