

The Staff of the Missouri Public Service Commission,

Complainant

V.

Argyle Estates Water Supply,

Serve:

Albert E. Argyle  
408 Hillcrest Drive  
Union, MO 63084

CERTIFIED MAIL

Respondent.

**File No. WC-2019-0048**

## NOTICE OF CONTESTED CASE AND ORDER

Issue Date: August 17, 2018

Effective Date: August 17, 2018

On August 16, 2018, the complainant filed the complaint, a copy of which is attached. The filing of a complaint requires the Commission to set a hearing.<sup>1</sup> The requirement of a hearing on such issues signifies a contested case.<sup>2</sup> A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities and a decision without a hearing, including by stipulation and agreement.<sup>3</sup> The Commission's provisions for discovery are at 4 CSR 240-2.090.

Also, as an alternative to the formal evidentiary hearing procedure, the Commission offers mediation. Mediation is a voluntary process in which a neutral

<sup>1</sup> Section 386.390.5, RSMo 2016.

<sup>2</sup> Section 536.010(4), RSMo 2016.

<sup>3</sup> Section 536.060, RSMo 2016; 4 CSR 240-2.115.

person assists the parties in exploring opportunities for settlement. Upon a request for mediation, the Commission may suspend the schedule set forth in this order.

**THE COMMISSION ORDERS THAT:**

1. The Commission's Data Center shall serve a copy of this notice and order, and a copy of the complaint, upon the respondent by certified mail, postage prepaid.
2. The respondent shall file an answer no later than September 17, 2018.
3. 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

Paul T. Graham, Regulatory Law Judge,  
by delegation of authority pursuant  
to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,  
on this 17<sup>th</sup> day of August, 2018

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	
vs.	)	<b><u>Case No. WC-2019-</u></b>
	)	
Argyle Estates Water Supply,	)	
	)	
Respondents	)	

**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 Respondent Argyle Estates Water Supply, pursuant to the provisions of Section 386.370 RSMo, to pay an assessment of \$87.75 as ordered by the Commission on June 23, 2017, following Case No. AO-2017-0344, *Assessment Order for Fiscal Year 2018*.

**Complainant:**

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

**Respondents:**

3. Respondent is Argyle Water Supply (“Argyle”). Argyle’s principal place of business is located at 408 Hillcrest Drive, Union, MO 63084. Argyle’s designated

operator is Albert E. Argyle, located at 408 Hillcrest Drive, Union, MO 63084. On information and belief, Argyle is a proprietorship operated by Albert E. Argyle.

**Jurisdiction:**

4. Argyle provides water service to portions of Franklin County pursuant to certificates of convenience and necessity issued -- and tariffs approved -- by this Commission, serving approximately fifty-two residential customers in Franklin County.

5. Respondent is engaged in the business of selling potable water for gain using property and facilities that it owns, operates and controls. Argyle 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, Argyle is subject to the jurisdiction, regulation and control of this Commission. Section 386.020(43), 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 . . . .”<sup>1</sup>

9. Section 386.570.1, RSMo., provides for a penalty between \$100.00 to \$2,000.00, per offense, for “[a]ny corporation, person or public utility which violates or fails to comply with any provision of the constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission . . . .” Each day that a continuing violation persists is counted as a separate offense.<sup>2</sup> In the case of a corporate respondent, the acts and omissions of its officers, agents and employees are deemed to be the acts and omissions of the corporation.<sup>3</sup> All penalties are cumulative.<sup>4</sup>

### **Count I**

#### **Failure to Pay Assessment for the Fiscal Year Beginning July 1, 2017:**

10. Case No. AO-2017-0344 was commenced by the filing of a *Motion to Establish Case and Enter Assessment Order* on June 19, 2017, “in order to assist the Commission in meeting the requirements of Section 386.370, RSMo, for providing sufficient revenues to fund Commission operations.”<sup>5</sup>

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<sup>1</sup> Rule 4 CSR 240-2.070(1).

<sup>2</sup> Section 386.570.2, RSMo.

<sup>3</sup> Section 386.570.3, RSMo.

<sup>4</sup> Section 386.590, RSMo.

<sup>5</sup> *In the Matter of the Assessment Against the Public Utilities in the State of Missouri for the Expenses of the Commission for the Fiscal Year Commencing July 1, 2017*, Case No. AO-2017-0344 (*Motion to Establish Case and Enter Assessment Order*, filed June 19, 2017), p. 1.

11. In its *Assessment Order for Fiscal Year 2018*, the Commission allocated \$2,231,490 to water and sewer utilities as their directly attributable estimated expenses.<sup>6</sup>

12. On June 23, 2017, Argyle was informed by Staff, through their designated operator, Albert E. Argyle, of their determined assessment arising from Case No. AO-2017-0344. Argyle was assessed \$78.54 owed to the Commission, and \$9.21 owed to the Office of the Public Counsel.

13. The total amount of assessment due for the fiscal year beginning July 1, 2017 was \$87.75.

14. Argyle was informed that the assessment was due on July 15, 2017. Argyle was also given the option of paying the assessment in quarterly installments. Argyle did neither.

15. On May 1, 2018, Argyle was again contacted by Staff and informed of their owed assessment from fiscal year 2018. Argyle was told that the \$87.75 owed must be paid no later than June 30, 2018. If they did not pay the assessment in time, Argyle would be subject to penalties pursuant to Section 386.570 RSMo 2010, which provides for penalties of \$100 to \$2,000 per day for failure to comply with any Commission order or demand.

16. On June 19, 2018, Argyle informed Staff that payment would be sent the first week of July.

17. Staff did not receive payment of any type for Argyle in July.

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<sup>6</sup> *Id.* (**Assessment Order for Fiscal Year 2018**, effective July 1, 2017), p. 2.

18. Argyle has not contacted Staff since June 19, 2018, or submitted payment of \$87.75.

**WHEREFORE**, Staff prays that the Commission will give due notice to the Respondent and, after hearing, determine that Respondent has violated Missouri statutes and Commission rules and orders 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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Chief Staff Counsel  
Missouri Public Service Commission  
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Attorney for Staff of the  
Missouri Public Service Commission



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Chairman

**WILLIAM P. KENNEY**

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General Counsel

**MORRIS WOODRUFF**  
Secretary

**LOYD WILSON**  
Director of Administration

**NATELLE DIETRICH**  
Staff Director

**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)

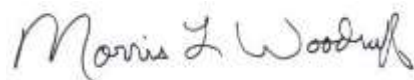


occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The Judge assigned to be the mediator will not be the same Judge assigned to the contested complaint.

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 written in a cursive, flowing style.

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 17<sup>th</sup> day of August 2018.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**August 17, 2018**

**File/Case No. WC-2019-0048**

**Missouri Public Service  
Commission**

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**Office of the Public Counsel**

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opc@psc.mo.gov

**Argyle Estates Water Supply**

Legal Department  
408 Hillcrest Drive  
Union, MO 63084

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

**Sincerely,**



**Morris L. Woodruff  
Secretary**

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