

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

The Staff of the Missouri Public Service
Commission,)

Complainant,)

v.)

Case No. WC-2010-0227

Aspen Woods Apartment Associates, LLC, Barry)

Howard, Aspen Woods Apartments, Sapal)

Associates, Sachs Investing Co., Michael Palin,)

Jerome Sachs, and National Water & Power, Inc.)

Respondents.)

SECOND JOINT STATUS REPORT

COME NOW the Staff of the Missouri Public Service Commission (Staff) and Aspen Woods Apartment Associates, LLC (Aspen Associates), collectively known herein as the “Parties”¹, and by and through the undersigned counsel state the following to the Commission:

1. On August 30, 2010, the Parties filed a status report that advised the Commission that the Parties had engaged in a settlement discussion on August 25, 2010, and had planned another discussion for September 1, 2010. The Parties subsequently met on September 1, 2010, and continued the settlement discussion, as well as the development of a procedural schedule should the Parties not reach an agreement.

2. On September 3, 2010, the Parties filed a *Joint Proposed Procedural Schedule* that the Commission adopted in part by order on September 7, 2010. The Commission’s order directed the Parties to file additional status reports on October 29, 2010, December 30, 2010, and February 23, 2011.

¹ Counsel for the Respondent National Water & Power, Inc. (NWP), was unavailable to review this report and obtain client approval on the date of this filing due to a prior commitment taking him away from the office. The National Apartment Association did not wish to join this filing.

3. Since the September 1, 2010 discussion, the Parties have neither reached a settlement, nor engaged in additional discussions.

4. On October 5, 2010, the Staff filed a *Motion For Leave To Amend Complaint*, to add additional apartment complexes to the Staff's original *Complaint*. On October 6, 2010, the Commission issued an order directing any party wishing to respond to do so by October 13, 2010.

5. On October 12, 2010, Aspen Associates and NWP filed suggestions in opposition to the Staff's motion, both asserting that the Commission lacks jurisdiction over the Respondents. Also on October 12, 2010, the Commission issued two separate orders directing the Staff to respond to NWP's and Aspen Associate's suggestions, respectively, by October 22, 2010, and for NWP and Aspen Associates to file any motions challenging the Commission's jurisdiction over this matter, along with any supporting evidence, by November 1, 2010. The Commission's orders allowed the Staff until November 22, 2010, to respond to the jurisdictional motions.

6. On October 19, 2010, the National Apartment Association (NAA) filed an *Application To Intervene By The National Apartment Association And Motion For Expedited Consideration*. On October 20, 2010, the Commission directed the Staff to respond to the NAA's application by October 25, 2010.

7. On October 22, 2010, the Staff filed its response to both Aspen Associates' and NWP's suggestions in opposition to the Staff's *Motion For Leave To Amend Complaint*.

8. On October 25, 2010, the Staff filed its response opposing the NAA's application to intervene.

9. On October 26, 2010, Aspen Associates and NWP filed a *Joint Motion For Summary Determination*. The Staff has until November 22, 2010, to file its response.

10. On October 27, 2010, the Commission granted both the Staff's motion for leave to amend its *Complaint* and the NAA's request for intervention. As such, the Staff intends, and the other parties may, engage in further discovery in preparation for the evidentiary hearing scheduled for May 2011.

WHEREFORE, the Parties submit this status report for the Commission's information and consideration.

Respectfully submitted,

/s/ Jennifer Hernandez

Jennifer Hernandez

Legal Counsel

Missouri Bar No. 59814

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360

Jefferson City, MO 65102

(573) 751- 8706 (Telephone)

(573) 751-9285 (Fax)

jennifer.hernandez@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above was served upon the attorneys/parties of record via electronic mail to Lowell D. Pearson, attorney for Aspen Woods Apartment Associates, LLC, at lowell.pearson@huschblackwell.com; Craig S. Johnson, attorney for National Water & Power, Inc., at craigsjohnson@berrywilsonlaw.com; Paul A. Boudreau and John J. McDermott, attorneys for the National Apartment Association at paulb@brydonlaw.com and jmcdermott@naahq.org; and the Office of the Public Counsel at opcservice@ded.mo.gov this 29th day of October 2010.

/s/ Jennifer Hernandez