

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

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

MOTION TO SUSPEND PROCEDURAL SCHEDULE

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and moves to suspend the procedural schedule previously filed by the parties, and thereafter adopted by the Commission on June 29, 2022, and in support thereof 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 alleging the unauthorized provision of water and sewer services by Respondent to the public.¹ Respondent filed its Answer and Affirmative Defenses on May 31, 2022.

2. On May 23, 2022, Respondent filed 12 Data Requests (DRs) upon Staff. Staff filed specific objections to 11 of the DRs on June 6, 2022. Staff responded to six of the 12 DRs propounded by Respondent, subject to those objections, on June 10 and fully responded to the 12th DR on June 11, 2022.

¹ Unless information is obtained through data requests and/or an inspection of the I-70 property through discovery or a tenant complaint, no allegation of a safety risk is being made at this point. Without being able to physically view the property, however, that issue remains open.

3. Staff filed its *Request for Permission for Entry Upon Land for Inspection (Request)* on June 3, 2022.

4. On June 13, 2022, Respondent filed its *Objection to Complainant's Request* and requested a *Protective Order* to prohibit Staff from conducting such discovery. Staff filed a response to Respondent's *Objection* on June 28, 2022.

5. On June 6, 2022, Staff submitted 32 DRs to Respondent. Respondent filed a letter listing nine general objections to all 32 DRs on June 16, 2022. As of June 26, 2022, no responses to any of those DRs had been filed by Respondent.

6. On June 30, 2022, a discovery conference was held, and the Commission ordered Respondent to answer or provide objections to all 32 outstanding DRs submitted by Staff no later than July 11, 2022².

7. 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.

8. 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.

² During the discovery conference, the Administrative Law Judge reiterated his understanding that Counsel for Respondent would, with regard to its responses to the Staff's DRs, "answer any outstanding data requests or *provide articulated objections* to those requests no later than July 11th...." (emphasis added) (Discovery Conference Tr. Pg. 32, lines 12-15).

9. Respondent's answers to Staff's initial round of DRs have spurred the need for further investigation and additional discovery. As such, Staff has and will continue to issue DRs to aid in its review prior to submitting its first round of testimony.

10. As to the issue of whether Respondent is operating as an unregulated sewer corporation, as alleged in the Complaint, Staff needs time to verify, through full and complete DR responses from Respondent and "eyes-on" verification, by way of on-premises inspection, how many non-transient sewer connections Respondent owns, controls, and operates.

11. Following the June 30, 2022 discovery conference when the subject of Staff's DRs as well as Staff's discovery motion was discussed, Staff filed a *Motion to Compel Discovery* on July 8, 2022, regarding Staff's June 3, 2022 *Request for Permission for Entry Upon Land for Inspection*. Respondent filed its *Suggestions in Opposition to Staff's Motion to Compel Discovery* on July 19, 2022.

12. The Commission granted Staff's *Request* and denied Respondent's *Motion for a Protective Order* on July 27, 2022, finding that Staff's "request to enter onto I-70's property is relevant to the subject matter of this action and that the information sought is reasonably likely to lead to discoverable information."

13. Staff's attorney subsequently contacted Respondent's attorney in an effort to schedule that inspection. No date for the site visit has been set.

14. According to the Procedural Schedule, Staff's Direct Testimony is due to be filed July 29, 2022.

15. Having just received a ruling on Staff's *Request* and Respondent's supplemental answers to Staff's initial DRs, which now necessitate the scheduling of a

site visit and may require additional DRs, Staff is unable to begin adequately preparing for or drafting its Direct Testimony. As such, Staff requests the current Procedural Schedule be suspended to allow for each party to adequately prepare its case before any testimony is filed.

16. Counsel will file a monthly status report in order to keep the Commission apprised of the status and progress of the case.

17. Counsel for the Office of the Public Counsel has been contacted regarding this motion and consents to the suspension of the proposed Procedural Schedule in this case.

18. 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, Staff prays that the Commission will grant this *Motion to Suspend the Procedural Schedule*, issue an order in accordance with this *Motion*, and grant such other and further relief as the Commission considers just and reasonable in the circumstances.

Respectfully submitted,

/s/ Carolyn H. Kerr
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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 28th day of July, 2022, to all counsel of record.

/s/ Carolyn H. Kerr