

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

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant,	)	
v.	)	
	)	<b><u>Case No. WC-2022-0295</u></b>
I-70 Mobile City, Inc. d/b/a I-70 Mobile City Park.	)	
	)	
Respondent.	)	

**MOTION TO COMPEL ANSWERS TO CERTAIN DATA REQUESTS**

**COMES NOW** Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its *Motion to Compel Answers to Certain Data Requests* states as follows:

1. On April 22, 2022, Staff filed a Complaint in the above-captioned case against Respondent I-70 Mobile City, Inc. d/b/a I-70 Mobile City Park (hereafter “I-70 MCP”) alleging the unauthorized provision of water and sewer services by Respondent to the public. Respondent filed its Answer and Affirmative Defenses on May 31, 2022.

2. On June 6, 2022, Staff submitted 32 Data Requests (DRs) to Respondent. Respondent filed a letter listing nine general objections to all 32 DRs on June 16, 2022. **See copy of “General Objection Letter,” attached hereto as Attachment A.**

3. Following a Discovery Conference on June 30, 2022, the Commission ordered Respondent to answer all outstanding DRs or provide objections no later than July 11, 2022.

4. Although responses to the Staff’s DRs were submitted by Respondent on July 11, 2022, 14 of them were incomplete and failed to provide the information requested. Two responses relied on the Respondent’s June 16, 2022 General Objection letter;

they did not cite any specific objection as a reason for not providing an answer to the DR. As a result, Counsel for Staff contacted Respondent's attorney via email and asked that complete responses or specific objections be submitted to Staff by July 26, 2022.

5. On July 27, 2022, Respondent answered most of those 14 DRs with additional information. However, in response to some of them, more specific objections were raised, but little additional information was provided as a result.

6. Between July 2022 and mid-March 2023, the parties conducted additional discovery, including sending and receiving multiple DRs and conducting an on-site inspection of the I-70 MCP premises on March 8, 2023.

7. On March 15, 2023, Staff sent an email to Respondent's attorney requesting updated responses to nine of those DRs that had been issued in June 2022, citing Respondent's duty to update any information that had changed since it submitted its original response in July 2022.<sup>1</sup> The email requested updated responses be provided by March 27, 2023. **See copy of March 15, 2023 email, as Attachment B.**

8. On March 24, 2023, Staff filed updated responses to DRs 1, 2, and 3 it received from Respondent.

9. When a Discovery Conference was held on March 30, 2023, Respondent had failed to submit updated information to any of the requested DRs listed in Staff's March 15, 2023 email. The Judge found that Counsel for Staff had attempted to confer with Counsel for Respondent to resolve the email request for the updated DR information, but had failed, in compliance with 20 CSR 4240-2.090(8), allowing this *Motion* to proceed.

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<sup>1</sup> The March 15, 2023, email requested responses to DR numbers 14, 19, 20, 21.1, 42, 44, 45, 45.2, and 47. This Motion only requests responses be provided to DRs 14, 19, 20, 42, and 44.

10. Specifically, this *Motion* requests the Commission compel Respondent I-70 MCP respond with updated responses to the following DRs: 14, 19, 20, 42, and 44.

11. Data Request No. 14 asks for the following information:

Please provide a complete explanation of the billing process for water and sewer service provided to tenants/customers at I-70 Mobile City (“I-70 MCP”). Please provide copies of all customer bills dated January 1, 2017, to the present.

12. On July 11, 2022, I-70 MCP submitted a response to DR No. 14 that basically outlined I-70 MCP’s billing process and referred to the Respondent’s “objections in the letter dated June 16, 2022.” (“General Objection Letter”). Respondent I-70 MCP’s response to DR No. 14 did not include copies of any customer bills.

