

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

The Staff of the Missouri Public Service
Commission,

Complainant,

v.

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.

Case No. WC-2010-0227

MOTION FOR LEAVE TO AMEND COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and pursuant to Section 386.410 RSMo (2000), 4 CSR 240-2.070 (12) and 4 CSR 240-2.080 (20) respectfully states as follows:

1. On January 29, 2010, the Staff filed a *Complaint* that alleged that the Respondents have owned, operated, controlled and/or managed water and sewer corporations and public utilities, subject to the Commission's jurisdiction and without the proper Commission approval.

2. Throughout this case, the Staff has propounded interrogatories and document requests upon the Respondents National Water & Power, Inc. (NWP), and Aspen Woods Apartment Associates, LLC (Aspen Associates).

3. From discovery documents produced by NWP, the Staff requests leave to amend its *Complaint* to allege in good faith that Aspen Associates not only owns, operates, controls, and/or manages the housing complex known as Madison at Aspen Woods, but also Madison at Seven Trails, located in Ballwin, Missouri, and Madison at Walnut Creek, located in Kansas City, Missouri, known collectively hereafter as the Aspen Associates' Apartment Properties.

These additional locations should be included, as they relate to the same billing contract, have the same owner and are managed identically, or very similarly, to Madison at Aspen Woods.

4. Further, the Staff requests leave to amend its *Complaint* to allege Aspen Associates and/or an authorized agent contracted with Respondent NWP to provide utility billing services to the residents of the Aspen Associates' Apartment Properties.

5. Pursuant to 4 CSR 240-2.070 (12), the matters that the Staff requests leave to allege in its *Complaint* are matters upon which a complaint may be founded, arise out of the same transaction or occurrence, and involve the same questions of law and/or fact.

6. Pursuant to 4 CSR 240-2.080 (20), the Commission may allow the amendment of a pleading at any time after the parties have filed responsive pleadings.

7. The Staff has attached its proposed Amended Complaint hereto as Attachment A.

8. The Staff does not file this motion to harass or unjustly prejudice the parties to this matter.

WHEREFORE, the Staff moves for the Commission to allow the amendment of the Staff's *Complaint* as proposed in Attachment A, to include matters discovered from the Respondents' document productions that support a complaint, arise out of the same transaction or occurrence, and involve the same questions of law and/or fact.

Respectfully submitted,

/s/Jennifer Hernandez

Jennifer Hernandez

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above was served upon the attorneys 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; and the Office of the Public Counsel at opcservice@ded.mo.gov this 5th day of October, 2010.

/s/ Jennifer Hernandez