

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

| | | |
|--|---|-------------------------------------|
| DDMS Properties, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | <u>File No. AC-2021-0037</u> |
| |) | |
| Metropolitan St. Louis Sewer District, |) | |
| |) | |
| Respondent. |) | |

NOTICE OF DEFICIENCY AND NOTICE THAT COMPLAINT MAY BE DISMISSED

Issue Date: August 19, 2020

On August 13, 2020, DDMS Properties and David M. Spotanski, filed a complaint with the Missouri Public Service Commission (Commission) against the Metropolitan St. Louis Sewer District (MSD). That complaint is deficient in two respects.

First, Commission rule 20 CSR 4240-2.070(4)(G) requires that a complaint describe the Commission's jurisdiction over the subject matter of the complaint. The complaint is deficient in that it does not state what jurisdiction the Commission has over the allegations in the complaint. More specifically, it does not describe what jurisdiction the Commission has over MSD. MSD was organized under Article VI, Section 30(a) of the Missouri Constitution as a sewer district,¹ a political subdivision of the state of Missouri, and is not a "sewer company" as that term is defined in Section 386.020, RSMo. The Commission is created by statute and has only the powers granted to it by the legislature.² Those powers do not include authority to hear complaints against MSD.

¹ Section 249.645, RSMo 2016.

² *State ex rel. United Rys Co. of St. Louis v. Public Service Commission of Missouri*, 270 Mo. 229 (1917).

Section (7) of Commission rule 20 CSR 4240-2.070 states that, after notice, the Commission may on its own motion “dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission” Because the Commission has not been granted jurisdiction to hear complaints against MSD,³ the complaint fails to state a claim upon which relief can be granted. Thus, the Commission will dismiss this complaint unless DDMS Properties or David M. Spotanski can show that the Commission has jurisdiction to hear this complaint.

The second deficiency concerns the representation of DDMS Properties. DDMS Properties is identified on the envelope accompanying the complaint as a limited liability company. Missouri statute Section 484.020, RSMo 2016, restricts the practice of law to licensed attorneys. Consequently, Commission rule 20 CSR 4240-2.040(5), requires pleadings filed with the Commission to be signed by an attorney authorized to practice law in Missouri unless the entity signing the pleading is a natural person acting solely on his or her own behalf and representing only him or herself.⁴ The complaint is signed by Mr. Spotanski, but is not signed on behalf of DDMS Properties by anyone identified as a Missouri-licensed attorney. Before DDMS Properties may participate in the filing of a complaint with the Commission, it must correct this deficiency by having an attorney authorized to practice law in Missouri sign the complaint. If the deficiency is not corrected by the date set out below, the Commission will dismiss DDMS Properties as a party to this matter.

³ *City of Columbia v. State Public Service Commission*, 43 S.W. 2d 813 (1931).

⁴ See also *Clark v. Austin*, 340 Mo 467, 101 S.W. 2d 977 (Mo 1937); *Reed v. Labor and Indus. Relations Com’n*, 789 S.W.2d 19 (Mo 1990).

Therefore, the Commission provides this notice that the complaint will be dismissed for failure to state a claim upon which relief can be granted unless DDMS Properties or Mr. Spotanski show the Commission that it has jurisdiction to hear this complaint. Further, DDMS Properties' filing is deficient and the Commission will dismiss DDMS Properties as a party if it does not correct the lack of an authorized attorney signature. The Commission will allow until September 27, 2020, for DDMS Properties or Mr. Spotanski to correct the deficiency and show how the Commission has jurisdiction over MSD. If no response is filed by that time correcting the deficiency, or the Commission determines it does not have jurisdiction after reviewing a response, the Commission will dismiss the complaint and close the file.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Nancy Dippell, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 19th day of August, 2020.

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 19th day of August, 2020.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

August 19, 2020

File/Case No. AC-2021-0037

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@opc.mo.gov

DDMS Properties

Legal Department
401 Church St. No. 191
O'Fallon, MO 63366
ddmsprops@gmail.com

**Metropolitan St. Louis Sewer
District (MSD)**

Legal Department
2350 Market Street
St. Louis, MO 63103-2555

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.