

B /
10/11/98
20
313

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 17th
day of September, 1998.

In the Matter of Summerhaven Condominium)
Owners Association, Complainant, v.)
Waterserv, Inc., and Summerhaven Development)
Corporation and Dale Baumgardner,)
Respondents.)
CASE NO. WC-99-34

ORDER REGARDING DEFAULT and
ORDER DIRECTING STAFF REPORT

On July 21, 1998, three officers of the Summerhaven Condominium Association and six members of the Board of Directors jointly filed a formal complaint on behalf of the Summerhaven Condominium Owners Association (Complainant) against Waterserv, Inc., Summerhaven Development Corporation and Dale Baumgardner (Respondents). The complaint alleges, generally, that the Respondents have (1) constructed a water system without first obtaining permission and approval of the Missouri Public Service Commission, (2) continually operated a water system without a certificate of convenience and necessity from the Missouri Public Service Commission, and (3) initiated an attempt to sell, assign or transfer the assets of this water system to Ozark Shores Water Company without permission and authority from the Missouri Public Service Commission in violation of 4 CSR 240-2.060(5) and in violation of Section 393.190 RSMo.

On July 24 the Commission issued a Notice of Complaint to the Respondents by certified mail and the record reflects that this Notice of Complaint was received on July 27. Pursuant to 4 CSR 240-2.070(9) if the Respondent in a complaint case fails to file an answer within the time period allowed, the Respondent is, therefore, in default and the

allegations of the complaint are deemed to be admitted by the Respondent. More than thirty days have passed since the notice of the complaint and no response has been filed. The Respondents are now in default and the allegations in the complaint are deemed admitted by the Respondents.

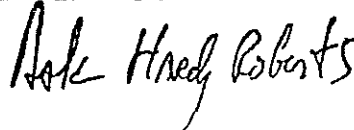
Upon review of the current status of this case, the Commission has determined it appropriate to direct the Commission staff to investigate the allegations set out in the complaint and to report its findings to the Commission. Absent a showing of good cause to the contrary, the Commission will entertain requests for an order of default so that the parties may proceed directly to correcting the problems alleged in the complaint.

IT IS THEREFORE ORDERED:

1. That the Staff of the Missouri Public Service Commission shall investigate the allegations enumerated in the complaint and file its report in Case No. WC-99-34 not later than October 15, 1998.

2. That this order shall be effective on September 28, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Crumpton, Murray, Schemenauer,
and Drainer, CC., Concur.
Lumpe, Ch., Absent.

Roberts, Chief Regulatory Law Judge

RECEIVED
SEP 17 1998
COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION