

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

In the Matter of Staff's Investigation into the)	
Conduct of the Court-Appointed Receiver for)	<u>Case No. WO -2016-</u>
M.P.B., Inc., P.C.B., Inc., and Rogue Creek)	
Utilities, Inc.)	

STAFF'S MOTION TO OPEN INVESTIGATORY DOCKET

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and hereby moves the Commission to open an investigatory docket concerning the conduct of the Court-appointed Receiver for certain small water and sewer utilities. In support of its *Motion*, Staff states:

Introduction:

1. This docket concerns the conduct of a Court-appointed receiver, Johansen Consulting, LLC, whom Staff suspects is failing to properly attend to the business of three small water and/or sewer utilities which have been placed in its care, to-wit: M.P.B., Inc., P.C.B., Inc., and Rogue Creek Utilities, Inc.

Parties:

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

3. The subject of Staff's investigation is Johansen Consulting, LLC, a Missouri limited liability corporation in good standing, created on August 16, 2013. Its registered agent is Dale W. Johansen, 915 Country Ridge Drive, Jefferson City, MO 65109.

Facts:

4. M.P.B., Inc., is a Missouri general business corporation not in good standing, organized on July 30, 1984. M.P.B., Inc., was administratively dissolved on May 18, 2012, for failure to file its annual registration report. Its registered agent resigned on March 4, 2014, and service on M.P.B., Inc., may now be had care of the Secretary of State, 600 West Main Street, Jefferson City, MO 65102.

5. On August 28, 2013, the Commission, in Case No. SO-2014-0052, determined that M.P.B., Inc., had been abandoned by its owners, appointed Johansen Consulting Services, LLC, as interim receiver, and directed its General Counsel to seek the appointment of a permanent receiver. On March 10, 2014, in Case No. 14AC-CC00019, the Circuit Court of Cole County, Missouri, attached the assets of M.P.B., Inc., and appointed Johansen Consulting Services, LLC, as receiver and ordered it to operate the system so as to preserve the assets of M.P.B., Inc., and to serve the best interests of its customers.

6. P.C.B., Inc., is a Missouri general business corporation not in good standing, organized on May 21, 1980. P.C.B., Inc., was administratively dissolved on May 18, 2012, for failure to file its annual registration report. Its registered agent resigned on March 4, 2014, and service on P.C.B., Inc., may now be had care of the Secretary of State, 600 West Main Street, Jefferson City, MO 65102.

7. On August 28, 2013, the Commission, in Case No. SO-2014-0052, determined that P.C.B., Inc., had been abandoned by its owners, appointed Johansen Consulting Services, LLC, as interim receiver, and directed its General Counsel to seek the appointment of a permanent receiver. On March 3, 2014,

in Case No. 14AC-CC00020, the Circuit Court of Cole County, Missouri, attached the assets of P.C.B., Inc., and appointed Johansen Consulting Services, LLC, as receiver and ordered it to operate the system so as to preserve the assets of P.C.B., Inc., and to serve the best interests of its customers.

8. Rogue Creek Utilities, Inc., is a Missouri general business corporation not in good standing, organized on December 9, 1974. Rogue Creek Utilities, Inc., was administratively dissolved on December 30, 2004, for failure to file its annual registration report. Its registered agent is William J. Rummel, 101 Windmill Drive, Potosi, MO 63664.

9. On July 10, 2007, the Commission, in Case No. WO-2007-0344, determined that Rogue Creek Utilities, Inc., had defaulted in a proceeding to appoint an interim receiver, appointed an interim receiver, and directed its General Counsel to seek the appointment of a permanent receiver. On September 9, 2013, in Case No. 07AC-CC00682, the Circuit Court of Cole County, Missouri, having attached the assets of Rogue Creek Utilities, Inc., appointed Johansen Consulting, LLC, as Successor Receiver and ordered him to operate the system so as to preserve the assets of Rogue Creek Utilities, Inc., and to serve the best interests of its customers. On September 9, 2013,

10. M.P.B., Inc., has two treatment facilities with 228 sewer service customers in Jefferson and Franklin Counties, Missouri, and P.C.B., Inc., has five treatment facilities with 333 sewer service customers in Jefferson County, Missouri. M.P.B., Inc., and P.C.B., Inc., each has sewage collection pipes and other associated infrastructure, all of which is used to provide sewage collection and treatment services to the public for

gain. Rogue Creek Utilities, Inc., has 99 water service customers and 93 sewer service customers, and operates both water plant and a sewer system in Washington County, Missouri, providing both water and sewer services to the public for gain.

