

**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.	)	

**I-70 MOBILE CITY’S MOTION FOR STAY AND MOTION TO OPEN  
WORKING DOCKET**

Respondent, I-70 Mobile City, Inc. d/b/a I-70 Mobile City Park (“I-70 Mobile City”), by and through counsel, respectfully requests the Commission stay this case and open a working docket.

**A Working Docket includes All Interested Stakeholders**

1. At the December 7, 2023 Agenda Meeting, Commissioner Hahn stated “I certainly don’t want to be in the business of regulating every water and sewer system in a mobile home park.” At that same meeting, Commissioner Kolkmeier agreed with Commissioner Hahn’s statement.<sup>1</sup>

2. While I-70 Mobile City believes it is operating lawfully, it also believes the Staff’s suggestions for alternative operations invoke many important public policy considerations. I-70 Mobile City is an expert in the industry as the “family” has been operating mobile home communities in the state of Missouri for more than 70 years. The opening of a working docket would permit I-70 Mobile City to connect Staff with other industry contacts

---

<sup>1</sup> <https://psc.mo.gov/VideoDetail.aspx?Id=6679>.

and information. I-70 Mobile City believes the best way for the entire industry to be treated fairly is to move forward with a working docket where all interested stakeholders can participate, and freely discuss the larger public policy issues that this case presents to the Commission.

3. According to DNR’s latest census, there are approximately 600 “Subdivision, Mobile Home Park, Institution, Miscellaneous Water Systems.”<sup>2</sup> Of those, at least 65 appear to be mobile home or RV parks with more than 25 service connections.<sup>3</sup> The Commission currently regulates only one.<sup>4</sup>

4. Just as in *Aspen Woods*, where the court stayed the case and opened a working docket, there are a complex set of public policy issues before the Commission:

The issues involved in this matter involve a complex interplay between the statutes and regulations 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 affect on Missouri citizens receiving utility service in landlord tenant relationships.[<sup>5</sup>]

5. In addition, this case also involves the interplay between regulation by the Department of Natural Resources (and the Missouri Safe Drinking Water Commission and the Missouri Clean Water Commission) and the Public Service Commission.

6. I-70 Mobile City is a “community water system” and currently holds a “Permit to Dispense Water.”<sup>6</sup>

7. Community Water Systems are generally subject to the authority

---

<sup>2</sup> See 2023 DNR Census, available at <https://dnr.mo.gov/document-search/2023-census-missouri-public-water-systems> pp. 100-160.

<sup>3</sup> *Id.*

<sup>4</sup> Exhibit 1.

<sup>5</sup> Exhibit 2.

<sup>6</sup> Exhibit 3.

of the Missouri Safe Drinking Water Commission, and the requirements of the Missouri Safe Drinking Water Law and the Safe Drinking Water Act which, among other requirements, establish and maintain minimum technical, managerial, and financial capacity requirements.

a. Complaints. Community water systems are required to “designate a person or persons who will receive customer complaints and shall have a written procedure for receiving, investigating, resolving, and recording customer complaints.” 10 CSR 60-3.030(3)(B)(2).

b. Rates. Community water systems must have a “written rate structure and service fees, and the rate structure and service fees shall be publicly displayed and made available to” the DNR. 10 CSR 60-3.030(3)(B)(3). Before changing the rate structure or fees, community water systems must hold one public meeting and provide notice to customers. 10 CSR 60-3.030(3)(B)(4).

c. Fees. Community water systems must “develop and implement a system of collection of water fees that includes disconnection of service for nonpayment or other measures for obtaining payment.” 10 CSR 60-3.030(3)(C)(2).

d. Transparency. Community water systems must annually prepare a budget of revenues and expenditures, and a five year capital improvement plan. 10 CSR 60-3.030(3)(C)(3).

e. Inspection. The DNR at all times has access to community water systems for inspecting, monitoring, and sampling.

8. I-70 Mobile City holds a “Missouri State Operating Permit” for its wastewater system.<sup>7</sup> As such, it is subject to the authority of the Clean Water Commission, and subject to Missouri’s Clean Water Law and the Federal

---

<sup>7</sup> Exhibit 4.

Water Pollution Control Act.

9. A working docket would allow participation by important, interested stakeholders – by the DNR and by other community water systems – and allow “all stakeholders the opportunity to accurately delineate the full reach of the Commission’s jurisdiction.”<sup>8</sup>

10. A working docket would also serve the efficiency interests of the Commission as all community water systems and/or mobile home parks could participate, instead of piece-meal complaints and hearings.

### **Precedent for Opening a Working Docket**

11. Beyond *Aspen Woods*, there is Commission precedent in similar situations. For example, in *Lake Region Water and Sewer Company* – when the Commission first decided to expand its jurisdiction over availability fees the Commission ordered the opening of a workshop docket and explained:

The Commission asserting jurisdiction over revenue derived from availability fees, as now declared in this matter, cannot simply be based on an adjudication on a specific set of accrued facts. What the Commission is announcing today is it is going to prospectively change its statement of general applicability that implements, interprets or prescribes law or policy, or that describes the organization, procedure, or practice requirements before this agency. Agencies cannot engage in this type of rulemaking by an adjudicated order. Pursuing a major change in the Commission's interpretation, implementation and prescription of its definitional statutes and its long-standing policy regarding ratemaking treatment of availability fees, requires compliance with the more stringent and lengthy process of rulemaking as required under section 536.021.

