

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 3<sup>rd</sup> day of June, 2009.

STAFF OF THE MISSOURI )  
PUBLIC SERVICE COMMISSION, )  
 )  
Complainant, )  
 )  
v. )  
 )  
ADVANCED TELEMAGEMENT )  
GROUP, INC., )  
 )  
Respondent. )

File No. XC-2009-0347

**ORDER OF DEFAULT**

Issue Date: June 3, 2009

Effective Date: June 13, 2009

The Missouri Public Service Commission is authorizing its General Counsel to seek penalties in Circuit Court against Advanced Telemanagement Group, Inc., ("Advanced") for failure to file its annual report.

**Procedure**

On March 30, 2009, the Missouri Public Service Commission's staff ("Staff") filed the complaint. On April 3, 2009, the Commission served Advanced's registered agent with notice of the complaint and an order to file an answer. The answer was due no later than May 1, 2009. As of the date of this order, Advanced has filed no answer.

On May 7, 2009, the Commission ordered Advanced to show cause why the Commission should not issue an order of default under the following provision:

If the respondent in a complaint case fails to file a timely answer, the complainant's averments may be deemed admitted and an order granting default entered. [<sup>1</sup>]

As of the date of this order, Advanced has filed no response to that order.

Therefore, the Commission is entering an order granting default and deems Advanced to admit the complaint's allegations as follows.

### **Findings of Fact**

1. Advanced holds certificates of service authority to provide intrastate interexchange telecommunications services and nonswitched local exchange telecommunications services in the State of Missouri.

2. On January 15, 2008, the Commission's Executive Director emailed to Advanced the following:

- a. Notice of the requirement to file an annual report, covering the calendar year 2007;
- b. The appropriate form for the Company to complete and return to the Commission; and
- c. Instructions on how Advanced could complete its filing electronically.

The Commission's Executive Director sent the email to Advanced's current email address as shown in the Commission's Electronic Filing and Information System.

3. On May 27, 2008, the Commission's General Counsel mailed to Advanced a letter stating that continued failure to submit an annual report may subject Advanced to legal action to recover penalties as provided by state law, but Advanced did not respond to that letter.

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<sup>1</sup> 4 CSR 240.070(9), as authorized by §§ 386.410.1 and 536.067(2)(d), RSMo 2000.

4. On October 14, 2008 the General Counsel's Office mailed to Advanced another letter notifying the Company that continued failure to submit an annual report may subject the Company to legal action to recover penalties as provided by state law, but that letter returned to the Commission marked undeliverable on October 28, 2008.

5. Advanced has never filed its 2007 annual report.

### **Conclusions of Law**

The Commission has jurisdiction to hear the complaint of Staff<sup>2</sup> against Advanced because Advanced is a "telecommunications company"<sup>3</sup> and "public utility"<sup>4</sup> subject to the Commission's jurisdiction.<sup>5</sup> Staff charges that Advanced is subject to forfeiture. Therefore, Staff has the burden of proving its charges.<sup>6</sup>

Staff's charges are that Advanced violated § 392.210.1, RSMo 2000:

Every telecommunications company shall file with the commission an annual report at a time and covering the yearly period fixed by the commission. . . . If any telecommunications company shall fail to make and file its annual report as and when required . . . , such company shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the state of Missouri [;]

and 4 CSR 240-3 .540(1):

[A]ll telecommunications companies shall submit an annual report to the commission on or before April 15 of each year  
[.]

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<sup>2</sup> Section 386.390.1, RSMo 2000, and 4 CSR 240-2 .070.

<sup>3</sup> Section 386.020(52), RSMo Supp. 2008

<sup>4</sup> Section 386.020(43), RSMo Supp. 2008.

<sup>5</sup> Section 386.250(2), RSMo 2000.

<sup>6</sup> *Heidebur v. Parker*, 505 S.W.2d 440, 444 (Mo. App., St.L.D. 1974).

Advanced's deemed admissions show a violation of those provisions, so the Commission concludes that Advanced is subject to a forfeiture.

The Commission will authorize its General Counsel to bring an action in circuit court under § 386.600, RSMo 2000, against Advanced.

**THE COMMISSION ORDERS THAT:**

1. Advanced Telemanagement Group, Inc., is in default because it filed no answer to the complaint.
2. The Commission's General Counsel is authorized to bring an action in circuit court under §§ 392.210.1 and 386.600, RSMo 2000, based on Advanced Telemanagement Group, Inc.'s, violation of § 392.210.1, RSMo 2000, and 4 CSR 240-3.540(1).
3. This order is effective on June 13, 2009.
4. This file may close on June 14, 2009.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Clayton, Chm., Davis, Jarrett,  
and Gunn, CC., concur.

Jordan, Regulatory Law Judge