

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	
vs.	)	<b><u>Case No. WC-2019-</u></b>
	)	
Argyle Estates Water Supply,	)	
	)	
Respondents	)	

**STAFF’S COMPLAINT**

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

**Introduction:**

1. This matter concerns the failure of Respondent Argyle Estates Water Supply, pursuant to the provisions of Section 386.370 RSMo, to pay an assessment of \$87.75 as ordered by the Commission on June 23, 2017, following Case No. AO-2017-0344, *Assessment Order for Fiscal Year 2018*.

**Complainant:**

2. Complainant is the Staff of the Missouri Public Service Commission (“Staff”), acting through the Chief Staff Counsel as authorized by Commission Rule 4 CSR 240-2.070(1).

**Respondents:**

3. Respondent is Argyle Water Supply (“Argyle”). Argyle’s principal place of business is located at 408 Hillcrest Drive, Union, MO 63084. Argyle’s designated

operator is Albert E. Argyle, located at 408 Hillcrest Drive, Union, MO 63084. On information and belief, Argyle is a proprietorship operated by Albert E. Argyle.

**Jurisdiction:**

4. Argyle provides water service to portions of Franklin County pursuant to certificates of convenience and necessity issued -- and tariffs approved -- by this Commission, serving approximately fifty-two residential customers in Franklin County.

5. Respondent is engaged in the business of selling potable water for gain using property and facilities that it owns, operates and controls. Argyle is thus a water corporation pursuant to § 386.020(59), RSMo., and a public utility pursuant to § 386.020(43), RSMo.

6. As a water corporation and a public utility, Argyle is subject to the jurisdiction, regulation and control of this Commission. Section 386.020(43), RSMo., and Chapters 386 and 393, RSMo., the *Public Service Commission Law*.

7. 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, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission . . . .

8. The Commission has by rule authorized the Staff Counsel's Office to bring complaints on behalf of the Staff: "A complaint may also be filed by . . . the commission

staff through the staff counsel . . . .”<sup>1</sup>

9. Section 386.570.1, RSMo., provides for a penalty between \$100.00 to \$2,000.00, per offense, for “[a]ny 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 . . . .” Each day that a continuing violation persists is counted as a separate offense.<sup>2</sup> In the case of a corporate respondent, the acts and omissions of its officers, agents and employees are deemed to be the acts and omissions of the corporation.<sup>3</sup> All penalties are cumulative.<sup>4</sup>

### **Count I**

#### **Failure to Pay Assessment for the Fiscal Year Beginning July 1, 2017:**

10. Case No. AO-2017-0344 was commenced by the filing of a *Motion to Establish Case and Enter Assessment Order* on June 19, 2017, “in order to assist the Commission in meeting the requirements of Section 386.370, RSMo, for providing sufficient revenues to fund Commission operations.”<sup>5</sup>

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<sup>1</sup> Rule 4 CSR 240-2.070(1).

<sup>2</sup> Section 386.570.2, RSMo.

<sup>3</sup> Section 386.570.3, RSMo.

<sup>4</sup> Section 386.590, RSMo.

<sup>5</sup> ***In the Matter of the Assessment Against the Public Utilities in the State of Missouri for the Expenses of the Commission for the Fiscal Year Commencing July 1, 2017***, Case No. AO-2017-0344 (***Motion to Establish Case and Enter Assessment Order***, filed June 19, 2017), p. 1.

11. In its *Assessment Order for Fiscal Year 2018*, the Commission allocated \$2,231,490 to water and sewer utilities as their directly attributable estimated expenses.<sup>6</sup>

12. On June 23, 2017, Argyle was informed by Staff, through their designated operator, Albert E. Argyle, of their determined assessment arising from Case No. AO-2017-0344. Argyle was assessed \$78.54 owed to the Commission, and \$9.21 owed to the Office of the Public Counsel.

13. The total amount of assessment due for the fiscal year beginning July 1, 2017 was \$87.75.

14. Argyle was informed that the assessment was due on July 15, 2017. Argyle was also given the option of paying the assessment in quarterly installments. Argyle did neither.

15. On May 1, 2018, Argyle was again contacted by Staff and informed of their owed assessment from fiscal year 2018. Argyle was told that the \$87.75 owed must be paid no later than June 30, 2018. If they did not pay the assessment in time, Argyle would be subject to penalties pursuant to Section 386.570 RSMo 2010, which provides for penalties of \$100 to \$2,000 per day for failure to comply with any Commission order or demand.

16. On June 19, 2018, Argyle informed Staff that payment would be sent the first week of July.

17. Staff did not receive payment of any type for Argyle in July.

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<sup>6</sup> *Id.* (**Assessment Order for Fiscal Year 2018**, effective July 1, 2017), p. 2.

18. Argyle has not contacted Staff since June 19, 2018, or submitted payment of \$87.75.

**WHEREFORE**, Staff prays that the Commission will give due notice to the Respondent and, after hearing, determine that Respondent has violated Missouri statutes and Commission rules and orders as set out above, and thereupon authorize its General Counsel to seek in Circuit Court the penalties allowed by law; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

**/s/ Kevin A. Thompson**

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