

The Office of the Public Counsel,)
An agency of the State of Missouri,)
))
Complainant,)
))
v.) **WC-2015-0340**
))
Fawn Lake Water Corp. and Rachel Hackman,)
))
Respondents.)

COMES NOW the Office of the Public Counsel (“Public Counsel”) and for its Motion to Dismiss Complaint and respectfully states:

1. Staff has a parallel Complaint in this case, Case No WC-2015-0330.
2. Having two similar Complaints against the same Respondent can only lead to confusion and errors. Public Counsel, therefore, recommends the Commission dismiss this Complaint and proceed with the Staff's Complaint.
3. In support of its position, