

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

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant,	)	
	)	<b><u>Case No. WC-2017-0009</u></b>
v.	)	
	)	<b><u>Case No. SC-2017-0010</u></b>
Osage Water Company	)	
	)	
Respondent.	)	

**STAFF MOTION FOR DEFAULT DETERMINATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its *Motion for Default Determination* pursuant to Commission Rule 4 CSR 240-2.070(10), states as follows:

**Introduction**

1. Staff filed its *Complaint* on July 5, 2016, asserting that Respondent Osage Water Company (“Company” or “Osage Water”) failed to submit its 2015 annual report as required by Section 393.140(6), RSMo<sup>1</sup> and Commission Rules 4 CSR 240-3.335 and 4 CSR 240-3.640. For relief, Staff prays that the Commission authorize the General Counsel’s Office to bring a penalty action against the Respondent in circuit court as provided in Sections 386.600, 386.570, and 393.140(6), RSMo.

2. Respondent’s answer was due by August 13, 2016, but Respondent failed to answer.

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<sup>1</sup> All statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (“RSMo”), revision of 2000.

### **General Allegations**

3. Respondent is a “water corporation” as defined by Section 386.020(59), RSMo, a “sewer corporation” as defined by Section 386.020(49), RSMo, and a “public utility” as defined by Section 386.020(43), RSMo, and thus is subject to the jurisdiction of this Commission pursuant to Section 386.250(3), RSMo.

4. Section 386.390.1, RSMo authorizes the Commission to entertain a complaint “setting forth any act or thing done or omitted to be done by any...public utility...in violation, or claimed to be in violation, of any provision of law, or of any rule, or order or decision of the commission.”

5. Section 386.600, RSMo provides, “an action to recover a penalty...under this chapter or to enforce the powers of the commission under this or any other 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.”

6. Section 393.140(6), RSMo requires every water corporation and every sewer corporation to file with the Commission an annual report, and Rules 4 CSR 240.335 and 4 CSR 240-3.640(1) require the annual reports to be filed with the Commission on or before April 15 of each year.

7. On May 2, 2014, Staff mailed a letter to the Company notifying Respondent that the Commission had not received the Company’s 2013 annual reports and that Respondent would be subject to legal action if the Company did not file its 2013 annual reports by May 22, 2014.

8. Respondent did not file its 2013 annual reports by May 22, 2014.

9. On July 9, 2015, Staff mailed a letter to the Company notifying Respondent that the Commission had not received the Company's 2014 annual reports and that the Respondent would be subject to legal action if the Company did not file its 2014 annual report by August 9, 2015.

10. Respondent did not file its 2014 annual report by August 9, 2015.

11. On April 27, 2016, Staff mailed a letter to the Company notifying Respondent that the Commission had not received the Company's 2015 annual report and that the Respondent would be subject to legal action if the Company did not file its 2015 annual report by May 15, 2016.

12. As of the date of this filing, Respondent has failed, omitted, or neglected to file Missouri Utilities' calendar year 2013, 2014, and 2015 annual reports.

13. Section 393.140(6), RSMo states, "[a]ny such person or corporation which shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same..."

#### **Standard for Entering Default Judgment**

14. Commission Rule 4 CSR 240-2.070(10) provides, "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."

15. The Commission directed Respondent to answer the Complaint by August 13, 2016, but Respondent failed to answer.

**WHEREFORE,** the Staff prays that the Commission will grant default determination of its Complaint filed herein and enter its order (1) finding that the Respondent failed, omitted, or neglected to file its annual reports for 2013, 2014, and 2015, and (2) authorizing the General Counsel's Office to bring a penalty action against the Respondent in circuit court as provided in Sections 386.600, 393.140(6), and 386.570 RSMo; and granting such other and further relief as the Commission deems just.

Respectfully submitted,

**/s/ Marcella L Forck**

Assistant Staff Counsel

Missouri Bar No. 66098

Attorney for the Staff of the

Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-4140 (Telephone)

(573) 751-9265 (Fax)

[Marcella.forck@psc.mo.gov](mailto:Marcella.forck@psc.mo.gov)

#### **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 this 19th day of September, 2016.

**/s/ Marcella L. Forck**