13. On July 27, 2022, I-70 MCP supplemented its response to DR No. 14 by “specifically” objecting to Staff’s request for five years of all customer bills as being “overly broad and burdensome,” “not proportional to the needs of the case considering the totality of the circumstances,” and “cumulative and duplicative.” Respondent I-70 MCP’s supplemental response to DR 14 included five documents: a sample bill, billing histories for three months of 2020, a software ledger from a billing program and one showing water usage for October 2020 to June 2021, and a summary of I-70 MCP’s billing and payment of utility service for May 2020 to June 2021. No further documentation was provided.

14. Respondent’s objection to DR No. 14 and its response are insufficient, and requires a full and complete answer.

15. In the alternative, Counsel for Staff, in her March 15, 2023 email, only asked for “copies of all customer bills ... dated July 1, 2022 to the present.”

16. To date, even those limited documents have not been provided to Staff.

17. DRs No. 19 and 20 ask, “How many tenants/customers receive water service in the I-70 MHP,” and “How many tenants/customers receive sewer service in the I-70 MHP,” respectively.

18. On July 11, 2022, Respondent I-70 MCP responded with the number of tenants having water and sewer service to their homes.

19. The March 15, 2023 email to Respondent I-70 MCP merely requested an updated number, considering the original DR responses were filed almost eight months prior to this Motion.

20. It is reasonable to assume that the number of tenants may have changed, and thus the response may have as well. Yet, to date, no updated response to DRs 19 or 20 have been submitted.

21. DR No. 42 asks for the following information:

Please provide copies of any water bills received by I-70 MCP from the Public Water District that are used to calculate tenant bills. Please provide copies of all applicable bills received dated January 1, 2017, to the present.

22. On July 11, 2022, I-70 MCP submitted a response to DR No. 42 that referred to the Respondent’s General Objection Letter and stated that “I-70 does not have any water bills that are used to calculate tenant bills.” Respondent attached copies of water bills from Bates City, Missouri to I-70 MCP dated 06/20/2020 through 06/20/2021.

23. On July 27, 2022, I-70 MCP supplemented its response to DR No. 42 to “further specifically object[] to the request for five years of bills.” (emphasis added by Respondent) Respondent claimed such a request was “overly broad and burdensome” and that the one year’s worth of bills previously filed was sufficiently representative of its operations such that it need not file additional documents.

24. Respondent's objection to DR No. 42 and its response are insufficient, and requires a full and complete answer.

25. In the alternative, Counsel for Staff, in her March 15, 2023 email, only asked for "copies of all any water bills ... that are used to calculate tenant bills. (dated 7/1/22 – present)"

26. To date, even those limited documents have not been provided to Staff.

27. DR No. 44 asked Respondent I-70 MCP to "provide copies of all lease agreements and/or contracts between I-70 MHP and its tenants/customers currently in effect."

28. Respondent I-70 MCP's initial response, on July 11, 2022, referred to its June 16, 2022 General Objection Letter, and referred to its response to DR 16, which contained sample long- and short-term rental agreements it might enter into with prospective individuals. Respondent I-70 MCP's response to DR No. 44 did not include copies of any current tenant leases, agreements, or contracts as requested.

29. On July 27, 2022, Respondent I-70 MCP filed an updated response to DR 44, again referencing its June 16, 2022 General Objection Letter, directing Staff to the sample Agreements provided in response to DR 16, and arguing that "customer-specific agreements are not relevant to the question of whether I-70" is violating any statute or regulation at issue in this case.

30. Respondent's objection to DR No. 44 and its response are insufficient, and requires a full and complete answer.

31. To date, none of these documents have been provided to Staff.

32. Title 20 CSR 4240-2.090(1) allows parties to obtain discovery “by the same means and under the same conditions as in civil actions in the circuit court.” The use of data requests are one means of obtaining such discovery. 20 CSR 4240-2.090(2).

33. The Commission’s discovery rule provides that it will not entertain a discovery motion until the moving party conferred or attempted to confer by telephone or in person with the opposing counsel concerning the matter prior to filing of the motion. 20 CSR 4240-2.090(8)(A). Pursuant to that rule, the undersigned certifies compliance with this rule.

