

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 9th day of December, 2020.

Vearline Nelson,)
)
Complainant,)
)
v.)
)
City of St. Louis' Department of Parks, and)
Forestry, Forestry Department, and)
Streets, Sidewalks and Traffic, Sidewalk)
Division,)
)
Respondent)

File No. WC-2021-0144

ORDER DISMISSING COMPLAINT

Issue Date: December 9, 2020

Effective Date: January 8, 2021

On November 6, 2020, and November 10, 2020, Vearline Nelson filed complaints (File Nos. WC-2021-0137 and WC-2021-0139) with the Missouri Public Service Commission against the City of St. Louis Water Division, which is a part of the Department of Public Utilities for the City of St. Louis, Missouri. On November 18, 2020, the Commission dismissed both complaints for lack of jurisdiction. On November 25, 2020, after her previous complaints were dismissed, Ms. Nelson filed a complaint with the Commission against the City of St. Louis Department of Parks, Recreation, and Forestry - Forestry Division, and the City of St. Louis Streets, Sidewalk and Traffic – Sidewalk Division. The Commission, on its own motion, will again address its jurisdiction to act in this matter.

Section 386.020(43) defines a “public utility” to include every pipeline corporation, gas corporation, electrical corporation, telecommunications company, water corporation, heating company or refrigerating corporation, and sewer corporation, as defined in Section 386.020 RSMo, and those public utilities are subject to the jurisdiction, control and regulation of the Commission. The Commission has no jurisdiction over entities that are not public utilities.

Missouri courts have further limited the jurisdiction of the Commission, to exempt municipal utilities. “[T]he Public Service Commission is a body of limited jurisdiction and has only such powers as are expressly conferred upon it by the statutes and powers reasonably incidental thereto.”¹ As the Commission is an administrative agency with limited jurisdiction, “the lawfulness of its actions depends directly on whether it has statutory power and authority to act.”² Section 386.250(3), RSMo, provides that the Commission’s jurisdiction extends to water corporations, “except that nothing contained in this section shall be construed as conferring jurisdiction upon the commission over the service or rates of any municipally owned water plant or system in any city of this state except where such service or rates are for water to be furnished or used beyond the corporate limits of such municipality.”³ “[A]lthough section 386.250(3) provides that the Commission’s “jurisdiction, supervision, powers and duties” extends “[t]o all water corporations,” “water corporations” do not include municipally owned utilities or public water supply districts either expressly or by reasonable implication.”⁴

¹ *State ex rel. Kansas City Power & Light Co. v. Buzard*, 168 S.W.2d 1044, 1046 (Mo. 1943); *State ex rel. City of West Plains v. Pub. Serv. Comm’n*, 310 S.W.2d 925, 928 (Mo. banc 1958).

² *State ex rel. Gulf Transp. Co. v. Pub. Serv. Comm’n*, 658 S.W.2d 448, 452 (Mo. App. 1983).

³ See also, *Forest City v. City of Oregon*, 569 S.W.2d 330, 332-333 (Mo. Ct. App. 1978); *City of Columbia v. State Pub. Serv. Comm’n*, 329 Mo. 38, 43 S.W.2d 813 (1931).

⁴ *Staff of Missouri Public Service Commission v. Consolidated Public Water Supply District C-1 of Jefferson County, Missouri*, 474 S.W.3d 643, 649 (2015).

Ms. Nelson's previous complaints were dismissed because the City of St. Louis Water Division is a municipal utility and the Commission lacks jurisdiction over municipal utilities. In her present complaint, neither the City of St. Louis Department of Parks, Recreation, and Forestry - Forestry Division, nor the City of St. Louis Streets, Sidewalk and Traffic – Sidewalk Division, are public utilities as defined by Section 386.020(43) RSMo. The Commission has no jurisdiction over any municipal entity. Therefore, the Commission will dismiss the complaint.

THE COMMISSION ORDERS THAT:

1. The complaint filed by Vearline Nelson on November 25, 2020, is dismissed.
2. This order shall become effective on January 8, 2021.
3. This matter shall be closed on January 11, 2021.



BY THE COMMISSION

A handwritten signature in dark ink, reading "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Clark, Senior Regulatory Law Judge