

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant,	)	
	)	<b><u>Case No. WC-2017-</u></b>
v.	)	
	)	
Osage Water Company	)	<b><u>Case No. SC-2017-</u></b>
Gary V. Cover	)	
P.O. Box 506	)	
137 West Franklin	)	
Clinton, MO 65739,	)	
	)	
Respondent.	)	

**COMES NOW** the Staff of the Missouri Public Service Commission, through the undersigned counsel, and pursuant to Section 386.390 RSMo (2000)<sup>1</sup> and 4 CSR 240-2.070(1), files this Complaint with the Missouri Public Service Commission against Respondent, Osage Water Company, for violation of the Commission's statutes and rules relating to the filing of annual reports. In support of its Complaint, Staff respectfully states the following:

1. This matter concerns Respondents failure to timely file its annual reports as required by Section 393.140(6), RSMo and Commission Rule 4 CSR 240-3.640.

<sup>1</sup> All statutory references are to RSMo 2000, as currently supplemented.

## **Parties**

2. Complainant is the Staff of the Missouri Public Service Commission, acting through the Staff Counsel's Office as authorized by Commission Rule 4 CSR 240-2.070(1).

3. Respondent Osage Water Company ("Osage" or "Company") is a Missouri corporation in good standing. Respondent's official representative, as listed in EFIS, is Gary V. Cover, P.O. Box 506, 137 West Franklin, Clinton, MO 64735. This Commission granted Respondent a Certificate of Convenience and Necessity ("CCN") authorizing the Company to provide water and sewer service to the public for gain WA-89-73, and its most recent tariff sheet revisions became effective on January 5, 1989, in JW-2002-0050. Pursuant to that CCN, Respondent provides water service to approximately 370 customers and sewer service to approximately 386 residential and commercial customers in Camden County, Missouri.

## **General Allegations**

4. Respondent owns, controls and manages water sources and other plant and infrastructure by which it sells water to the public for gain and is therefore a "water corporation as defined by § 386.020(59), RSMo. Respondent also owns, controls and manages sewer systems, plants or property for the collection, carriage, treatment and disposal of sewage for the public for gain and is therefore a "sewer corporation" as defined by § 386.020(50), RSMO. Respondent is a "public utility" as defined by § 386.020(43), RSMo, and thus is subject to the jurisdiction of this Commission pursuant to § 386.250(3), RSMo.

5. 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.”

6. 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.”

### **COUNT ONE**

#### **Respondent failed to submit its 2013 annual report**

7. Complainant hereby adopts by reference and re-alleges the allegations set out in paragraphs one (1) through six (6) above.

8. 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 240-3.335(1) and § CSR 240-3.640(1) require the annual reports to be filed with the Commission on or before April 15 of each year.

9. 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 the Respondent would be subject to legal action if the Company did not file its 2013 annual reports by May 22, 2014.

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

11. On February 11, 2015, Respondent's registered agent indicated he was working on the reports and would notify Staff when the reports would be ready. Staff

has been in contact with the Respondent's registered agent several times in an attempt to assist in the completion of these delinquent reports.

12. As of the date of this filing, Respondent has failed, omitted, or neglected to file its calendar year 2013 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..."

**WHEREFORE**, Staff respectfully requests the Commission give notice to the Respondent as required by law and, after the opportunity for hearing, issue an order to Count One that finds the Respondent failed, omitted, or neglected to file its annual reports for 2013 and authorizes the General Counsel's Office to bring a penalty action against the respondent in circuit court as provided in Sections 386.600 and 393.140(6), RSMo.

## **COUNT TWO**

### **Respondent failed to submit its 2014 annual report**

14. Complainant hereby adopts by reference and re-alleges the allegations set out in paragraphs one (1) through six (6) above.

15. 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 240-3.335(1) 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.

16. 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 reports by August 9, 2015.

17. Respondent did not file its 2014 annual reports by August 9, 2015.

18. As of the date of this filing, Respondent has failed, omitted, or neglected to file its calendar year 2014 annual reports.

19. 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..."

**WHEREFORE**, Staff respectfully requests the Commission give notice to the Respondent as required by law and, after the opportunity for hearing, issue an order for Count Two that finds the Respondent failed, omitted, or neglected to file its annual reports for 2014 and authorizes the General Counsel's Office to bring a penalty action against the respondent in circuit court as provided in Sections 386.600 and 393.140(6), RSMo.

### **COUNT THREE**

#### **Respondent failed to submit Osage Water's 2015 annual report**

20. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs one (1) through six (6), above.

21. 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(1) and 4 CSR 240-3.640(1) requires the annual report to be filed with the Commission on or before April 15 of each year.

22. Respondents did not file Osage Water's 2015 annual report by April 15, 2016.

23. 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 reports by June 15, 2016.

24. As of the date of this filing, Respondent has failed, omitted, or neglected to file Osage Water's calendar year 2015 annual reports.

25. 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..."

**WHEREFORE**, Staff respectfully requests the Commission give notice to the Respondent as required by law and, after the opportunity for hearing, issue an order for Count Three that finds the Respondent failed, omitted, or neglected to file a water annual report and a sewer annual report for 2015 and authorizes the General Counsel's Office to bring a penalty action against the Respondent in circuit court as provided in Sections 386.600 and 393.140(6), RSMo.

Respectfully submitted,

**/s/ Marcella L Mueth**

Assistant Staff Counsel

Missouri Bar No. 66098

Attorney for the Staff of the

Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-4140 (Telephone)

(573) 751-9265 (Fax)

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