

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

Derald Morgan,)	
)	
Complainant,)	
)	
v.)	<u>File No. WC-2021-0223</u>
)	
Carl R. Mills Water Service d/b/a Carl)	
Richard Mills,)	
)	
Respondent)	

**NOTICE OF COMPLAINT AND ORDER DIRECTING
RESPONDENT TO FILE ANSWER AND RESPONSE**

Issue Date: January 14, 2021

Effective Date: January 14, 2021

On January 13, 2021, Derald Morgan filed a formal complaint against Carl R. Mills Water Service d/b/a Carl Richard Mills, a public utility regulated by the Commission. The Complaint alleges violations of a Commission order and requests that the Commission seek penalties pursuant to Section 386.570, RSMo.¹ A copy of the complaint accompanies this notice. Mr. Morgan also requested that this complaint be consolidated with the current rate case of Carl Richard Mills, File NO. WR-2021-0177. The Commission will set a deadline for Carl Richard Mills to file an answer and a response to the motion to consolidate cases.

This complaint is filed pursuant to Section 386.390, RSMo 2016. The Commission informs the parties that the Commission’s provisions governing procedures before the Commission, including provisions relating to discovery, are found at Commission Rule 20 CSR 4240-2.090.

¹ All statutory references are to the Revised Statutes of Missouri (2016) unless otherwise stated.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send, by certified mail, a copy of this notice and order and a copy of the complaint to:

Carl R. Mills Water Service d/b/a Carl Richard Mills
209 Falling Leaf Court
Reeds Spring, MO 65737

2. Carl R. Mills Water Service d/b/a Carl Richard Mills shall file an answer to the complaint no later than February 16, 2021. The answer and any other pleadings shall be filed using the Commission's Electronic Filing and Information System (EFIS) or by mail to:

Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

3. Any response to the motion to consolidate case files shall be filed no later than February 16, 2021.

4. This order shall be effective when issued.



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 14th day of January 2021.

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

DERALD MORGAN,)
)
 Complainant,)
)
 v.) File No. WC-2021- _____
)
 CARL RICHARD MILLS D/B/A)
)
 Respondents,)

**FORMAL COMPLAINT
AND MOTION TO CONSOLIDATE**

COMES NOW Complainant, J. Derald Morgan, by and through counsel, Karl Finkenbinder, and for its formal complaint against Respondent Carl R. Mills, a regulated water utility service provider, regarding violations of a Commission Order and request for the Commission to sanction said utility provider pursuant to Section 386.570, RSMo., and in support thereof respectfully states the following:

1. Complainant Derald Morgan resides at 108 Carriage Oaks Dr., Reeds Spring, MO 65737.
2. The Respondent water utility service is Carl R. Mills (“Respondent”), and located at Carl R. Mills, 209 Falling Leaf Court, Reeds Spring, MO 65737.
3. Respondent operates a public utility under the jurisdiction of the Missouri Public Service Commission, pursuant to a certificate of convenience and necessity issued in WA-2018-0370 (“Order”) to provide water utility service to a small subdivision located in Stone County, Missouri. A true and accurate copy of the Commission’s *Report and Order* in WA-2018-0370 is attached hereto and marked **Exhibit 1**.

4. During the proceedings in WA-2018-0370, Respondent represented to the Commission that it intended to retain the services of a water utility service provider, Ozark Clean Water Company, to perform operations and management of the water utility system. A true and accurate copy of the surrebuttal testimony of Carl Mills is attached hereto and marked **Exhibit 2**.

5. The flat rate adopted by the Commission in WA-2018-0370 of \$289.68 was “premised on Mills contracting with a third party operator for management of the water system.” Ex. 1, Pg. 13.

6. The Commission’s Order required Respondent to notify the Commission within one week of termination of any contract with Ozark Clean Water, and initiate a rate proceeding within two months of any termination of the contract with Ozark Clean Water. Ex. 1, Pg. 15 ¶¶ 1-m.

7. Upon information and belief, Respondent failed to make payment upon invoices issued by Ozark Clean Water, and Carl Mills and Ozark Clean Water ceased their business relationship in June 2019. *See Affidavit of Derald Morgan, **Exhibit 3***.

