

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

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	
)	<u>Case No. WC-2010-0227</u>
Aspen Woods Apartment Associates, LLC, Barry Howard, Aspen Woods Apartments, Sapal Associates, Sachs Investing Co., Michael Palin, Jerome Sachs, and National Water & Power, Inc.)	
)	
Respondents.)	

JOINT PROPOSED PROCEDURAL SCHEDULE

COME NOW the Staff of the Missouri Public Service Commission (Staff) and Aspen Woods Apartment Associates, LLC, (Aspen Associates), referred to collectively as the Parties, and by and through the undersigned counsel state the following to the Missouri Public Service Commission (Commission):

1. On January 29, 2010, the Staff filed a *Complaint* asserting that either individually and/or jointly, all Respondents are water and sewer corporations and public utilities subject to the Commission's jurisdiction.
2. On April 1, 2010, the Commission issued an Order that directed the Parties to file a second procedural schedule by September 6, 2010.
3. The Parties met on August 25, 2010, and September 1, 2010, to participate in discussions. As there is no resolution of the dispute as of this date, the Parties jointly agree¹ to

¹A family matter of the responsible person at National Water & Power, Inc., (NWP), precludes NWP's counsel from committing to this procedural schedule. The Staff understands that NWP will submit its position sometime after this filing.

propose the following schedule for the Commission's consideration:

- a. The Parties agree to work on a stipulation of non-disputed material facts and, should the Parties reach agreement, shall file the stipulation before the Commission for its consideration no later than October 30, 2010;
- b. No later than November 30, 2010, any Party may file a dispositive motion in this case.
- c. Should any Party file such dispositive motion, the other Parties may file a response no later than thirty (30) days after the motion's filing.
- d. In reply to any response(s) to the dispositive motion(s) filed, the moving party may file a reply no later than fifteen (15) days after the response is filed with the Commission.
- e. Discovery shall be completed by February 23, 2011.
- f. To date, the Parties have not reached a decision on whether to offer testimony live or in the form of pre-filed testimony, and the number of days anticipated for hearing. The Parties request that the Commission allow a three-day hearing in April 2011, excluding the dates of April 4-8, 18, and 25, 2011, should the agreement be to provide all testimony live. If the Parties agree to provide pre-filed testimony, the Parties request that the Commission allow a two-day hearing in May 2011.

While the Parties offer the above dates, the Parties request that the Commission allow the filing of a status report on any agreement reached to the preferred form of hearing no later than March 1, 2011, with the report to include the form of testimony the Parties will provide, the number of days anticipated for

hearing if different than that proposed above, a filing schedule for pre-filed direct, rebuttal, and surrebuttal testimony if necessary, and any other relevant information.

4. The Parties have factored time into the proposed schedule above for the Staff to file, on or before September 30, 2010, a motion for leave to file an Amended *Complaint*.

5. The Parties have also factored in time between any reply filings and the evidentiary hearing for a Commission decision on any dispositive motion filed as described in Paragraph 3 (b) above.

WHEREFORE, the Parties submit this *Joint Proposed Procedural Schedule* for the Commission's information and consideration and request that the Commission issue a procedural schedule as proposed by the Parties in Paragraph three (3) above.

Respectfully submitted,

/s/ Jennifer Hernandez

Jennifer Hernandez
Associate Staff Counsel
Missouri Bar No. 59814

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above was served upon the attorneys/parties of record via electronic mail to Lowell D. Pearson, attorney for Aspen Woods Apartment Associates, LLC, at lowell.pearson@huschblackwell.com; Craig S. Johnson, attorney for National Water & Power, Inc. at craigsjohnson@berrywilsonlaw.com; and the Office of the Public Counsel at opcservice@ded.mo.gov this 3rd day of September 2010.

/s/ Jennifer Hernandez