

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

The City of Houston Lake, Missouri,)	
)	
Complainant,)	
)	
v.)	<u>File No. WC-2014-0260</u>
)	
Missouri-American Water Company)	
)	
and)	
)	
The Missouri Public Service Commission,)	
)	
Respondents.)	

**MOTION FOR DETERMINATION ON THE PLEADINGS
DISMISSING THE PUBLIC SERVICE COMMISSION**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its *Motion for Determination on the Pleadings Dismissing the Public Service Commission* from case number WC-2014-0260, states as follows:

Staff relies on Rules 4 CSR 240-2.116(4) and 4 CSR 240-2.117(2). Rule 4 CSR 240-2.116(4) provides, “A case may be dismissed for good cause found by the commission after a minimum of ten (10) days notice to all parties involved.” Rule 4 CSR 240-2.117(2) provides, “Except in a case seeking a rate increase or which is subject to an operation of law date the commission may, on its own motion or on the motion of any party, dispose of all or any part of a case on the pleadings whenever such disposition is not otherwise contrary to law or contrary to the public interest.”

On March 27, 2014 The City of Houston Lake, Missouri (“Houston Lake”), filed a complaint case before the Commission against Missouri-American Water Company

(“Missouri-American”) and the Commission itself. However, there is no statutory authority, and no practical way, for the Commission to adjudicate a complaint case *against itself*.

The *Complaint* cites § 386.120.4, RSMo., and § 386.250.3, RSMo., as authority to maintain an action against the Commission. Section 386.120.4, RSMo., authorizes the Commission to sue and be sued. However, the Commission’s ability to sue and be sued in its official name is a *non sequitur* as to whether the Commission can or should attempt to adjudicate a complaint case brought against itself. Likewise, § 386.250.3, RSMo., which does confer jurisdiction on the Commission over water corporations, does not speak to the Commission’s jurisdiction to hear a complaint case against itself. Neither of these sections authorizes the action that Houston Lake attempts to bring.

Section 386.390.1, RSMo., speaks to the parties subject to the Commission’s complaint case jurisdiction. That jurisdiction extends to “any act or thing done or omitted to be done by any **corporation, person or public utility...**” (Emphasis added.) The Commission is not a corporation, person or public utility. Because the Commission is not named as an entity that could be subject to a complaint, it is beyond the statutory authority of the Commission to hear a complaint against itself. “The PSC ‘is a creature of statute and can function only in accordance with ‘its enabling statutes. [Internal citation omitted]. Its ‘powers are limited to those conferred by ... statutes, either expressly, or by clear implication as necessary to carry out the powers specifically granted.’” ***State ex rel. MoGas Pipeline, LLC v. Missouri Public Service Com’n***, 366 S.W.3d 493, 496 (Mo. banc 2012).

WHEREFORE, because the Commission lacks the statutory authority to hear a complaint case against itself, the Commission must be dismissed as a party to this complaint case.

Respectfully submitted,

/s/ Kevin A. Thompson

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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 **29th day of April, 2014**, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

/s/ Kevin A. Thompson