

The Staff of the Missouri Public Service  
Commission,

Complainant,

v.

Port Perry Service Company,  
728 PCR 724,  
Perryville, MO 63775

Respondent.

CERTIFIED MAIL

Port Perry Service Company,  
728 PCR 724,  
Perryville, MO 63775

Respondent.

CERTIFIED MAIL

Issue Date: July 7, 2017

The Commission will set a 30-day deadline for Respondent to file an answer. In the alternative, Respondent may file a written request that the complaint be referred to a neutral third-party mediator for voluntary mediation. Upon receipt of requests for

<sup>1</sup> A “[c]ontested case” means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing.” Section 536.010.4, RSMo 2016.

mediation, the 30-day time period shall be tolled while the Commission ascertains whether Staff is also willing to submit to voluntary mediation. If Staff agrees to mediation, the time within which answers are due shall be suspended pending the resolution of mediation. Additional information regarding the mediation process is enclosed. If Staff declines to mediate the dispute, Respondent will be notified in writing that the tolling has ceased and will also be notified of the date by which answers must be filed. That period is usually the remainder of the original 30-day period.

As required by Section 536.067(2)(f), RSMo 2016, the Commission informs the parties that the Commission's provisions governing procedures before the Commission, including provisions relating to discovery, are found at Commission Rule 4 CSR 240-2.090.

**THE COMMISSION ORDERS THAT:**

1. The Commission's Data Center shall send, by certified mail, a copy of this notice and order and a copy of the complaint to the following:

Attn: Michael E. Yamnitz  
728 PCR 724  
Perryville, Missouri 63775

2. Port Perry Service Company shall file an answer to the complaint or request mediation no later than August 7, 2017. All pleadings (the answer, the notice of satisfaction of complaint, or request for mediation) shall be filed using the Commission's Electronic Filing and Information System or by mail to the Secretary of the Commission.

3. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Ronald D. Pridgin, Deputy Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,  
on this 7<sup>th</sup> day of July, 2017.

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

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant,	)	
	)	<b><u>Case No. WC-2018-</u></b>
v.	)	
	)	
Port Perry Service Company,	)	<b><u>Case No. SC-2018-</u></b>
	)	
Respondent.	)	

**COMPLAINT**

**COMES NOW** the Staff of the Missouri Public Service Commission, 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 against Respondent, Port Perry Service 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:

**Introduction**

1. This matter concerns Respondent's failure to timely file an annual report as required by Section 393.140(6), RSMo. and Commission Rules 4 CSR 240-3.335 and 4 CSR 240-3.640.

**Parties**

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

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

3. Respondent is Port Perry Service Company, a Missouri corporation in good standing. Respondent's registered agent is Michael E. Yamnitz, 728 PCR 724, Perryville, MO 63775. This Commission granted Respondent a Certificate of Convenience and Necessity ("CCN") authorizing the Company to provide water service to the public for gain on May 18, 1973, in Case No. 17681 and sewer service to the public for gain in Perry County on June 7, 1973, in Case No. 17642. Pursuant to those CCNs, Respondent provides water and sewer service to approximately 328 residential water customers and 139 residential sewer customers in Perry County, Missouri.

#### **General Allegations**

4. Respondent is a "water corporation" as defined by Section 386.020(59), RSMo., a "sewer corporation" as defined by Section 386.020(49), RSMo., and a "public utility" as defined by Section 386.020(43), RSMo., and thus is subject to the jurisdiction of this Commission pursuant to Section 386.250(3), RSMo.

5. Section 386.390.1, RSMo. 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."

6. Section 386.600, RSMo. 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."

**Respondent has failed to submit its 2016 annual report**

7. Complainant hereby adopts by reference and re-alleges the allegations set out in paragraphs one (1) through six (6) above.

8. Section 393.140(6), RSMo. requires every water corporation and every sewer corporation to file with the Commission an annual report, and Rule 4 CSR 240-3.640(1) requires the annual report to be filed with the Commission on or before April 15 of each year.

9. Respondent was granted a thirty (30) day extension for filing its annual reports, requiring submission no later than May 15, 2017.

10. On May 30, 2017, Staff mailed a letter to the Company notifying Respondent that the Commission had not received the Company's 2016 annual report and that the Respondent would be subject to legal action if the Company did not file its 2016 annual report by June 15, 2017.

11. Respondent did not file its 2016 annual report by June 15, 2017.

12. As of the date of this filing, Respondent has failed, omitted, or neglected to file its calendar year 2016 annual report.

13. Section 393.140(6), RSMo. states, "[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 that finds the Respondent failed, omitted, or neglected to file an annual report for 2016 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), RSMo.

Respectfully submitted,

**/s/ Marcella L Forck**

Associate Staff Counsel

Missouri Bar No. 66098

Attorney for the Staff of the

Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-4140 (Telephone)

(573) 751-9265 (Fax)

[Marcella.Forck@psc.mo.gov](mailto:Marcella.Forck@psc.mo.gov)

#### **CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record this 6<sup>th</sup> day of July, 2017.

**/s/ Marcella L. Forck**



**Commissioners**

**DANIEL Y. HALL**  
Chairman

**STEPHEN M. STOLL**

**WILLIAM P. KENNEY**

**SCOTT T. RUPP**

**MAIDA J. COLEMAN**

***Missouri Public Service Commission***

POST OFFICE BOX 360  
JEFFERSON CITY MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

**SHELLEY BRUEGGEMANN**  
General Counsel

**MORRIS WOODRUFF**  
Secretary

**WESS A. HENDERSON**  
Director of Administration  
and Regulatory Policy

**CHERLYN D. VOSS**  
Director of Regulatory Review

**KEVIN A. THOMPSON**  
Chief Staff Counsel

**Information Sheet Regarding Mediation of Commission Formal Complaint Cases**

Mediation is a process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as “facilitated negotiation.” The mediator’s role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who “wins.” Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. The Regulatory Law Judges at the Public Service Commission are trained mediators and this service is offered to parties who have formal complaints pending before the Public Service Commission at no charge. In addition, the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a “winner” and a “loser” although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as “win-win” agreement.

The traditional mediator’s role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant’s perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the



participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The Judge assigned to be the mediator will not be the same Judge assigned to the contested complaint.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case. If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

A handwritten signature in dark ink, reading "Morris L. Woodruff". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Morris L. Woodruff  
Secretary

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 7<sup>th</sup> day of July 2017.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**July 7, 2017**

**File/Case No. WC-2018-0002 and SC-2017-0003**

**Missouri Public Service  
Commission**

Staff Counsel Department  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounsel@psc.mo.gov

**Office of the Public Counsel**

Hampton Williams  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opc@psc.mo.gov

**Port Perry Service Company**

Legal Department  
728 PCR 724  
PO Box 43  
Perryville, MO 63775

**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

**Sincerely,**



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.