

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

THE STAFF OF THE MISSOURI PUBLIC
SERVICE COMMISSION,)

Complainant,)

vs.)

Case No. WC-2010-0227

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.)

**RESPONDENT ASPEN WOODS APARTMENT ASSOCIATES, LLC'S
FIRST DATA REQUESTS TO
THE MISSOURI PUBLIC SERVICE COMMISSION**

COMES NOW Respondent Aspen Woods Apartment Associates, LLC and issues this First Data Requests to the Missouri Public Service Commission pursuant to 4 CSR 240-2.090. The responses to these data requests shall be signed and attested to as truthful and correct. 4 CSR 240-2.090(2). The responding party is under a duty to promptly notify Aspen Apartments of any changes to the answers previously given to this data request. *Id.*

INSTRUCTIONS AND DEFINITIONS

The following instructions and definitions are applicable to these data requests and, unless otherwise specifically stated, to all concurrent and future requests for discovery submitted by Respondent Aspen Woods Apartment

Associates, LLC herein.

1. Definitions:

(a) “Document” means **all versions of all copies** of any written, recorded or graphic matter, however produced, reproduced, or fixed in a tangible medium of expression, including but not limited to, correspondence, facsimile transmissions, telegrams, “post-its”, notes or recordings, deleted or undeleted e-mails, any attachments to any e-mails or correspondence, any instant messages (sent or received), tape recordings, electro-magnetic or other media, any presentations (whether paper or electronic), of any type of personal or telephone conversations, any audio or video files, or of any meetings or conferences, minutes of meetings, memoranda, intraoffice or interoffice communications, records, studies, tables, charts, drafts, analyses, reports, results of investigations, evaluations, reviews, contracts, agreements, working papers, statistical records, ledgers, books of account, vouchers, bank checks, invoices, receipts, computer data, any scanned images, photographs or text, files or printouts, stenographer’s notebooks, desk calendars, appointment books, daybooks, diaries, photographs (digital or film), any pictures saved or downloaded, sound or video recordings, summaries, pamphlets, compilations, tabulations, or paper similar to any of the foregoing, however denominated and regardless of where located, and includes all matter that relates in whole or in part to the subjects referred to in any document request. The term “document” shall also include the files in which any documents are maintained, including file jackets, and related exhibit tabs or folders in which

any documents are filed or maintained. If a document exists in multiple or counterpart copies, or additional copies have been made, and the copies are not identical (or which, by reason of subsequent modification are no longer identical), each non-identical copy is a separate “document.”

(b) “Residential facility” means apartments, condominiums, townhouses, or any other association of residential dwellings leased to tenants.

(c) “Complaint” means any report of alleged conduct made to the Missouri Public Service Commission or any other state or local governmental agency, made internally, by another state or local official or employee, resident, or any other member of the public.

(d) “PSC Staff Complaint” means the document denominated “Complaint” in this matter filed by the staff of the Missouri Public Service Commission on or about January 29, 2010.

(e) “And” shall be deemed to include “or” and vice versa; the singular form shall be deemed to include the plural and vice versa.

2. In the event that any information requested is withheld on the basis of a claim of privilege, state the ground(s) of the privilege claimed, and if any documents are claimed to be privileged, set forth the author, addressee, indicated or blind copies, number of pages, attachments or appendices, all persons to whom distributed or shown or explained, present custodian, and a general description (e.g. letter or memorandum) of the document.

3. Any information not provided on the basis that the disclosure would be

burdensome or oppressive should be identified by stating the approximate number of documents to be identified, the approximate number of person-hours to be incurred in the identification, and the estimated cost of responding to the request.

4. In the event that any document requested to be identified has been destroyed or otherwise disposed of since its preparation or receipt, set forth the author, addressee, indicated or blind copies, date, number of pages, attachments or appendices, all persons to whom distributed or shown or explained, person who destroyed or otherwise disposed of the document, and a general description of the document.

5. Please note that, pursuant to 4 CSR 240-2.090 and Mo.R.Civ.P. 56.01(e), you are under a continuing duty to supplement your responses to these and all other interrogatories, requests for admissions, and request for production of documents.

6. The deadline for responding to these requests is June 16, 2010.

All responsive documents shall be delivered to the office of Husch Blackwell Sanders LLP, 235 East High Street, Suite 200, Jefferson City, Missouri 65101 by 6:00 p.m. on that date.

Aspen Apartments requests the following documents and information:

REQUEST NO. 1

Provide copies of all complaints, investigative documents, internal memoranda and written and electronic communications related to the Aspen

Apartment residential facilities operated or owned by Respondent Aspen Woods Apartment Associates, LLC, (“Aspen Apartments”) located in Florissant, Missouri.

REQUEST NO. 2

Provide copies of all documents, complaints, investigative documents, internal memoranda and written and electronic communications related to, mentioning, or otherwise involving Respondent National Water & Power, Inc. (“NWP”).

REQUEST NO. 3

Provide copies of all written and electronic correspondence or other communications between the Missouri Public Service Commission and officers, employees, attorneys or other agents or associates of NWP.

REQUEST NO. 4

Provide copies of all documents, written and electronic correspondence or other communications from the Missouri Public Service Commission directed to officers, employees, attorneys or other agents or associates of Aspen Woods.

REQUEST NO. 5

Provide copies of all documents or data related to complaints or investigations of similarly-situated residential facilities, or other entities providing billing services to those residential facilities, where the Missouri Public Service Commission has pursued allegations of the apartment complex and/or its managers and billing agents as operating as a water corporation, sewer corporation, electrical corporation, gas corporation, or other public utility as set forth at § 386.020 RSMo.

REQUEST NO. 6

Provide copies of all documents to or data that support the allegations in paragraphs 39 and 45 of the “PSC Staff Complaint” (as that term is defined above).

Respectfully submitted,

HUSCH BLACKWELL SANDERS LLP

By: /s/ Lowell D. Pearson

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COUNSEL FOR ASPEN WOODS
APARTMENT ASSOCIATES, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served by hand-delivery, facsimile transmission, certified mail, electronic mail and/or United States mail, postage prepaid, to the following parties of record this 27th day of May, 2010:

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/s/ Lowell D. Pearson