

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

The Staff of the Missouri Public	)	
Service Commission,	)	
	)	
Complainant,	)	
	)	Case No. WC-2022-0295
v.	)	SC-2022-0296
	)	
I-70 Mobile City, Inc.	)	
d/b/a I-70 Mobile City Park,	)	
	)	
Respondent.	)	

**STATEMENT OF POSITION OF  
RESPONDENT I-70 MOBILE CITY**

Respondent, I-70 Mobile City, Inc. d/b/a I-70 Mobile City Park (“I-70 Mobile City”), pursuant to the procedural schedule established in this case and for its Statement of Position states as follows:

**ISSUE 1**

Does the Commission have jurisdiction over Respondent I-70 pursuant to §386.250, RSMo?

**Position of I-70 Mobile City**

No. The Commission should dismiss the Complaint, just as it has done before in similar cases. *See Commission Staff v. Aspen Woods Apartment Associates, LLC, et al.*, Case No. WC-2010-0227. First, the Commission does not have explicit jurisdiction over landlords or the landlord-tenant relationship. There is no statute conferring jurisdiction to the Commission to regulate the manner in which landlords “pass through”, divide, or allocate water and sewer costs among tenants. Section 386.250, RSMo, while it confers jurisdiction over water companies and sewer companies, makes no mention of such jurisdiction.

Second, Missouri courts, and this Commission, have recognized that in addition to meeting the statutory definitions that give rise to Commission jurisdiction, the service in question must be “devoted to public use.” The Commission previously dismissed a complaint for “lack of jurisdiction” when

complainants had argued that their private apartment complex could not be considered “devoted to public use.” *See Commission Staff v. Aspen Woods Apartment Associates, LLC, et al.*, Case No. WC-2010-0227. Similarly, I-70’s private lot for storage, recreational vehicles, and mobile homes is not devoted to public use.

Finally, Missouri’s landlord-tenant law controls or otherwise preempts Commission jurisdiction. As this Commission has previously explained, before it dismissed a similar complaint for lack of jurisdiction: “The issues involved in this matter involve a complex interplay between the statutes governing public utilities, consumer protection, and contract law. Any ultimate decisions regarding the interpretation and application of law and policy in this matter will have a major effect on Missouri citizens receiving utility service in landlord-tenant relationships.” *See Commission Staff v. Aspen Woods Apartment Associates, LLC, et al.*, Case No. WC-2010-0227, Order Staying Complaint and Opening Workshop (attached to I-70 Amended Motion for Summary Determination, as Exhibit 6 to Hunt Affidavit).

## **ISSUE 2**

Is I-70 a sewer corporation pursuant to § 386.020(49), RSMo, and operating as a public utility pursuant to § 386.020(43), RSMo?

### **Position of I-70 Mobile City**

No. *See* Position of I-70 Mobile City on Issue 1.

## **ISSUE 3**

Is I-70 a water corporation pursuant to § 386.020(59), RSMo, and operating as a public utility pursuant to § 386.020(43), RSMo?

### **Position of I-70 Mobile City**

No. *See* Position of I-70 Mobile City on Issue 1.

## **ISSUE 4**

Is I-70 engaging in the unlawful provision of water services to the public for gain, without certification or other authority from the Missouri Public Service Commission, in violation of § 393.170.2, RSMo?

**Position of I-70 Mobile City**

No. *See* Position of I-70 Mobile City on Issue 1.

**ISSUE 5**

Is I-70 engaging in the unlawful provision of 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?

**Position of I-70 Mobile City**

No. *See* Position of I-70 Mobile City on Issue 1.

**ISSUE 6**

Should I-70 be ordered to file an application with the Commission requesting certificates of convenience and necessity as a water and sewer corporation and be regulated as a public utility?

**Position of I-70 Mobile City**

No. The complaint should be dismissed for lack of jurisdiction. *See* Position of I-70 Mobile City on Issue 1.

**ISSUE 7**

Is I-70 subject to penalties as provided by § 386.570, RSMo, due to its violations of chapter 393, RSMo?

**Position of I-70 Mobile City**

No. *See* Position of I-70 Mobile City on Issue 1. Even if the Commission were to determine under ISSUE 6 that I-70 should be ordered to file a CCN application, I-70 cannot be penalized under Section 386.570, RSMo, because whether a landlord or entity like I-70 is subject to Commission jurisdiction is not settled law, and I-70 had a good faith belief, relying on cases like *Aspen Woods*, that it was not subject to Commission jurisdiction. The statutes only require “substantial compliance” and further “shall be liberally construed with a view to the public welfare, efficient facilities and substantial justice between patrons and public utilities.” *See* Section 386.610, RSMo.

Respectfully submitted,

**ELLINGER BELL LLC**

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*d/b/a I-70 Mobile City Park*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served upon all of the parties of record or their counsel, pursuant to the Service List maintained by the Data Center of the Missouri Public Service Commission, on this November 21, 2023.

/s/ Stephanie S. Bell

Stephanie S. Bell