BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

GOLDEN POND HOMEOWNERS ASSOCIATION,)	
Complainant,)	
VS.) .	Case No. SC-2010-0204
AQUA MISSOURI, INC.,)	
Respondent.)	

ANSWER

COMES NOW Respondent, Aqua Missouri, Inc., by and through counsel, and for its Answer states as follows:

Aqua Missouri, Inc. (hereinafter "Aqua Missouri") denies Complainant's initial paragraph and further states that Complainant is not a legal entity.

- 1. Aqua Missouri, Inc. (hereinafter "Aqua Missouri") denies Paragraph 1 of the Complaint and further states that its office is at 5402 U.S. 50 Business, Jefferson City, Missouri 65109, and admits it is regulated by the Public Service Commission.
- 2.A. Aqua Missouri denies each and every allegation set forth in paragraph 2.A and further states that Aqua Missouri, Inc. is in fact the legal owner of the Golden Pond Subdivision sewer system. *See* Exhibits 1 and 2 to this Answer.
- 2. B. Aqua Missouri denies each and every allegation set forth in paragraph 2.B. and further states the point of responsibility is defined in Aqua Missouri's Tariff. *See* Aqua Missouri, Inc.'s Missouri P.S.C. Tariff No. 2, 1st (Revised) SHEET No. SRR 6.
 - 2.C. Aqua Missouri denies each and every allegation set forth in paragraph 2.C.
 - 2.C.1. Aqua Missouri denies each and every allegation set forth in paragraph 2.C.1.

- 2.C.2. Aqua Missouri denies each and every allegation set forth in paragraph 2.C.2.
- 2.C.3. Aqua Missouri denies each and every allegation set forth in paragraph 2.C.3.
- 2.D. Aqua Missouri is without sufficient knowledge to admit or deny the allegations contained in paragraph 2.D., and to the extent a response is required, denies the allegations of paragraph 2.D.
- 2.E. Aqua Missouri is without sufficient knowledge to admit or deny the allegations contained in paragraph 2.E., and to the extent a response is required, denies the allegations of paragraph 2.E.
- 2.F. Aqua Missouri asserts that Paragraph 2.F. is a legal conclusion to which no answer is required; however, to the extent an answer is required, Aqua Missouri denies each and every allegation contained therein.
- 2.G. Aqua Missouri admits that some systems within the Jefferson City District have to be upgraded and have lift stations. Aqua Missouri admits that Golden Pond's system is a gravity flow system with no lift stations and no special treatment requirements. Aqua Missouri denies each and every other allegation set forth in paragraph 2.G. and further asserts that the Golden Pond Subdivision is within the "Jefferson City District" as part of the Missouri Certificated Service Area, Sewer Division for Aqua Missouri. *See* Aqua Missouri, Inc.'s Missouri P.S.C. Tariff No. 2, (Original) SHEET Nos. SL1 SM4.
- 2.H. Aqua Missouri is without sufficient knowledge to admit or deny the allegations contained in paragraph 2.H., and to the extent a response is required, denies the allegations of paragraph 2.H. Aqua Missouri further asserts that the Golden Pond Subdivision is within the "Jefferson City District" as part of the Missouri Certificated Service Area, Sewer Division for

Aqua Missouri. See Aqua Missouri, Inc.'s Missouri P.S.C. Tariff No. 2, (Original) SHEET Nos. SL1 – SM4.

- 2.I. Aqua Missouri admits that the sewer system for Golden Pond does not have any wastewater treatment equipment, chlorination equipment or pumps, but denies each and every other allegation set forth in paragraph 2.I. Aqua Missouri further asserts that the Golden Pond Subdivision is within the "Jefferson City District" as part of the Missouri Certificated Service Area, Sewer Division for Aqua Missouri. *See* Aqua Missouri, Inc.'s Missouri P.S.C. Tariff No. 2, (Original) SHEET Nos. SL1 SM4.
- 2.J. Aqua Missouri is without sufficient knowledge to admit or deny the allegations contained in paragraph 2.J., and to the extent a response is required, denies the allegations of paragraph 2.J.
- 2.K. Aqua Missouri is without sufficient knowledge to admit or deny the allegations contained in paragraph 2.K., and to the extent a response is required, denies the allegations of paragraph 2.K.
 - 2.L. Aqua Missouri denies each and every allegation set forth in paragraph 2.L.
 - 2.M. Aqua Missouri denies each and every allegation set forth in paragraph 2.M.
 - 2.N. Aqua Missouri denies each and every allegation set forth in paragraph 2.N.
 - 3.A. Aqua Missouri admits paragraph 3.A.

WHEREFORE, this Commission should dismiss the Complaint, assess costs, including attorney's fees against Complainant, and enter such other relief as this Commission deems appropriate.

