

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 10th day of  
April, 2008.

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

**ORDER GRANTING DEFAULT**

Issue Date: April 10, 2008Effective Date: April 20, 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. Evergreen did not file an answer, even though such a pleading was due by no later than March 10, 2008.

On March 27, 2008, the Commission issued an Order Directing Filing, in which Evergreen was ordered to file, by no later than April 3, 2008, a pleading showing good cause why the Commission should not deem Mr. Thomas’ averments to have been

admitted and enter an order granting default pursuant to Commission Rule 4 CSR 240-2.070(9). Evergreen did not file such a pleading. Accordingly, Mr. Thomas' averments are deemed to have been admitted by Evergreen and Evergreen is hereby found in default.

Commission Rule 4 CSR 240-2.070(9) further provides, in relevant part:

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 this rule, and the well-established principle that default judgments are not favored in the law,<sup>1</sup> Evergreen shall have until April 28, 2008 to move the Commission to set aside the order of default. Any such motion must be supported by a showing of good cause for Evergreen's failure to timely answer. If Evergreen does not do so, the Commission will find as facts the allegations in Mr. Thomas' complaint and will grant him the relief, if any, to which he is entitled on those facts under the governing law.

**IT IS ORDERED THAT:**

1. The averments of Complainant Guy Thomas' complaint are deemed admitted, and an order of default is hereby entered against Respondent Evergreen Lakes Water Supply.

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

2. This order shall become effective on April 20, 2008.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Clayton,  
and Jarrett, CC., concur.

Lane, Regulatory Law Judge