34. Under Rule 56.01(b)(1), as long as the matter “is relevant to the subject matter involved in the pending action, ... provided the discovery is proportional to the needs of the case considering the totality of the circumstances, including, but not limited, to the importance of the issues at stake in the action, ... the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expenses of the proposed discovery outweighs its likely benefit,” a party is entitled to that information sought. The information need only be “reasonably calculated to lead to the discovery of admissible evidence.”

35. The subject matter of the pending action is whether the Respondent is operating a water and sewer corporation subject to the Commission’s regulation. Operating water and/or sewer systems and billing their tenants for their use are necessary elements of the alleged violations.

36. As such, the information requested in the above-mentioned DRs are relevant to the subject matter of the pending case, and likely to lead to the discovery of admissible evidence.

37. This motion is made in the interest of justice and not with the intent to unreasonably delay or hinder these proceedings in any manner.

**WHEREFORE**, for the foregoing reasons, Staff requests the Commission to issue an *Order* compelling Respondent to provide full and complete responses to data requests 14, 19, 20, 42, and 44 within 10 days of its *Order*, and for such other orders it deems reasonable and just under the circumstances.

Respectfully submitted,

**/s/ Carolyn H. Kerr**

Missouri Bar Number 45718

Senior Staff Counsel

Missouri Public Service Commission

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Jefferson City, MO 65102

573-751-5397 (Voice)

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[Carolyn.kerr@psc.mo.gov](mailto:Carolyn.kerr@psc.mo.gov)

### **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 14th day of April, 2023, to all counsel of record.

**/s/ Carolyn H. Kerr**

**From:** [Stephanie Bell](#)  
**To:** [Kerr, Carolyn](#)  
**Subject:** Objection Letter - WC-2022-0295  
**Date:** Thursday, June 16, 2022 5:10:23 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[22.06.16 I-70 Obj Ltr to Staff ff.pdf](#)

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Carolyn:

See attached.

Stephanie

Stephanie



**Stephanie Bell**

Partner, Ellinger and Associates, LLC

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June 16, 2022

Via Email: [carolyn.kerr@psc.mo.gov](mailto:carolyn.kerr@psc.mo.gov)

Ms. Carolyn Kerr  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102

Re: File No. WC-2022-0295; Missouri Public Service Commission Staff  
("Staff") Data Requests 0013-0044.

Dear Carolyn,

In response to data request nos. 0013-0044 ("Data Requests") which I-70 Mobile City, Inc. ("I-70") received from Staff on June 6, 2022. This letter should be considered an objection on behalf of the I-70 to the Data Requests in accordance with Commission Rule 20 CSR 4240-2.090(2), for the reasons described below.

### **OBJECTIONS**

I-70 makes the following objections to Staff's Data Requests to I-70:

- A: I-70 objects to each Data Request to the extent it purports to impose any different or additional obligations from those imposed under applicable Missouri law.
- B: I-70 objects to each Data Request to the extent it seeks documents or information protected by the attorney client privilege, the attorney

work product doctrine, or any other applicable privileges or doctrines. Any inadvertent disclosure of such privileged documents or information shall not be deemed to be a waiver by I-70 of the attorney-client privilege, work product doctrine, or other applicable privileges or doctrines. I-70 further objects to any request to the extent it purports to impose overly broad or unduly burdensome reporting and documentation requirements regarding privileged information.

