

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 5th day of
February, 2014.

The Staff of the Missouri Public Service Commission,)	
)	
)	
v.)	<u>File No. WC-2014-0101</u>
)	
Port Perry Service Company,)	
)	
Respondent)	

**ORDER GRANTING MOTION
TO ABROGATE ORDER OF DEFAULT
AUTHORIZING STAFF TO SEEK PENALTIES, AND
ORDER APPROVING UNANIMOUS STIPULATION AND AGREEMENT**

Issue Date: February 5, 2014

Effective Date: February 15, 2014

On October 16, 2013, the Staff of the Missouri Public Service Commission filed a complaint against Port Perry Service Company stating that after a number of attempts to work with the company to cure deficiencies in its 2011 annual report, the company also failed to submit its 2012 annual report. For its relief, Staff sought Commission authority to seek penalties in circuit court.

The company failed to respond to the complaint and on December 4, the Commission issued an order finding the company in default and authorized Staff to seek penalties. The order became effective on December 12 and the file was closed on January 8, 2014.

After discussions, Staff, on behalf of it and the company, filed a motion to abrogate the Commission's order and to approve an attached Stipulation and Agreement.

As part of the Agreement, the company admits to the concerns averred by Staff in its complaint. Also, within 30 days of the effective date of a Commission order approving the Agreement, the company is required to remit a payment of \$2,500 to the Missouri Public School Fund. Finally, the company has shared a Compliance Plan with Staff that is intended to ensure the company's compliance with its yearly filing requirements.

Discussion

As pointed out by the parties, the Commission has authority to abrogate its orders.¹ Rule 4 CSR 240-2.115(1)(A) allows parties to propose a resolution of a contested case by filing a stipulation and agreement. The Commission may then resolve the case based on that agreement.²

The Commission also notes that although the Office of the Public Counsel is not a signatory to the agreement, it is a party to this action. Because Public Counsel is a party, but not a signatory, the agreement is not unanimous. However, if a party does not object to an agreement within 7 days of its filing, the Commission may treat the agreement as unanimous. More than 7 days have expired and no party has filed an objection to the agreement. The Commission will therefore treat the agreement as unanimous.

Because this file is being disposed of by stipulation and agreement, the Commission need not make findings of fact or conclusions of law.³ However, the Commission independently concludes that the agreement is consistent with the public interest and is reasonable. Having so concluded, the Commission will approve the agreement, which is attached to this order.

¹ Section 386.490.2, RSMo; first interpreted in *State ex rel. Jackson County v. Public Service Commission*, 532 S.W.2d 20, 29-30 (Mo. banc 1975).

² 4 CSR 240-2.115(B).

³ Section 536.090 RSMo.

THE COMMISSION ORDERS THAT:

1. The Commission's Order of Default and Order Authorizing Staff to Seek Penalties is abrogated.
2. The Stipulation and Agreement entered into between the Staff of the Commission and Port Perry Service Company is approved and the parties shall abide by its terms.
3. This order shall become effective on February 15, 2014.
4. This file shall be closed on February 16, 2014.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff
Secretary

R. Kenney, Chm., Stoll, W. Kenney,
and Hall, CC., concur.

Jones, Senior Regulatory Law Judge