

**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,)	
and National Water & Power, Inc.)	
)	
Respondents.)	

JOINT REPLY TO STAFF FILING OF JANUARY 7, 2011

COME NOW Aspen Woods Apartment Associates, LLC (Aspen Woods) and National Water & Power, Inc. (NWP), and, in joint reply to Staff's January 7, 2011 Filing in Response to Commission Questions, and submits the following:

1. In Staff's January 7 Filing, paragraphs 2 and 3 thereof suggests that the activities of Seges, addressed by the Commission in consolidated cases WA-2008-0403 and SA-2009-0401, were very similar to those of Respondents in this case. Aspen Woods and NWP respectfully suggest that there are certain differences between the Seges proceedings and this case worthy of note, being:

- a. in the Seges cases Seges voluntarily applied for certificates of convenience and necessity. There was no dispute raised or decided as to the Commission's jurisdiction;
- b. in the Seges cases Seges received wholesale water service, not commercial customer retail service as Aspen Woods receives;

- c. in the Seges cases each residence had a separate water meter, as opposed to the Aspen Woods situation, where meters serve single structures containing multiple apartments, and no apartment has its own separate meter;
- d. in the Seges case Seges marked up both the wholesale water and sewer rates to a “retail” rate that Seges charged its customers based upon individual water meter readings, as opposed to the Aspen Woods situation where the retail water and sewer bills are passed through to tenants without a rate markup.

2. In Staff’s January 7 Filing, paragraphs 4 and 5 suggest that WC-2008-0079 represents an instance where the Commission “found” Universal Utilities and Nancy Croasdell were public utilities by virtue of billing Blue Acres Mobile Home Park residents for water and sewer charges. Aspen Woods and NWP observe that in that proceeding Universal Utilities and Ms. Croasdell defaulted, and the Commission’s December 13, 2007 Order made all of its findings based upon striking those Respondents’ Answer and entering default judgment as a sanction for failure to comply with their discovery obligations. There was no determination of utility status made based upon evidence in the record.

Also, as Aspen Woods and NWP pointed out at pages 8-10 of their Joint Reply to Staff and OPC’s Opposition to Joint Motion for Summary Determination, the Blue Acres Mobile Home Park issue was the subject of a companion proceeding to WC-2008-0079. In WC-2008-0126, *Staff v Delmic, et al*, Staff brought a complaint against the owners and operators of the same Blue Acres Mobile Home Park for providing water and sewer service without a certificate of convenience and necessity. The case was placed in abeyance until the City of Columbia

passed an ordinance. That Ordinance required Delmic to purchase resold water from the City, to submeter the water of each tenant, to charge all tenants the same rate for water service, and required that the rate charged tenants be a fractional part of the City's rates. Staff then dismissed its complaint. There was no determination of jurisdiction made by the Commission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading was electronically mailed to the following attorneys of record in this proceeding this 11th day of January, 2011:

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