- C: I-70 objects to each Data Request to the extent that it is vague, ambiguous, burdensome, or otherwise not susceptible to a meaningful response.
- D: I-70 objects to each Data Request to the extent it seeks confidential or competitively sensitive business, financial, or other proprietary documents, trade secrets, or information or confidential information protected under Missouri law, federal law, belonging to or in the possession of I-70, or is otherwise information customarily deemed confidential or proprietary in nature (“Confidential Information”). I-70 further objects to each Request to the extent it seeks documents or information protected by the privacy protections of the Missouri or United States Constitution, or any other law, statute, doctrine, or agreement. The furnishing of responses to each Request is not intended nor should it be construed to waive I-70’s right to protect Confidential Information. I-70 reserves the right to redact from all documents it produces or information it provides any and all Confidential Information not relevant to the subject matter of this proceeding.
- E: I-70 objects to each Data Request to the extent it seeks information not reasonably calculated to lead to the discovery of admissible evidence and not relevant or material to the subject matter of this proceeding. I-70 further object to each Data Request to the extent it seeks information for which the probative value of such information is substantially outweighed by the danger of unfair prejudice.
- F: I-70 objects to the entire set of Data Requests as overly broad and unduly burdensome and not proportional to the needs of the case considering the totality of the circumstances.
- G: I-70 objects to each Data Request as overly broad and unduly burdensome to the extent such Requests seek to have I-70 create documents not in existence at the time of the Request. I-70 further

objects to each Data Request to the extent it seeks an analysis, calculation, or compilation which I-70 has not performed previously and which I-70 objects to performing.

- H: I-70 objects to each Data Request as the information sought is cumulative and duplicative of what has already been provided to Staff.
- I: The objections, response and documents produced in response to each Data Request are not intended nor should be construed in any manner to waive I-70's right to object to any and all Requests as to their competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, in or at the hearing of this or any other proceeding.

Subject to and without waiving its objections, to the extent I-70 provides a response, such response will be provided in accordance with the response time for data requests specified in Commission rules.

Sincerely,



Stephanie S. Bell

**From:** [Kerr, Carolyn](#)  
**To:** [Stephanie Bell](#)  
**Cc:** [Bretz, Karen](#); [Harris, Andrew](#); [Gateley, Curtis](#); [Bernsen, Debbie](#)  
**Subject:** Request to update DRs - WC-2022-0295  
**Date:** Wednesday, March 15, 2023 11:27:00 AM

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Stephanie,

As you know, your client has a duty to update the DRs that have been served upon them in the above-referenced case. Most of the DRs sent by staff were issued in June 2022, and have not been updated since then. Specifically, please update the following DRs with current information:

- **DR 14** – Please provide copies of all customer bills (for water and sewer service provided to tenants/customers) dated July 1, 2022 to the present.
- **DR 19** – How many tenants/customers currently receive water service in the I-70 MCP?
- **DR 20** – How many tenants/customers currently receive sewer service in the I-70 MCP?
- **DR 21.1** – For each type of rental area/unit, how many currently have sewer hookups and how many have water meters attached to or servicing them?
- **DR 42** – Please provide copies of any water bills received by 1-70 MCP from the Bates City Water Company that are used to calculate tenant bills. (dated 7/1/22 – present)
- **DR 44** – Please provide copies of all lease agreements and/or contracts between I-70 MCP and its tenants/customers currently in effect. Please note that this DR does not ask for sample contracts, but those currently “in effect.”
- **DR 45** – Does I-70 MCP have any employees that work at the I-70 on-site office in Bates City, MO? If so, how many employees work there? Please list them by name, position, and provide contact information (phone and address). Also provide a description of their on-site employee duties. (I am specifically interested in information about Robert Freeman if a response to this DR relates to him.)
- **DR 45.2** – Who is at the I-70 MCP on-site office for tenants to call or visit during business hours? Are they employees, independent contractors, volunteers, or what specifically, is their relationship to I-70 MCP? (I am specifically interested in information about Robert Freeman if a response to this DR relates to him.)
- **DR 47** – Have you had any discussion with Bates City, Missouri since November 2022 about entering into a contract with the City whereby the City will sell to I-70 MCH, and I-70 MCP will pass the charge for that water to its tenants without any mark up? If so, what was the result of those discussions? Was any agreement reached, or is that option being contemplated by the parties? If an agreement was reached, please provide documentation of that agreement, or if no documentation is available, please provide specific details of the agreement.

Please provide updated responses to the listed DRs no later than Monday, March 27, 2023. Thank you.

Carolyn H. Kerr  
Senior Attorney  
Missouri Public Service Commission

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573-751-5397

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