

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

The Staff of the Missouri Public Service
Commission,)
)
)
Complainant,)
)
v.)
)
Aspen Woods Apartment Associates, L.L.C.,)
Barry Howard, Aspen Woods Apartments,)
Sapal Associates, Sachs Investing Co.,)
Michael Palin, Jerome Sachs, and National)
Water & Power, Inc.)
Respondents.)

File No. WC-2010-0227

ORDER GIVING NOTICE OF CURING OF DEFICIENCY

Issue Date: June 29, 2010

Effective Date: June 29, 2010

On January 29, 2010, the Staff of the Missouri Public Service Commission ("Staff") filed a complaint with the Commission against the Respondents listed above. Notice was issued on February 2, 2010, and the Respondents were directed to answer no later than March 4, 2010. On March 3, 2010, National Water and Power Services Corporation ("NWPSC") attempted to file an answer.¹ The answer was submitted by Michael Foote, Corporate Counsel. Mr. Foote, Colorado Bar No. 32249, had not established that he was authorized to practice law in the State of Missouri.

On March 4, 2010, the Commission gave notice to NWPSC and Mr. Foote that he must seek approval of this State's Supreme Court to appear *pro hac vice*, and must comply with this Commission's rules in order to appear and practice before this Commission. A copy of the relevant Supreme Court and Commission Rules were provided.

On March 10, 2010, the Commission granted NWPSC a one-week extension to correct this deficiency. NWPSC secured local counsel during that time frame, but Mr. Foote still failed to establish that he had complied with this State's rules to practice before this tribunal. However, on May 25, 2010, local counsel for NWPSC requested that the Commission allow him to withdraw.

On June 7, 2010, prior to granting local counsel's request to withdraw, the Commission issued a second notice of deficiency and instructed NWPSC to show cause why its answer should not be rejected once local counsel was granted leave to withdraw. NWPSC did not respond and leave to withdraw was granted to local counsel on June 14, 2010, leaving NWPSC without proper legal representation.

On June 16, local counsel re-entered his appearance and informed the Commission that he had been retained to represent NWPSC solely, and that Mr. Foote would no longer seek to appear *pro hac vice*. Having fully secured proper legal representation sufficiently cures the deficiency regarding adequate representation.

Additionally, NWPSC's answer to the complaint was filed by local counsel, prior to his withdraw and re-entry. This is sufficient cause not to reject NWPSC's answer in relation to retaining and maintaining proper legal representation.

THE COMMISSION ORDERS THAT:

1. The deficiency identified in the Commission's June 7, 2010 "Order Giving Notice of Deficiency and Directing National Water and Power Services Corporation to Show Cause" is deemed cured.

2. The Commission withdraws its June 7, 2010 "Order Giving Notice of Deficiency

¹ National Water and Power, Inc. is apparently an affiliated entity and a co-respondent with NWPSC, but

and Directing National Water and Power Services Corporation To Show Cause.”

3. This order shall become effective immediately upon issuance.

BY THE COMMISSION



**Steven C. Reed
Secretary**

(S E A L)

Harold Stearley, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 29th day of June, 2010.

both entities are referred to collectively as NWPSC for purposes of this order.