

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

The Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-2017-0009</u>
)	
Osage Water Company)	
)	
)	<u>Case No. SC-2017-0010</u>
Respondent.)	
)	
CERTIFIED MAIL)	

**ORDER GIVING NOTICE OF CONTESTED CASE AND DIRECTING
RESPONDENT TO FILE ANSWER**

Issue Date: July 14, 2016

Effective Date: July 14, 2016

On July 5, 2016, the Staff of the Missouri Public Service Commission filed a formal complaint against Osage Water Company ("Osage Water"), a public utility regulated by the Commission. A copy of the complaint accompanies this notice. This is a contested case¹ pursuant to Section 386.390, RSMo 2000.

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

¹ 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 Supp. 2013.

resolution of mediation. Additional information regarding the mediation process is enclosed. If Staff declines to mediate the dispute, Osage Water 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 2000, 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: Osage Water Company
Gary V. Cover
P.O. Box 506
137 West Franklin
Clinton, MO 64735

2. Osage Water Company shall file an answer to the complaint or request mediation no later than August 13, 2016. 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 cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Kim S. Burton, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 14th day of July, 2016.

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	<u>Case No. WC-2017-</u>
v.)	
)	
Osage Water Company)	<u>Case No. SC-2017-</u>
Gary V. Cover)	
P.O. Box 506)	
137 West Franklin)	
Clinton, MO 65739,)	
)	
Respondent.)	

COMES NOW the Staff of the Missouri Public Service Commission, through the undersigned counsel, and pursuant to Section 386.390 RSMo (2000)¹ and 4 CSR 240-2.070(1), files this Complaint with the Missouri Public Service Commission against Respondent, Osage Water 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:

1. This matter concerns Respondents failure to timely file its annual reports as required by Section 393.140(6), RSMo and Commission Rule 4 CSR 240-3.640.

¹ All statutory references are to RSMo 2000, as currently supplemented.

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).

3. Respondent Osage Water Company ("Osage" or "Company") is a Missouri corporation in good standing. Respondent's official representative, as listed in EFIS, is Gary V. Cover, P.O. Box 506, 137 West Franklin, Clinton, MO 64735. This Commission granted Respondent a Certificate of Convenience and Necessity ("CCN") authorizing the Company to provide water and sewer service to the public for gain WA-89-73, and its most recent tariff sheet revisions became effective on January 5, 1989, in JW-2002-0050. Pursuant to that CCN, Respondent provides water service to approximately 370 customers and sewer service to approximately 386 residential and commercial customers in Camden County, Missouri.

General Allegations

4. Respondent owns, controls and manages water sources and other plant and infrastructure by which it sells water to the public for gain and is therefore a "water corporation as defined by § 386.020(59), RSMo. Respondent also owns, controls and manages sewer systems, plants or property for the collection, carriage, treatment and disposal of sewage for the public for gain and is therefore a "sewer corporation" as defined by § 386.020(50), RSMO. Respondent is a "public utility" as defined by § 386.020(43), RSMo, and thus is subject to the jurisdiction of this Commission pursuant to § 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.”

COUNT ONE

Respondent failed to submit its 2013 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 Rules 4 CSR 240-3.335(1) and § CSR 240-3.640(1) require the annual reports to be filed with the Commission on or before April 15 of each year.

9. On May 2, 2014, Staff mailed a letter to the Company notifying Respondent that the Commission had not received the Company's 2013 annual reports and that the Respondent would be subject to legal action if the Company did not file its 2013 annual reports by May 22, 2014.

10. Respondent did not file its 2013 annual reports by May 22, 2014.

11. On February 11, 2015, Respondent's registered agent indicated he was working on the reports and would notify Staff when the reports would be ready. Staff

has been in contact with the Respondent's registered agent several times in an attempt to assist in the completion of these delinquent reports.

12. As of the date of this filing, Respondent has failed, omitted, or neglected to file its calendar year 2013 annual reports.

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 to Count One that finds the Respondent failed, omitted, or neglected to file its annual reports for 2013 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.

COUNT TWO

Respondent failed to submit its 2014 annual report

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

15. 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 on or before April 15 of each year.

16. On July 9, 2015, Staff mailed a letter to the Company notifying Respondent that the Commission had not received the Company's 2014 annual reports and that the Respondent would be subject to legal action if the Company did not file its 2014 annual reports by August 9, 2015.

17. Respondent did not file its 2014 annual reports by August 9, 2015.

18. As of the date of this filing, Respondent has failed, omitted, or neglected to file its calendar year 2014 annual reports.

19. 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 for Count Two that finds the Respondent failed, omitted, or neglected to file its annual reports for 2014 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.

COUNT THREE

Respondent failed to submit Osage Water's 2015 annual report

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

21. 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

240.335(1) and 4 CSR 240-3.640(1) requires the annual report to be filed with the Commission on or before April 15 of each year.

22. Respondents did not file Osage Water's 2015 annual report by April 15, 2016.

23. On April 27, 2016, Staff mailed a letter to the Company notifying Respondent that the Commission had not received the Company's 2015 annual report and that the Respondent would be subject to legal action if the Company did not file its 2015 annual reports by June 15, 2016.

24. As of the date of this filing, Respondent has failed, omitted, or neglected to file Osage Water's calendar year 2015 annual reports.

25. 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 for Count Three that finds the Respondent failed, omitted, or neglected to file a water annual report and a sewer annual report for 2015 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 Mueth

Assistant Staff Counsel

Missouri Bar No. 66098

Attorney for the Staff of the

Missouri Public Service Commission

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Chairman

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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 the first and last names being capitalized and prominent.

Morris L. Woodruff
Secretary

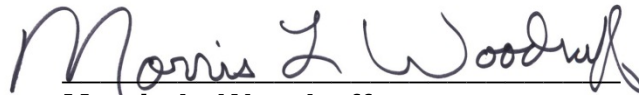
STATE OF MISSOURI

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 14th day of July 2016.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

July 14, 2016

File/Case No. WC-2017-0009 and SC-2017-0010

**Missouri Public Service
Commission**

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

Sincerely,



**Morris L. Woodruff
Secretary**

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