

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>Case No. TC-2019-0141</u></b>
	)	
TelAgility Corp.	)	
	)	
Respondent	)	

**MOTION FOR DEFAULT JUDGMENT  
AND FOR AUTHORITY TO SEEK PENALTIES**

**COMES NOW** the Staff of the Missouri Public Service Commission, through the undersigned counsel, and pursuant to 4 CSR 240-2.070(10) moves for a default judgment in the above-referenced case and for authorization of the Commission's General Counsel to seek penalties in circuit court hereafter, and in support of this *Motion for Default Judgment and for Authority to Seek Penalties* hereby states:

1. On November 13, 2018, Staff filed a *Complaint* against Respondent Company for failing to pay the fiscal year 2019 assessment.
2. On November 14, 2018, the Commission issued its *Notice of Contested Case and Order Directing Filing*, ordering Respondent Company to file an answer to the *Complaint* no later than December 14, 2018.
3. Commission Rule 4 CSR 240-2.070(9) provides that "[t]he respondent shall file an answer to the complaint within the time provided. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and assert a denial upon that ground."

4. Commission Rule 4 CSR 240-2.070(10) states that “[i]f 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. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.”

5. As of the date of the filing of this motion, Respondent Company has failed to file an answer in this matter.

**WHEREFORE**, Staff moves that, pursuant to 4 CSR 240-2.070(10), the Commission deems admitted the averments originally raised in Staff’s Complaint and specifically find:

1. That Respondent Company violated Section 386.370.2, RSMo by failing to pay Company’s fiscal year 2019 assessment of \$50.67.

2. That, per Section 408.020 RSMo, Complainant is statutorily entitled to prejudgment interest on Company’s delinquent assessment amount at the “rate of nine percent per annum” due to Company’s failure to pay the fiscal year 2019 assessment of \$50.67.

3. That, by violating Section 386.370.2, RSMo, Respondent Company “is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense[,]” per Section 386.570.1, RSMo.

4. That, per 386.570.2, RSMo, “...in case of a continuing violation each day’s continuance thereof shall be and be deemed to be a separate and distinct offense.” As such, Respondent Company is to be penalized each day that it remains in violation of Section 386.370.2, RSMo.

Staff further prays that the Commission authorize its General Counsel to proceed to circuit court to seek penalties against Respondent Company as provided in Sections 386.600, and 386.570, RSMo and the Commission's rules; and grant such other relief as the Commission deems just and proper.

Respectfully submitted,

**/s/ Travis J. Pringle**

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#### **CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record on this 16th day of January, 2019.

**/s/ Travis J. Pringle**