11. Both M.P.B., Inc., and P.C.B., Inc., are sewer corporations within the intendments of § 386.020(49), RSMo., because they own, operate, or control sewer systems, as defined at § 386.020(50), RSMo., by which they provide sewer services to the public for gain. Rogue Creek Utilities, Inc., is both a water corporation within the intendments of § 386.020(59), RSMo., because it owns, operates and controls water plant, by which it sells and supplies water to the public for gain, and a sewer corporation within the intendments of § 386.020(49), RSMo., because it owns, operates, or controls a sewer system, as defined at § 386.020(50), RSMo., by which it provides sewer services to the public for gain. Pursuant to §§ 386.020(43) and 386.250, RSMo., M.P.B., Inc., P.C.B., Inc., and Rogue Creek Utilities, Inc., are therefore public utilities subject to regulation by this Commission.

12. The Commission's Staff has learned that Johansen Consulting Services, LLC, is not regularly billing the customers of M.P.B., Inc., P.C.B., Inc., and Rogue Creek Utilities, Inc., for services rendered, nor collecting revenues, nor paying bills and charges incurred in the regular operation of M.P.B., Inc., P.C.B., Inc., and Rogue Creek Utilities, Inc., and Staff fears that the provision of safe and adequate service by those systems may be jeopardized thereby and that the assets of those systems may thereby be exposed to waste and deterioration. Attached hereto as Exhibit A and incorporated

herein by reference is a letter to Johansen Consulting Services, LLC, from a contract operator advising that it will stop providing services effective December 31, 2015, due to a significant unpaid balance.

WHEREFORE, Staff prays that the Commission will open an investigatory docket into the conduct of Johansen Consulting, LLC, as receiver for M.P.B., Inc., P.C.B., Inc., and Rogue Creek Utilities, Inc., and, if Staff's investigation report documents that the Receiver is not operating the companies in a satisfactory manner, will direct its General Counsel to proceed in circuit court to discharge Johansen Consulting, LLC, and appoint an alternate receiver; or grant such other and further relief as is appropriate in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson

Kevin A. Thompson
Missouri Bar Number 36288
Chief Staff Counsel

Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-751-6514 (Voice)
573-526-6969 (Fax)
kevin.thompson@psc.mo.gov

Attorney for the Staff of the Missouri
Public Service Commission.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 9th day of December, 2015, on Johansen Consulting Services, LLC, and on the Office of the Public Counsel.

Office of the Public Counsel
P.O. Box 2230
200 Madison St., Ste. 650
Jefferson City, MO 65102

Johansen Consulting, LLC
c/o Dale W. Johansen
915 County Ridge Drive
Jefferson City, MO 65109

/s/ Kevin A. Thompson

December 1, 2015

Mr. Dale Johansen
Johansen Consulting Services
915 Country Ridge Drive
Jefferson City, MO 65109-5738

RECEIVED

DEC 07 2015

Re: P.C.B., Inc. Past Due Invoices

**UTILITY OPERATIONS
DIVISION**

Dear Mr. Johansen,

This letter is to serve as notice that effective December 31, 2015, Environmental Consulting & Operations, Inc. will no longer perform any of our contracted duties due to lack of payment. This will include all operations and testing work at facilities owned by P.C.B. which include: Wedgewood Subdivision, Sennawood Subdivision, Bel Aire Estates, Sandia Heights, and Secluded Forest.

The amount due as of the December 1, 2015 billing is \$23,280.00 of which \$13,968.00 is more than 90 days past due. Since the demand letter from the Wegmann Law Firm dated August 4, 2015, the balance has only climbed.

As you know, these plants cannot operate effectively without hauling sludge and replacing essential equipment when necessary. We have done everything possible in terms of day-to-day maintenance to insure that these plants produce the best effluent possible, but without the resources to replace failed blowers, motors and other critical components we cannot avoid the discharge of harmful contaminants to the adjacent waterways. I am concerned that despite my best efforts, the performance of the Cedar Hill and Hillsboro facilities will continue to deteriorate. I do not wish to remain involved in a situation that I cannot control or manage in an effective manner

It is our intent to begin charging interest as stipulated in our contract and seek legal recourse in order to collect all past due monies.

Sincerely,



Jonathan Fribis
President

Cc: Mr. Jim Busch, Missouri Public Service Commission
Ms. Dorothy Franklin, Missouri Department of Natural Resources
Mr. Steve Stoll, Missouri Public Service Commission
Mr. Jim Terry, Jefferson County Councilman District 7
Mr. Ken Waller, Jefferson County Executive