

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 18th day of June, 2009.

STAFF OF THE MISSOURI)
PUBLIC SERVICE COMMISSION,)
)
Complainant,)
)
v.)
)
CAMARATO DISTRIBUTING, INC.,)
)
Respondent)

File No. TC-2009-0369

ORDER AUTHORIZING FORFEITURE ACTION

Issue Date: June 18, 2009

Effective Date: June 28, 2009

The Missouri Public Service Commission is authorizing its General Counsel to seek penalties in Circuit Court against Camarato Distributing, Inc., ("Camarato") for failure to file its annual report.

Procedure

On March 30, 2009, the Missouri Public Service Commission's staff ("Staff") filed the complaint. On April 10, 2009, the Commission served Camarato's registered agent with notice of the complaint and an order to file an answer. The answer was due on June 2, 2009. As of the date of this order, Camarato has filed no answer.

On May 18, 2009, the Commission ordered Camarato to show cause why the Commission should not issue an order of default under the following provision:

If the respondent in a complaint case fails to file a timely answer, the complainant's averments may be deemed admitted and an order granting default entered. [¹]

As of the date of this order, Camarato has filed no response to that order.

Therefore, the Commission grants a default on the complaint and deems Camarato to admit the complaint's allegations as follows.

Findings of Fact

1. Camarato holds a certificate of service authority to provide basic local and interexchange telecommunications services in the State of Missouri.

2. On January 15, 2008, the Commission's Executive Director emailed to Camarato the following:

- a. Notice of the requirement to file an annual report, covering the calendar year 2007;
- b. The appropriate form for the Company to complete and return to the Commission; and
- c. Instructions on how Camarato could complete its filing electronically.

3. On May 27, 2008, the Commission's General Counsel ("General Counsel") mailed to Camarato a letter stating that continued failure to submit an annual report may subject Camarato to forfeiture as provided by state law.

4. On October 14, 2008 the General Counsel's office mailed to Camarato another letter stating that continued failure to submit an annual report may subject Camarato to forfeiture as provided by state law.

5. Camarato has never filed its 2007 annual report.

¹ 4 CSR 240.070(9), as authorized by §§ 386.410.1 and 536.067(2)(d), RSMo 2000.

Conclusions of Law

The Commission has jurisdiction to hear the complaint of Staff² against Camarato because Camarato is a "telecommunications company"³ and "public utility"⁴ subject to the Commission's jurisdiction.⁵ Staff charges that Camarato is subject to forfeiture. Therefore, Staff has the burden of proving its charges.⁶

Staff's charges are that Camarato violated § 392.210.1, RSMo 2000:

Every telecommunications company shall file with the commission an annual report at a time and covering the yearly period fixed by the commission. . . . If any telecommunications company shall fail to make and file its annual report as and when required . . . , such company shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer.

and 4 CSR 240-3 .540(1):

[A]ll telecommunications companies shall submit an annual report to the commission on or before April 15 of each year[.]

Camarato's deemed admissions show a violation of those provisions, so the Commission concludes that Camarato is in default on its reporting requirement and is subject to forfeiture.

To recover such forfeiture, Staff asks the Commission to authorize its General Counsel to bring an action against Camarato in circuit court under § 392.210.1, RSMo 2000:

Such forfeiture shall be recovered in an action brought by the commission in the name of the state of Missouri.

² Section 386.390.1, RSMo 2000, and 4 CSR 240-2 .070.

³ Section 386.020(52), RSMo Supp. 2008

⁴ Section 386.020(43), RSMo Supp. 2008.

⁵ Section 386.250(2), RSMo 2000.

⁶ *Heidebur v. Parker*, 505 S.W.2d 440, 444 (Mo. App., St.L.D. 1974).

Such action is also subject to § 386.600, RSMo 2000:

An action to recover a . . . forfeiture . . . or to enforce the powers of the commission under . . . any . . . law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission.

The Commission will authorize such action.

THE COMMISSION ORDERS THAT:

1. Camarato Telemanagement Group, Inc., ("Camarato") is in default on the complaint because it filed no answer to the complaint.
2. Camarato is in default on its annual reporting requirement because it filed no annual report for 2007.
3. The Commission's General Counsel is authorized to bring a forfeiture action in circuit court under §§ 392.210.1 and 386.600, RSMo 2000, based on Camarato's violation of § 392.210.1, RSMo 2000, and 4 CSR 240-3.540(1).
4. This order is effective on June 28, 2009.
5. This file may close on June 29, 2009.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
and Gunn, CC., concur.

Jordan, Regulatory Law Judge