

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Guy Thomas,)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-2008-0248</u>
)	
Evergreen Lakes Water Supply,)	
)	
Respondent.)	

ORDER DIRECTING FILING

Issue Date: March 27, 2008

Effective Date: March 27, 2008

Guy Thomas filed a formal complaint against Respondent Evergreen Lake Water Company ("Evergreen") on January 29, 2008. On February 7, 2008, the Commission notified Evergreen of the complaint and allowed it thirty days in which to answer as provided by 4 CSR 240-2.070(7). The same day, pursuant to 4 CSR 240-2.070(10), the Commission ordered its Staff to commence an investigation of Mr. Thomas' formal complaint and to file a report concerning the results of its investigation no later than one week after Evergreen filed its answer to the complaint. As of the date of this order, Evergreen has yet to file an answer, even though such a pleading was due by no later than March 10, 2008 – which was more than two weeks ago.

In relevant part, Commission Rule 4 CSR 240-2.070(8) states: "The respondent shall file an answer to the complaint within the time provided." Furthermore, Commission Rule 4 CSR 240-2.070(9) provides:

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 entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.

Consistent with the well-established principle that default judgments are not favored in the law,¹ the Commission will allow Evergreen one week to file a pleading showing good cause why the Commission should not deem Mr. Thomas' averments to have been admitted and enter an order granting default.

IT IS ORDERED THAT:

1. Respondent Evergreen Lake Water Company shall file, by no later than April 3, 2008, a pleading showing good cause why the Commission should not deem Complainant Guy Thomas' averments to have been admitted and enter an order granting default.
2. This order shall become effective on March 27, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Benjamin H. Lane, Regulatory Law
Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 27th day of March, 2008.

¹ *Adams v. Borello*, 975 S.W.2d 188, 190 (Mo. App. W.D. 1998).