BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,	)	
Complainant,	)	
vs.	)	**Case No. WC-2010-____**
Aqua Missouri, Inc.,	)	
Respondent.	)	

COMPLAINT AGAINST AQUA MISSOURI, INC.

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and pursuant to Section 386.390, RSMo (2000)[1] and Missouri Public Service Commission ("Commission") Rule 4 CSR 240-2.070 submits this Complaint Against Aqua Missouri, Inc. ("Complaint") as follows:

Statement of Controlling Law

1. Section 386.390.1 states as follows:

> [A] [c]omplaint may be made by the commission of its own motion…by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission…

2. Section 386.570 states as follows:

> 1. Any…public utility which violates or fails to comply with any provision…of this or any other law, or which

[1] Unless otherwise noted, all references to statute refer to the Missouri Revised Statutes (2000), as currently supplemented.

> fails, omits or neglects to obey, observe or comply with any order,…[or] rule…of the commission…is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.
>
> 2. Every violation of the provisions of this or any other law or of any order…[or] rule…of the commission…is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.
>
> 3. In construing and enforcing the provisions of this chapter relating to penalties, the act, omission or failure of any officer, agent or employee of any…public utility, acting within the scope of his official duties of employment, shall…be deemed to be the act, omission or failure of such…public utility.

3. Section 386.600 provides in relevant portion as follows:

> An action to recover a penalty…or to enforce the powers of the commission…may be brought in any circuit court…and shall be commenced and prosecuted to final judgment by the general counsel to the commission….

Procedural Background and
Allegations Common to All Counts

4. Respondent Aqua Missouri, Inc. is a Missouri corporation, listed as in "good standing" with the Office of the Missouri Secretary of State. The Respondent's principal place of business in the State of Missouri is located at 5402 Bus. Hwy. 50W, Suite 2, Jefferson City, MO, 65102. The Respondent's registered agent is CSC – Lawyers Incorporating Service Company, 221 Bolivar, Jefferson City, MO 65101.

5. Respondent Aqua Missouri, Inc. is a "water corporation" and a "public utility" as those terms are defined in Section 386.020 and is subject to the jurisdiction and supervision of the Commission as provided by law.

6. Aqua Missouri, Inc., formerly known as AquaSource/CU, Inc., was issued a certificate of service authority to provide water and sewer services on February 4, 1999 in Case No. WM-99-238. On February 4, 2004, the Commission recognized the corporate name change and approved Aqua Missouri, Inc.'s adoption of AquaSource/CU, Inc.'s tariffs.

7. On May 17, 2005, Aqua Missouri, Inc. initiated a small company rate increase, designated by the Commission as Case No. WR-2007-0020. On September 28, 2006, the Commission approved a Unanimous Stipulation Agreement Regarding Disposition of Cases[2] ("2006 Unanimous Agreement") and ordered Aqua Missouri, Inc. to comply with its terms[3].

8. On December 7, 2007, Aqua Missouri, Inc. initiated another small company rate increase, designated by the Commission as Case No. WR-2008-0266. On August 28, 2008, the Commission approved a Unanimous Agreement Regarding Disposition of Small Water Company Revenue Increase Request ("2008 Unanimous Agreement") and ordered Aqua Missouri, Inc. to comply with its terms[4].

9. On July 15, 2009, Aqua Missouri, Inc. initiated its current small company rate increase. This request has been designated by the Commission as Case No. WR-2010-0027. Pursuant to the Commission's rules, Staff has audited Aqua Missouri Inc.'s books and records, reviewed the Company's tariffs, inspected the Company's facilities, and has reviewed the Company's customer service, general business practices, and facilities operations.

10. Prior to filing this Complaint Staff contacted and informed the Company of the allegations contained herein.

[2] Filed in Case Nos. WR-2007-0020, WR-2007-0021, and SR-2007-0023.
[3] The Commission's Order Approving Unanimous Stipulation and Agreement and Suspending Tariff shall hereinafter be referred to as the Commission's "2006 Order".
[4] The Commission's Order Approving Unanimous Disposition Agreement and Approving Tariff shall hereinafter be referred to as the Commission's "2008 Order".

Count I – Plant Retirements

11. Staff hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-10.

12. The Commission's 2008 Order states as follows:

> (16) That the Company will record plant retirements at the time the replacement plant items are put into service and confirm that the item retired is actually being replaced by the item being placed in service.

13. Staff, having investigated as described above, avers that the Company is not recording plant retirements at the time replacement items are put into service, as required by the Commission's 2008 Order.

WHEREFORE, Staff prays that the Commission find that the Company has violated the terms of the Commission's 2008 Order and that the Commission authorize its General Counsel to proceed in circuit court for the purpose of recovering such penalties as are authorized by law.

