

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

The Staff of the Missouri Public)	
Service Commission,)	
)	
Complainant,)	
)	
v.)	
)	
Franklin County Service Company,)	
Melody Lake Water & Sewer, LLC,)	
Melody Lake Ranch Associates, Inc.,)	
Gerald Johnson.)	
)	
Respondents.)	

Case No. WC-2006-0363

**MOTION FOR DEFAULT ORDER AND REQUEST FOR CONFERENCE OF ALL
PARTIES TO THE CASE**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and respectfully submits as follows:

Introduction

1. This Motion for Default Order seeks a default order pursuant to Commission Rule 4 CSR 240-2.070. The Respondents are currently in default for failure to file a timely answer by April 23, 2006 as directed by this Commission.

Motion for Default

2. On March 22, 2006, Staff filed its verified Complaint against the Respondents. (Complaint at p. 1-9, Affidavit of James A. Merciel, Jr. and Attachments). The Complaint contains two specific counts specifying Respondents' unlawful transfer of a certificated water company and the provision of water and sewer services to the public, for gain, without

certification or other authority from the Missouri Public Service Commission (Complaint at p. 1-9, Affidavit of James A. Merciel, Jr.).

3. All of the Respondents in this case were served by certified mail on March 27, 2006 pursuant to Commission Rule 4 CSR 240-2.070 (7) (EFIS entry 3 in Case No. WC-2006-0363).

4. The Commission Notice of Complaint directed that Respondents file their Answers to the Complaint within 30 days, which was a requirement of on or before April 23, 2006.

5. Respondents have failed to file their Answers. This failure violates the Commission's Notice of Complaint and Commission Rule 4 CSR 240-2.070 (7, 8). While Complainants filed a letter on April 25, 2006 and a Joint Application for Sale of Water and Sewer Supply System, such documents are not Answers. Commission Rule 4 CSR 240-2.070 (8) provides as follows regarding Answers:

(8) The 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.

6. Commission Rule 4 CSR 240-2.070 (9) provides, in pertinent part:

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 may be entered.

7. Accordingly, Staff requests that the Commission strike the Motion to Dismiss and grant a default order pursuant to Commission Rule 4 CSR 240-2.070 (9).

8. In the Complaint filed in this case, Staff stated the following:

27. In addition to the above complaint allegations, and the following requested relief, the Staff wishes to note its position regarding what it believes should ultimately happen as a result of this complaint and the complaints consolidated in Case No. WC-2006-0128. In that regard, the Staff respectfully refers the Commission to the following excerpt from the "Staff's Conclusions" section of the Staff Report of Investigation filed in Case No. WC-2006-0128 on November 14, 2005. (Attachment 1)

". . . since the regulated company, FCSC, is apparently no longer operating, the Staff believes that FCSC and the LLC and/or the Association should either prepare and file a sale case, or alternatively should submit in these formal complaints all of the appropriate information that would be included in a sale case. That information would include, but not necessarily be limited to, appropriate board decision records of each involved entity regarding disposal or acquisition of assets, how the acquiring utility will be operated under the control of the homeowners/customers, a tax impact statement, and a request by FCSC to cancel its certificates and tariffs after the Commission approves the asset transfer and all required actions are accomplished."

9. Staff readily appreciates the fact that Respondents filed a Letter and a Joint Application for Sale of Water and Sewer Supply System. These are positive developments. Staff, however, is perplexed about why these documents are filed in this case rather in than a separate case. Accordingly, Staff in conjunction with its Request for a Default Order, also requests a Conference, whether denoted as a Prehearing Conference or some other type of Conference, in which the Parties can discuss several matters including the Joint Application for Sale of Water and Sewer Supply System. Staff requests that all Parties to the case be required to appear.

WHEREFORE, Staff respectfully requests that the Commission enter an Order of Default pursuant to 4 CSR 240-2.070(9). In addition, Staff requests a Prompt Conference at which all Parties are required to appear to discuss the case.

Respectfully submitted,

/s/ Robert V. Franson

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 10th day of May, 2006.

/s/ Robert V. Franson