AFFIRMATIVE DEFENSES

- A. Complainant's Complaint against Respondent fails to state a claim upon which relief may be granted.
- B. Treating the Complainant's Complaint against Respondent as a motion for rehearing of prior Commission orders, it is out of time. Section 386.500; 4 CSR 240.160.
 - C. Complainant is not authorized to file a complaint under 4 CSR 240-2.070.
- D. The Commission lacks jurisdiction to "clarify the ownership of the sewer system" or to otherwise decide property disputes as requested in Paragraph 1 of Complainant's requested relief. See Section 386.250, RSMo.
- E. Complainant's request for customer specific information from Aqua Missouri requests information which is highly confidential and which is not generally available.
- F. Complainant's request that the Commission "withdraw its support for the outrageous rates being charged by Aqua Missouri" in Paragraph 5 of the Complaint's requested relief does not comply with the complaint procedures of Section 386.390, RSMo.
- G. Complainant's request that the Commission "withdraw its support for the outrageous rates being charged by Aqua Missouri" in Paragraph 5 of the Complaint's requested relief is specifically prohibited by Section 386.390, RSMo.
- H. Each paragraph of Plaintiff's requested relief is a collateral attack on the Commission's Orders approving Aqua Missouri's Tariff. In such collateral actions, final orders and decisions of the Commission are conclusive. Section 386.550, RSMo.

WHEREFORE, this Commission should dismiss the Complaint, assess costs, including attorney's fees against Complainant, and enter such other relief as this Commission deems appropriate.

Respectfully submitted,

BLITZ, BARDGETT & DEUTSCH, L.C.

ddephane & Bell

Ву:

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Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Answer was sent via U.S. Mail, postage prepaid, this 14^{th} day of May, 2010, to:

Lewis Mills Office of Public Counsel P.O. Box 2230 Jefferson City, MO 65102-2230

Kevin Thompson, General Counsel Missouri Public Service Commission P.O. Box 360 Jefferson City, MO 65102-0360

Kerry Bush, Attorney at Law 1201 West Broadway Columbia, MO 65203

Stephane J. Bell
Stephanie S. Bell

(SSB0287.WPD;1)

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GENERAL WARRANTY DEED

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EXHIBIT 1

SANITARY SEWER EASEMENT

THIS INDENTURE, Made on the day 1st of Decarder 1998 by and between Ronald K. and Cynthia J. Replogle of the County of Callaway, in the State of Missouri, Parties of the First Part, and Capital Utilities, Inc. a Missouri Corporation, of, 312 Lafayette Street, Jefferson City, Missouri, 65101. Party of the Second Part.

WITNESSETH, That the said Parties of the First Part in consideration of the sum of One Dollar and other Valuable: considerations to them paid by the said Party of the Second Part, the receipt of which is incerby valuable: considerations to them paid by the said Party of the Second Part, the receipt of which is thereby valuable: considerations to them paid by the said Party of the Second Part, and easterned and in the County of Callaway, Saar of Missouri, to said Party of the Second Part, and service a sanitary sever and manifoles for the routing and conveyance of savinary sewage in, under and through the following described land in the County of Callaway, Saar of Missouri, to sail.

A 15 foot wide strip of land across Lot 27, of Golden Ponds Subdivision as per plat of record in Plat Book 3, page 22, Carlbbay County Recorder's Office and said Lot being situated in the Morthwest Quarter of the Northwest Quarter of Section 24, Township 45 North, Range 11 West and the aforesaid 15 foot wide strip lies 7.5 feet each side of and adjacent to the following described centerlines

From the southeasterly corner of said Lot 27, thence N2916'37"E, along the east line thereof, 241.46 feet to the POINT OF BECINNING for this centerline description; thence S55916'26"W, 25.91 feet; thence N77°31'27"W, 126.46 feet to a point on the westerly line of said Lot 27 and the POINT OF TERMINATION.

TO HAVE AND HOLD with all rights, immunities, privileges and appurtenances necessary to the Perty of the Second Part in exercising its right of easement herein obtained, so that neither the Parties of the First Part nor their heirs, grantees, assigns, or successors, nor any person or persons for them or in their name or behalf, shall be receiber make any use of the shove-described premises in a manure that is inconsistent with, or in any way interferes with the use by Second Party of, the easement herein deeded, conveyed and transferred to the Party of the Second Part. IN WITNESSETTS WHEREOF, the said Parties of the First Part have hereunto set their hands and seals the day and year first above with STATE OF MISSOURI COLE)S COUNTY OF GALLAWAY) On this 1st; day of December 1998 before me personally appeared the above named Parties of the Pittel Part, to the known to be the persons described in and who executed the foregoing instrument and extraordied that they executed the same as their free act and deed. IN TESTIMONY WHEREOF, I have humanto set my hand and affixed my official seal at my office in Jefferson City. No. the day and year first above written. Jeanstin / Muller
Jeanette M. Muller
Notary Public My commission expires. June 16, 2000 JEANETTE M. MULLER HOTARY PUBLIC STATE OF MISSIGNE COUNTY OF COLE BY COMPESSION EXPRES HAVE 16, 70% STATE OF MISSOURI COUNTY OF CALLAWAY) 11 198 at 17 181 Witness my hand and official seal on the day and year aforesaid Kenneth Dillon Recorde

Judy Wilmurth

EXHIBIT

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