Count II – Capital Construction Procedures

14. Staff hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-13.

15. The Commission's 2008 Order states as follows:

> (19) That the Company will develop and implement the use of formal written procedures for all capital construction work orders that, at a minimum, include all individuals' responsibilities in the process, establish procedures for authorization of purchases, identify procedures for proper tracking of all purchases, including district separation, and ensure that all projects are closed in a timely manner.

16. Staff, having investigated as described above, avers that the Company has not implemented procedures which ensure that all capital construction projects are closed in a timely manner, as required by the Commission's 2008 Order.

WHEREFORE, Staff prays that the Commission find that the Company has violated the terms of the Commission's 2008 Order and that the Commission authorize its General Counsel to proceed in circuit court for the purpose of recovering such penalties as are authorized by law.

Count III – Call Recording and Retention

17. Staff hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-16.

18. The Commission's 2008 Order states as follows:

> (12) That the Company will redirect calls, except developer calls, to the call center and all call center calls will be recorded and retained for as long as technically feasible, but in no case less than six months.

19. Staff, having investigated as described above, avers that the Company is not retaining call center calls for the minimum six-month period, as required by the Commission's 2008 Order.

WHEREFORE, Staff prays that the Commission find that the Company has violated the terms of the Commission's 2008 Order and that the Commission authorize its General Counsel to proceed in circuit court for the purpose of recovering such penalties as are authorized by law.

Count IV – Billing Periods

20. Staff hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-19.

21. The Commission's 2008 Order states as follows:

> (28) That the Company will implement the recommendations contained in the Engineering & Management Services (EMSD) Report attached hereto as Attachment D no later than November 30, 2008.

22. The recommendation found on page eighteen (18) of the EMSD Report recommends that the Company "[d]evelop internal control procedures and a tracking mechanism that ensure monthly billing periods do not exceed 35 days and are in accordance with Commission Rules."

23. Staff, having investigated as described above, avers that the Company has not developed procedures which ensure that monthly billing periods do not exceed thirty-five (35) days and are in accordance with Commission rules, as required by the Commission's 2008 Order.

24. Independent of the Commission's 2008 Order, Staff avers that the Company has engaged in billing practices that constitute a violation of the Commission's rules. Commission Rule 4 CSR 240-13.020(1) states that "[a] utility shall normally render a bill for each billing period to every residential customer in accordance with its tariff". "Billing period" is defined by Commission Rule 4 CSR 240-13.010 as "a normal usage period of not less than twenty-six (26) nor more than thirty-five (35) days for a monthly billed customer…"

25. Staff, having investigated as described above, avers that the Company has issued bills to residential customers for periods of service of less than twenty-six (26) or more than thirty-five (35) days, in violation of Commission Rule 4 CSR 240-13.020.

WHEREFORE, Staff prays that the Commission find that the Company has violated the terms of the Commission's 2008 Order and the mandates of Commission Rule 4 CSR 240-13.020 and that the Commission authorize its General Counsel to proceed in circuit court for the purpose of recovering such penalties as are authorized by law.

Count V – Customer Contacts

26. Staff hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-25.

27. Ordered Paragraph Number Five (5) of the Commission's 2006 Order directs Aqua Missouri, Inc. to comply with the terms of the 2006 Unanimous Agreement.

28. The 2006 Unanimous Agreement states as follows:

> (17) In addition to the rate/revenue settlement set forth herein, the Parties agree that the Company's implementation of the Staff recommendations set out in the local public hearing follow-up report prepared by the Engineering & Management Services Department is considered a part of the overall agreed-upon resolution of these cases. For the Commission's convenience, those recommendations are included in Appendix E attached hereto.

29. The report of the Engineering and Management Services Department ("EMSD") (Appendix E as referenced in the 2006 Unanimous Agreement), recommends that the Company

> [e]stablish a practice of recording all customer contacts that occur at the Company's Jefferson City office. The documentation associated with these calls should be sufficient to verify the customers who are referred to the Company's Call Center and to ensure that the customers expecting follow-up from the Jefferson City office manager get their concerns resolved.

30. Staff, having investigated as described above, avers that the Company has not established a practice of recording all customer contacts that occur at the Company's Jefferson City office, as required by the Commission's 2006 Order.

WHEREFORE, Staff prays that the Commission find that the Company has violated the terms of the Commission's 2006 Order and that the Commission authorize its General Counsel to proceed in circuit court for the purpose of recovering such penalties as are authorized by law.

Respectfully submitted,

/s/ Eric Dearmont

Eric Dearmont
Assistant General Counsel
Missouri Bar No. 60892

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-5472 (Telephone)
(573) 751-9285 (Fax)
eric.dearmont@psc.mo.gov