

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 8th day of February, 2023.

The Staff of the Missouri Public Service)
Commission,)
Complainant,)
v.)
I-70 Mobile City, Inc. d/b/a I-70 Mobile City)
Park.)
Respondent.)

File No. WC-2022-0295

**ORDER DENYING I-70 MOBILE CITY PARK'S MOTION FOR A
PROTECTIVE ORDER**

Issue Date: February 8, 2023

Effective Date: February 8, 2023

On April 22, 2022, the Staff of the Missouri Public Service Commission (Staff) filed a complaint against I-70 Mobile City, Inc. d/b/a I-70 Mobile City Park, alleging that it is providing water and sewer services for gain without Commission authorization. Staff and I-70 Mobile City Park were unable to resolve a discovery dispute at a June 30, 2022, discovery conference concerning Staff's request to enter onto I-70 Mobile City Park's premises to conduct an inspection of the water and sewer system. Staff filed a motion to compel discovery on July 8, 2022, which the Commission granted on July 27, 2022. On September 9, 2022, the Commission directed its General Counsel to seek enforcement of the Commission's July 27, 2022 order.

On November 13, 2022, I-70 Mobile City Park filed a motion for summary determination, which is currently stayed pending resolution of the action in Circuit Court to enforce the Commission's order to allow entry on land. Subsequently, on

December 8, 2022, I-70 Mobile City Park filed a *Motion for Protective Order* that asks the Commission to issue an order staying discovery until its motion for summary determination has been ruled upon.

I-70 Mobile City Park filed its *Motion for Protective Order* pursuant to Missouri Rule of Civil Procedure 56.01(c), which provides that a protective order may prevent or limit discovery. In support of its motion I-70 Mobile City Park states that it has filed a motion for summary determination for the Commission to determine whether it has jurisdiction in this complaint. I-70 Mobile City Park's motion further indicates that Staff could get some of its discovery from the Missouri Department of Natural Resources, and implies that Staff is conducting discovery with the purpose of vexing or harassing I-70 Mobile City Park.

On December 13, 2022, Staff filed a response to I-70 Mobile City Park's *Motion for Protective Order*. Staff states that I-70 Mobile City Park's motion questions whether Respondent I-70 Mobile City Park is a public utility requiring the Commission's regulation. Staff response further states that "In order to answer the questions at the heart of this case, facts need to be examined and discovery needs to be completed." Staff indicates that by physically examining the water and sewer system it can determine to what extent I-70 Mobile City Park is providing service and whether that service is safe and adequate.

On January 29, 2023, the Circuit Court of Cole County, Missouri, issued its *Order and Judgment* enforcing the Commission's July 27, 2022, *Order Granting Staff's Motion to Compel and Denying Respondent's Request for a Protective Order*.¹ That Commission order compelled I-70 Mobile City Park to allow Staff entry onto its property to perform an

¹ I-70 Mobile City Park previously requested a protective order on June 13, 2022, which was denied in the Commission's July 27, 2022, *Order Granting Staff's Motion to Compel and Denying Respondent's Request for a Protective Order*.

inspection. The Circuit Court's *Order and Judgment* notes that I-70 Mobile City Park argued that Staff should not be allowed to inspect I-70 Mobile City Park's property until the Commission determines it has jurisdiction over I-70 Mobile City Park in this complaint case. The *Order and Judgment* analyzes the jurisdictional issue, in part, as follows:

"Respondent² argues that Staff should not be permitted to inspect Respondent's property until the Commission first determines whether it has jurisdiction over Respondent in the underlying case. But the Commission's jurisdiction over Respondent is precisely the contested issue in the underlying Staff Complaint case, and Staffs Request is reasonably calculated to lead to the discovery of admissible evidence that will assist the Commission in deciding the jurisdictional issues before it. Parties before the Commission must have access to reasonable discovery so they can present a complete, accurate and detailed record to the Commission to aid its determination of such jurisdictional issues."

The Commission concurs with Staff and the Cole County, Missouri, Circuit Court's analysis. I-70 Mobile City Park appears to be asking the Commission to determine its jurisdiction with one hand, while seeking to prevent the Commission from having the means to determine its jurisdiction with the other hand. I-70 Mobile City Park's *Motion for Protective Order* seeks to prevent Staff from conducting discovery necessary to respond to I-70 Mobile City Park's motion for summary determination. The Commission again finds that Staff's discovery requests are appropriate and reasonably calculated to lead to the discovery of admissible evidence and comply with the requirements of Missouri Rule of

² I-70 Mobile City Park.

Civil Procedure 56.01(a) and (b). The Commission does not find that Staff's discovery requests are for the purpose of harassing, vexing, or embarrassing I-70 Mobile City Park. The Commission will deny I-70 Mobile City Park's second request for a protective order.

THE COMMISSION ORDERS THAT:

1. I-70 Mobile City Park's December 8, 2022, *Motion for Protective Order* is denied.
2. 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

Rupp, Chm., Coleman, Holsman, and
Kolkmeier CC., concur.

Clark, Senior Regulatory Law Judge


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 8th day of February, 2023.





Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

February 8, 2023

File/Case No. WC-2022-0295

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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.