

The Staff of the Missouri Public Service Commission,)	
)	
)	<u>File No. WC-2017-0007</u>
Complainant,)	
)	
v.)	
)	<u>File No. SC-2017-0008</u>
Missouri Utilities Company,)	
)	
Respondent.)	

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Response to Motion to Set Aside Order Granting Motion for Default Determination* respectfully states as follows:

1. On November 17, 2016, the Commission issued an *Order Granting Motion for Default Determination*.
2. On November 21, Missouri Utilities Company (“Missouri Utilities” or “Company”) filed a *Motion to Set Aside Order Granting Motion for Default Determination*. In its motion, the Company requested that the Commission approve the sale of the Company’s assets.
3. Section 393.140(6), RSMo, requires every water corporation and every sewer corporation to file with the Commission an annual report, and Rules 4 CSR 240-3.335(1) and 4 CSR 240-3.640(1) require the annual reports to be filed with the Commission by April 15 of each year.

4. Section 386.370(3) requires each utility company to pay its assessment in full by July 15 of each year, unless it opts into equal quarterly payments of the assessment, beginning on July 15.

5. Section 386.020 defines both a sewer corporation and a water corporation to include receivers appointed by any court.¹

6. Mr. Gary Cover has been the receiver of Missouri Utilities since August 14, 2006 and has filed annual reports for 2007 - 2012. He has also paid assessments for the Company for fiscal years 2008 - 2013, 2015, 2016, and a portion of 2017. His performance of his required duties as receiver is evidence of his awareness of the requirements that he file annual reports and pay assessments each year.

7. In its *Motion to Set Aside Order Granting Motion for Default Determination*, Missouri Utilities indicated an exhaustion of funds and an inability to hire an accountant to assist in preparation of Annual Reports.²

8. 4 CSR 240-3.050 provides procedures for filing a small utility rate case, which would allow Missouri Utilities to request an increase in overall operating revenues. Such a case would be an avenue by which the Company could have requested funds to pay an accountant to complete such tasks as the annual report.

9. Further, it is unnecessary to hire an accountant to complete annual reports. Staff has made itself available on numerous occasions to answer any questions in order to assist companies in completion of their annual reports.

¹ §386.020(49) defines sewer corporation, and §386.020(59) defines water corporation.

² Paragraphs 3 and 4.

10. On November 22, Missouri Utilities filed an *Application and, if Necessary, Motion for Waiver* in case number WM-2017-0151, regarding the sale of the Company to Elm Hills Utility Operating Company, Inc.

11. The filing of such application may resolve some of the open cases against Missouri Utilities,³ but it alone does not waive the Company's statutory duty to complete its annual reports.

12. Staff recommends that Mr. Cover and the Company resolve the annual reports at this time without waiting for the sale of the company to be approved and completed.

13. If the Company and its receiver are unable to complete these outstanding annual reports, Staff would request that Missouri Utilities file a motion requesting a stay of *all* pending Missouri Utility cases until the transfer to Elm Hills Utility Operating Company, Inc. is complete.

WHEREFORE, Staff respectfully submits its response.

Respectfully submitted,

/s/ Marcella L Forck

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³ WC-2017-0007 and SC-2017-0008 address annual reports; WC-2017-0095 addresses water and sewer assessments; WM-2017-0151 addresses the sale of the Company.

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 28th day of November, 2016.

/s/ Marcella L. Forck