8. Respondent was obligated to notify the Commission of the termination of Ozark Clean Water company by November 22, 2019.

9. Respondent failed to promptly notify the Commission of the termination of Ozark Clean Water in accordance with the terms of Paragraph l of its Order.

10. Respondent failed to initiate a rate case within two months of the termination of the business relationship Ozark Clean Water in accordance with the term of Paragraph m of its Order.

11. Respondent was obligated to notify the Commission of the termination of Ozark Clean Water company by January 8, 2020.

12. Section 386.570, RSMo., authorizes the Commission to issue penalties of at least \$100 to \$2,000 per day for each violation of an order; being at least \$73,100 and not more than \$1,462,000.

13. Complainant requests Commission investigate the circumstances and determine the date of termination of business activities between Respondent and Ozark Clean Water, and assess penalties in the amount authorized by statute against Respondent for violations of its Order, consider Respondent's violations of the Commission's Order when setting rates in WR-2017-0037, and order that Respondent may not pay for or seek recovery of monies spent to pay such penalties from rate payers.

14. Additionally, as the basis of the rates adopted in WA-2018-0370 were set on the representations of Respondent's continued contracting with Ozark Clean Water, and that no such contract has been in place or effect since *prior* to the authorization of the initial rates, that the Commission Staff be directed to determine new rates based on volumetric usage data since the issuance of Respondent's certificate of convenience and necessity.

15. The Commission has jurisdiction to investigate compliance with its orders and over enforcement of its orders. *See* Sections 386.330-360, RSMo.

16. Respondent in this matter has initiated a small rate case proceeding in WR-2021-0177, notice of which was sent to customers on or about January 11, 2021.

17. Complainant moves to consolidate this matter with the WR-2021-0177, as disposition of this matter may effect utility accounting and other matters before the Commission in said rate case.

18. Complainant is otherwise within the intervention deadline prescribed by 20 CSR 4240-2.075.

Respectfully submitted,

SCHENEWERK & FINKENBINDER,
ATTORNEYS AT LAW, LLC

By:



Karl Finkenbinder, Mo. Bar No. 59425
100 Prairie Dunes Dr., Ste 200
Branson, Missouri 65616
[417] 334.7922; [417] 334.7923 FAX
Email: karl@sfalawfirm.com
COUNSEL FOR COMPLAINANT

Complainant Designation:

January 11, 2021
Date

/s/ J. Derald Morgan
Signature of Complainant

417-338-0296
Complainant's Phone Number

J. Derald Morgan
Complainant's Printed Full Name

Alternate Contact Number

jderaldmorgan@hotmail.com
Complainant's E-mail Address

CERTIFICATE OF SERVICE

The below signed counsel hereby certifies that a true and accurate copy of the foregoing was submitted through the Missouri Public Service Commission's E-Filing System, which generates notices to interested parties, and copies were also sent to the following to the following email addresses:

Missouri Public Service Commission [staffcounsel@psc.mo.gov];
Office of the Public Counsel [opcservice@opc.mo.gov];

The above was also served via U.S. Mail, postage prepaid to the following interested parties on January 13, 2020:

Carl Mills Water Service
Legal Department
209 Falling Leaf Court
Reeds Spring, MO 65737

Missouri Department of Natural Resources
Legal Department
PO Box 176
Jefferson City, MO 65102-0176

/s/ Karl Finkenbinder

Karl Finkenbinder

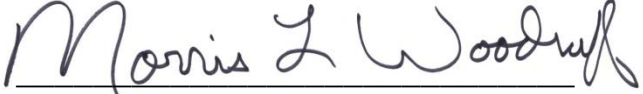
STATE OF MISSOURI

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 day of 14th January, 2021.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

January 14, 2021

File/Case No. WC-2021-0223

**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@psc.mo.gov

Carl Richard Mills

Carl R Mills
209 Falling Leaf Court
Bransonwest, MO 65737
mrrsykes@aol.com

Derald Morgan

Derald Morgan
108 Carriage Oaks Dr.
Reeds Spring, MO 65737
jderaldmorgan@hotmail.com

**Missouri Public Service
Commission**

Jamie Myers
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
jamie.myers@psc.mo.gov

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.