

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

The Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	
vs.)	<u>Case No. WC-2018-</u>
)	
Whiteside Hidden Acres, LLC,)	
)	
Respondent)	

Staff's Complaint

COMES NOW the Staff of the Missouri Public Service Commission and for its *Complaint*, states as follows:

Introduction:

1. This matter concerns the failure of Whiteside Hidden Acres, LLC, to timely file an Annual Report as required by § 393.140(6), RSMo., and Commission Rule 4 CSR 240-3.640 (Water Corporations).

Complainant:

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

Respondents:

3. Respondent is Whiteside Hidden Acres, LLC, a Missouri limited liability company. Its principal place of business and registered office is at 901 St. Louis St., 20th Floor, Springfield, MO 65806. Its registered agent is Craig F. Lowther, 901 St. Louis St., 20th Floor, Springfield, MO 65806.

Jurisdiction:

4. Whiteside Hidden Acres, LLC, operates, controls or manages plant or property, or a dam or a water supply, canal, or power station, and distributes or sells for distribution, or sells or supplies water for gain, near Pittsburg, Hickory County, State of Missouri.

5. Whiteside Hidden Acres, LLC, is thus a water corporation pursuant to § 386.020(59), RSMo., and a public utility pursuant to § 386.020(43), RSMo.

6. As a water corporation and a public utility, Whiteside Hidden Acres, LLC, is subject to the jurisdiction, regulation and control of this Commission. Section 386.250, RSMo., and Chapters 386 and 393, RSMo., the *Public Service Commission Law*.

7. Section 386.390.1, RSMo., authorizes the Commission to hear and determine complaints:

Complaint may be made by the commission of its own motion, or by the public counsel or any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or 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

8. The Commission has by rule authorized the Staff Counsel's Office to bring complaints on behalf of the Staff: "A complaint may also be filed by . . . the commission staff through the staff counsel" ¹

¹ Rule 4 CSR 240-2.070(1).

9. Section 393.140(6), RSMo., provides:

The Commission shall:

* * *

(6) Require every person and corporation under its supervision and it shall be the duty of every person and corporation to file with the commission an annual report, verified by the oath of the president, treasurer, general manager or receiver, if any, thereof. The verification shall be made by said official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same, shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail the amount of its authorized capital stock and the amount thereof issued and outstanding; the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; its receipts and expenditures during the preceding year; the amount paid as dividends upon its stock and as interest upon its bonds; the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the person or corporation making such report to amend the same within a time prescribed by the commission. * * *

10. Commission Rule 4 CSR 240-3.640 provides in pertinent part:

(1) All water utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

11. Section 393.140(6), RSMo., further provides for a penalty of \$100.00 plus \$100.00, "for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state."

Facts and Cause of Action:

12. Although its Annual Report was due on April 15, 2018, Whiteside Hidden Acres, LLC, neither filed the required report nor requested an extension of the due date.

13. Whiteside Hidden Acres, LLC, is therefore in violation of § 393.140(6), RSMo., and Commission Rule 4 CSR 240-3.640(1).

WHEREFORE, Staff prays that the Commission will give due notice to the Respondent and, after hearing, determine that Respondent has violated § 393.140(6), RSMo., and Commission Rule 4 CSR 240-3.640(1) as set out above, and thereupon authorize its General Counsel to seek in Circuit Court the penalties allowed by law; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson

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Attorney for Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 25th day of May, 2018, to all counsel of record.

/s/ Kevin A. Thompson