*In the Matter of Lake Region Water & Sewer Company's Application to Implement A Gen. Rate Increase in Water & Sewer Serv...*, No. SR-2010-0110, 2010 WL 3378384 (Aug. 18, 2010). Here, the Commission is deciding whether

---

<sup>8</sup> See Exhibit 2 (*Aspen Woods* order).

to go from regulating one mobile home community, to potentially regulating more than fifty. Furthermore, there would be no reason to separate mobile home or RV parks from the hundreds of other community water systems, so the impact of this decision is potentially much greater.<sup>9</sup>

12. Furthermore, Missouri is not the first state with the question of whether its jurisdiction extends to apartments, mobile homes, and similar properties. The exact issues raised in this case have been raised in other states. Some states have opened working dockets and proposed solutions that might prove beneficial in Missouri. A working docket here would allow Staff and stakeholders to survey and discuss how other states have handled this issue previously.

**Staff’s Proposed “Solutions” are Not Practicable, Cost Prohibitive,  
and against Public Policy**

13. While I-70 Mobile City does not agree that operational changes need to occur as a result of this Complaint, Staff has suggested that the solution here is “easy” – I-70 Mobile City can do one of two things – set up a nonprofit or simply include charges for water and/or sewer service in its pad rent. Gateley Surrebuttal, 4:11-16; Harris Direct, 4:10-12.

14. There are many reasons why including the costs of water and sewer service in pad rent is not only not an “easy” solution, but also a bad one:

a. Some tenants would be forced to subsidize other tenants (a single tenant and a family of six would be paying the same, despite the family of six being a greater cost-causer).

b. No incentive to conserve. If tenants are not responsible for their own personal usage, it will result in increased usage and waste.

---

<sup>9</sup> See 2023 DNR Census, available at <https://dnr.mo.gov/document-search/2023-census-missouri-public-water-systems>.

Leading practices show that increasing tenant awareness of usage, coupled with shared conservation efforts and financial incentives/deterrents, can drastically reduce resource consumption and unmediated losses. DNR requires permit holders to manage community water loss through various efforts, including conservation, which would be nullified through lack of tenant incentives.

c. The remedy currently for failure to pay water or sewer charges is late fees or a shut off which is a proven effective deterrent, by the fact that it is rarely necessary. The only remedy if included in pad rent is eviction, being a much more costly and permanent consequence.

d. Increases to “pad rent” for the purpose of capturing part of a consumable expense, also increases other operating expenses like insurance premiums which are based on rental income.

e. I-70 Mobile City would be forced to cover additional costs (like significant home leaks). When a tenant owns the home, they are financially responsible for their own plumbing repairs and maintenance, not the landlord. A monthly flat fee would not allow a landlord like I-70 Mobile City to recover losses sustained from such a water leak, despite the line being the tenant’s responsibility.

15. Similarly, the creation of a non-profit is not an “easy” or a good solution:

a. Missouri’s nonprofit sewer and water company laws impose requirements that are not feasible given the transient nature of the tenants and the small number of tenants at I-70 Mobile City.

b. Section 393.839 provides that members of the nonprofit are only those who agree to use services furnished by the company.

Currently, I-70 Mobile City only has approximately 57 homes that are offered this service. *See also* Section 393.921, RSMo.

c. From those members, the nonprofit must elect a Board of at least five members. Finding five long-term tenants with the resources and capacity to serve on a nonprofit Board and meet all the requirements of the nonprofit sewer and water law, is simply not feasible.

d. The Board must also select a President and Vice-President who also must be members of the nonprofit. Sections 393.845 and 393.930, RSMo.

e. The law contemplates annual meetings with annual elections of a Board and officers (complicated by the fact that many of I-70 Mobile City's residents do not stay for a year or more).

f. If any member stops using services from the nonprofit, they cease to be members of the nonprofit. Sections 393.839 and 393.921 RSMo.

g. Additionally, since I-70 Mobile City owns a mobile home park, a water system and a sewer system, the process to create a nonprofit would entail significant time and expense, including:

- i. Separation of properties and zoning uses on the county records;
- ii. Creation of a sewer nonprofit;
- iii. Separate creation of a water nonprofit;
- iv. All the corporate organizational meetings and related documents;
- v. Transfer of property from I-70 to each nonprofit;
- vi. Application to transfer DNR licenses to new nonprofits; and
- vii. Notices to all potential members of each nonprofit.

## CONCLUSION

The regulation of community water systems in mobile home parks is an issue to significant statewide concern. There are at least 60 known such systems in Missouri and only one is regulated currently by the Commission. Before the Commission should embark on using the complaint process to extend its control over those systems on a case-by-case basis, a working docket should be opened. A working docket would allow all the parties (Staff, OPC, and the mobile home parks and their residents) to participate in the parameters of what, if any, regulation should apply to them. This is the only way to ensure that there is a consistent statewide system of regulation of smaller mobile home parks that offer water or sewer to their residents.

WHEREFORE, for the foregoing reasons, I-70 Mobile City respectfully requests the Commission stay this case and open a working docket and allow all interested stakeholders to participate, and for such other orders as are just and reasonable under the circumstances.

Respectfully submitted,

**ELLINGER BELL LLC**

By: /s/ Stephanie S. Bell

Marc H. Ellinger, #40828

Stephanie S. Bell, #61855

308 East High Street, Suite 300

Jefferson City, MO 65101

Telephone: 573-750-4100

Facsimile: 314-334-0450

Email: mellinger@ellingerlaw.com

Email: sbell@ellingerlaw.com

*Attorneys for I-70 Mobile City, Inc.*

*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 December 14, 2023.

*/s/ Stephanie S. Bell*  
\_\_\_\_\_

Stephanie S. Bell