

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

The Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-2022-XXXX</u>
)	SC-2022-XXXX
Northgate MHP Lindale, LLC,)	
d/b/a Northgate Manufactured)	
Home Community,)	
)	
Respondent.)	

STAFF’S COMPLAINT

COMES NOW, the Staff of the Missouri Public Service Commission, by and through counsel, and for its Complaint, states as follows:

Introduction

1. This matter concerns the unauthorized provision of water and sewer service by Respondent to the public, namely to residents of the Northgate Manufactured Home Community, for gain, without certification or other authority from the Missouri Public Service Commission.

Complainant

2. Complainant is the Staff of the Missouri Public Service Commission, acting by and through the Staff Counsel as authorized by 20 CSR 4240-2.070(1).

Respondent

3. Respondent Northgate MHP Lindale, LLC, d/b/a Northgate Manufactured Home Community (hereafter “Northgate Lindale”), is a Delaware limited liability company with its principal place of business and registered office at 300 Creek View Road,

Suite 209, Newark, Delaware 19711. Its registered agent in Missouri is Universal Registered Agents, Inc., located at 300B East High Street, Jefferson City, Missouri, 65101.

Jurisdiction

4. 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 in violation, or claimed to be in violation, of any provision of law subject to the commission's authority, of any rule promulgated by the commission, of any utility tariff, or of any order or decision of the commission

5. Pursuant to 20 CSR 4240-2.070(1), "A complaint may also be filed by . . . the commission staff through the staff counsel"

6. Northgate Lindale operates, controls or manages a plant or property, or a dam or a water supply, canal, or power station, and distributes or sells for distribution, or sells or supplies water for gain, in Clay County, Missouri.

7. Northgate Lindale is thus a water corporation pursuant to § 386.020(59), RSMo, and a public utility pursuant to § 386.020(43), RSMo.

8. Northgate Lindale owns, operates, controls or manages a sewer system, plant or property with more than 25 connections, for the collection, carriage, treatment, or disposal of sewage for gain in Clay County, Missouri.

9. Northgate Lindale is thus a sewer corporation pursuant to § 386.020(49), RSMo, and a public utility pursuant to § 386.020(43), RSMo.

10. As a water and a sewer corporation and a public utility, Northgate Lindale is subject to the jurisdiction, regulation, and control of this Commission. Section 386.250, RSMo, and Chapters 386 and 393, RSMo, the *Public Service Commission Law*.

11. Section 393.170.2, RSMo, states, in pertinent part, as follows:

No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, ... without first having obtained the permission and approval of the commission....

12. Section 386.570, RSMo, states as follows:

1. Any 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 in a case in which a penalty has not herein been provided for such corporation, person or public utility, is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.
2. Every violation of the provisions of this or any other law or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof, by any corporation or person or public utility is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.
3. In construing and enforcing the provisions of this chapter relating to penalties, the act, omission or failure of any officer, agent or employee of any corporation, person or public utility, acting within the scope of his official duties of employment, shall in every case be and be deemed to be the act, omission or failure of such corporation, person or public utility.

13. Section 386.600, RSMo, states, in pertinent part, as follows:

An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the commission under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission....

Facts and Cause of Action

14. Since March 2022 Northgate Lindale owns the real property located at 1260 NE US Highway 69 in Liberty, Missouri, which it operates as a mobile home park identified as Northgate Manufactured Home Community (hereafter “Northgate Community”).

15. GBH Property, LLC, (hereafter “GBH”) is the management company that currently controls or manages the business of the Northgate Community for or on behalf of Northgate Lindale and has done so since March 2022.

16. In a letter dated March 7, 2022, GBH, acting on behalf of Northgate Lindale, notified the residents of Northgate Community that “effective May 1, 2022, residents will be charged for water and sewer service based upon the Ratio Utility Billing System (RUBS). Utilizing RUBS, utility usage is allocated and billed by the Landlord based on the number of occupied lots in the community. ... The property will no longer utilize individual water meters due to the expense and time required to maintain the system.” RUBS allocates the cost of utilities among residents in lieu of individually metering.

17. In March 2022 Northgate Lindale, operating through GBH, began issuing water and sewer bills for water and sewer usage to occur between April 1, 2022 and April 30, 2022. The bills do not indicate any amount of usage, rates, base charge, commodity charge, or other fees and taxes. See Attachment A.

18. Missouri courts have held that entities act as public utilities when they sell services to the public for compensation and have undertaken the responsibility to provide such services to all members of the public within their capability.¹

¹ *Hurricane Deck Holding Co. v. Public Service Comm’n*, 289 S.W.3d 260, 264-5 (Mo.App. W.D. 2009)

19. Although Northgate Lindale is operating water and sewer utilities and providing water and sewer service for the public use, Northgate Lindale does not have certificates of convenience and necessity from the Commission allowing it to legally provide these services to residents of Northgate Community.

20. Northgate Lindale is engaging in the unlawful provision of water and sewer services to the public, for gain, without certification or other authority from the Missouri Public Service Commission, in violation of § 393.170.2, RSMo.

WHEREFORE, Staff prays that the Commission will give due notice to the Respondent, and, after hearing:

a. Determine that Respondent Northgate MHP Lindale, LLC, d/b/a Northgate Manufactured Home Community, has violated § 393.170.2, RSMo, as set out above;

b. Order Northgate Lindale to file an application with the Commission requesting certificates and convenience or necessity as a water and sewer corporation and be regulated as a public utility;

c. Determine that Respondent is subject to penalties as provided by § 386.570, RSMo, and authorize the General Counsel of the Commission to proceed in Circuit Court to seek such penalties as are authorized by law; and

d. Grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Carolyn H. Kerr

Missouri Bar Number 45718

Senior Staff Counsel

Missouri Public Service Commission

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Attorney for Staff of the

Missouri Public Service Commission

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 15th day of April, 2022, to all counsel of record.

/s/ Carolyn H. Kerr



Northgate MHP Lindale LLC

1260 NE US Hwy 69 #1
Liberty, MO 64068

TO:



Statement

Billing Period	Statement Date
04/01/22 - 04/30/22	03/25/22

Property	Unit	Type	Acc #
Northgate	[REDACTED]	MH Lot	[REDACTED]

Previous Balance	Current Charges	Current Credits	Balance Due
0.00	[REDACTED]	0.00	[REDACTED]

Last Payment	Amount Enclosed
\$0.00	

Pay your rent online! Go to: <https://gbhprop.twa.rentmanager.com> or download the RMresident app

Date	Reference	Description	Amount
04/01/22		Previous Balance	0.00
04/01/22		Lot Rent	[REDACTED]
04/01/22		Waste Removal Fee	20.00
04/01/22		Water	39.59
04/01/22		Sewer	46.15

Download the RMresident app from the Google Play or Apple store: Enter company code gbhprop then enter your 4-digit account number located in the top right corner of this statement

Sub Total	[REDACTED]
Unapplied Credits	0.00
Balance Due	[REDACTED]



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Comments

