

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 16th day of
September, 2015.

The Office of the Public Counsel)	
)	
Complainant,)	
)	
v.)	<u>File No. WC-2015-0340</u>
)	
Fawn Lake Water Corp., and)	
Rachel Hackman,)	
)	
Respondents.)	

**ORDER GRANTING MOTION FOR DEFAULT DETERMINATION AND
DIRECTING PUBLIC COUNSEL TO EXPLAIN THE COMMISSION'S
AUTHORITY TO GRANT THE RELIEF IT REQUESTS**

Issue Date: September 16, 2015

Effective Date: October 16, 2015

On June 19, 2015, the Office of the Public Counsel filed a complaint against Fawn Lake Water Corp. and its owner and operator, Rachel Hackman, alleging that the Respondents are providing water to the public for gain without having first obtained authorization from the Commission, as required by Section 393.170, RSMo 2000. A copy of the complaint was served on Fawn Lake Water Corp. by registered mail on July 2, with the receipt signed by Rachel Hackman. Notice by registered mail directed to Rachel Hackman as an individual and as registered agent for Fawn Lake Water Corp. was

returned by the Post Office as unclaimed.¹ Fawn Lake's answer to Public Counsel's complaint was due on July 20, but no answer or other response has been filed. On September 2, Staff filed a Motion for Default Determination, asking the Commission to make a finding of default. Public Counsel concurred in that motion in a pleading filed on September 8.

Commission Rule 4 CSR 240-2.070(10) provides that if a respondent in a complaint case fails to file a timely answer, the Commission may find the respondent to be in default, and may deem the truth of all averments in the complaint to be admitted by the respondent. Public Counsel's complaint alleges that the Respondents are operating a water system in Missouri without having obtained the statutorily required certificate of convenience and necessity from this Commission. Public Counsel asks the Commission to order the Respondents to: 1) apply for and obtain a certificate of convenience and necessity from the Commission; and 2) refund all unlawful charges for water service. Public Counsel also asks the Commission to authorize the Commission's General Counsel to pursue statutory penalties against the Respondents in Circuit Court.

Based on Fawn Lake's failure to file an answer, the Commission finds that Fawn Lake is in default and that the averments in Public Counsel's Complaint are established. Specifically, the Commission finds that Fawn Lake is a water corporation and public utility, as those terms are defined by Missouri statute. The Commission further finds that Fawn Lake has violated Section 393.170 RSMo by providing water service without Commission authority, and that each and every days' violation of law is a separate and continuing

¹ Because the effectiveness of service on Rachel Hackman as an individual is uncertain, this order will grant the motion for default determination only against Fawn Lake Water Corp.

offense. By rule², the Fawn Lake has seven days from the issue date of this order to file a motion to set aside this order of default. However, Commission Rule 4 CSR 240-2.015 allows the Commission to waive, for good cause, any of the provisions of Chapter 2, so the Commission will allow 14 days from the date of issue of this order for Fawn Lake to move to set aside this order of default.

The granting of a determination of default establishes the truth of the facts alleged in Public Counsel's complaint. It does not give the Commission authority to grant relief to Public Counsel if it does not otherwise have authority to grant that relief. In addition to asking the Commission to authorize its General Counsel to pursue penalties against the Respondents,³ Public Counsel asks the Commission to order the Respondents to apply for and obtain a certificate of convenience and necessity from the Commission and to refund all unlawful charges for water service. Public Counsel's complaint does not explain the source of the Commission's authority to grant the requested relief.

Before ruling on the relief requested, the Commission will give Public Counsel an opportunity to explain the basis of the Commission's authority to grant that relief.

THE COMMISSION ORDERS THAT:

1. Staff's Motion for Default Determination, in which Public Counsel concurred, is granted.
2. A default determination is entered against Fawn Lake Water Corp.
3. The facts alleged in Public Counsel's Complaint are found to be established.

² Commission Rule 4 CSR 240-2.070(10).

³ The Commission has directed its General Counsel to seek penalties against both Respondents in Staff's parallel complaint against the Respondents, which is pending in File No. WC-2015-0330.

4. Public Counsel may file a pleading no later than October 19, 2015, setting forth the basis for the Commission's authority to order the Respondents to apply for and obtain a certificate of convenience and necessity from the Commission and to refund all unlawful charges for water service.

5. Fawn Lake is allowed until September 30, 2015, to move to set aside this order of default.

6. This order shall become effective on October 16, 2015.



BY THE COMMISSION

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, Rupp
and Coleman, CC., concur.

Woodruff, Chief Regulatory Law Judge