

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

The Staff of the  
Missouri Public Service Commission,

Complainant,

v.

Port Perry Service Company,  
Michael E. Yamnitz  
728 PCR 724  
Perryville, MO 63775  
[Perryville@mfaoil.com](mailto:Perryville@mfaoil.com)

Respondent.

**Case No. WC-2014-**\_\_\_\_\_

**COMPLAINT**

**COMES NOW** the Staff of the Missouri Public Service Commission (hereinafter “Staff”), 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 (hereinafter “Commission”), against Respondent, Port Perry Service Company (hereinafter “Respondent” or “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:

**General Allegations Common To Both Counts**

1. Respondent is a “water corporation” as defined by Section 386.020(59) RSMo.

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

2. Respondent is also a “sewer corporation” as defined by Section 386.020(49).
3. Respondent is a “public utility” as defined by Section 386.020(43).
4. Pursuant to Section 386.250(3) and Section 386.250(4), Respondent is subject to the jurisdiction of the Commission.
5. On May 18, 1973, the Commission in Case No. 17,681 granted the Respondent a certificate of public convenience and necessity to operate and maintain a water system in a certain described area in Perry County, Missouri.
6. On June 7, 1973, the Commission in Case No. 17,642 granted the Respondent a certificate of public convenience and necessity to operate and maintain a sanitary sewage disposal system in a certain described area in Perry County, Missouri.
7. Section 386.390.1 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.”
8. Commission Rule 4 CSR 240-2.070 authorizes the Staff, through the staff counsel, to file a complaint for a violation of any statute, rule, order, or decision of the Commission.

9. Section 386.600 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’s 2011 annual report is deficient**

10. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs one (1) through nine (9) above.

11. Section 393.140(6) RSMo requires every water and sewer corporation to file with the Commission an annual report, and Rules 4 CSR 240-3.640(1) and 4 CSR 240-3.335 (1) require the annual report to be filed with the Commission on or before April 15<sup>th</sup> of each year.

12. On April 19, 2012, Respondent submitted an Annual Report Extension Request with the Commission in regards to its 2011 Annual Report. The Annual Report Extension Request Form states that “if approved, the extended deadline will be May 15<sup>th</sup>.”

13. On April 19, 2012, the Commission approved Respondent’s Annual Report Extension Request, extending the filing date to May 15, 2012.

14. On September 12, 2012, Respondent filed its 2011 Annual Report.

15. On September 17, 2012, Staff sent Respondent its Initial Review of Respondent's 2011 Annual Report. Staff's Initial Review found several deficiencies. Staff requested that Respondent correct these deficiencies and resubmit its 2011 Annual Report by October 7, 2012, in accordance with 4 CSR 240-3.540(4).

16. Staff has corresponded with Respondent's representative on numerous other occasions to bring the deficiencies to the utility's attention and assist in how to correct the outstanding deficiencies.

17. On January 3, 2013, Respondent resubmitted its 2011 Annual Report.

18. On January 30, 2013, Staff spoke with Respondent about deficiencies that remain in Respondent's 2011 Annual Report and how they could be corrected. Respondent assured Staff that these deficiencies would be corrected within a week.

19. As of the date of this filing, Respondent has failed, omitted, or neglected to correct the deficiencies in its calendar year 2011 Annual Report.

20. Section 393.140(6) states that "[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 to give notice to the Respondent as required by law and, after the opportunity for hearing, issue an order for Count I that finds the Respondent failed, omitted, or neglected to correct the deficiencies in its annual report for 2011 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).

## **COUNT TWO**

### **Respondent has failed to submit its 2012 annual report**

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

22. Section 393.140(6) requires every water and sewer corporation to file with the Commission an annual report, and Rules 4 CSR 240-3.640(1) and 4 CSR 240-3.335 (1) require the annual report to be filed with the Commission on or before April 15<sup>th</sup> of each year.

23. On April 8, 2013, Respondent submitted an Annual Report Extension Request with the Commission in regards to its 2012 Annual Report. With the filing of the extension request, the date by which Respondent was required to file its 2012 annual report was extended until May 15, 2013.

24. Respondent did not file its 2012 Annual Report by the extended filing date of May 15, 2013.

25. Staff has contacted the Respondent's representative to bring the delinquency to the utility's attention and assist in how to correct the outstanding delinquency.

26. As of the date of this filing, Respondent has failed, omitted, or neglected to file its calendar year 2012 Annual Report.

27. Section 393.140(6), states that “[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 II that finds the Respondent failed, omitted, or neglected to file an annual report for 2012 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).

Respectfully submitted,

**/s/ Alexander Antal**

Alexander Antal

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Missouri Public Service Commission

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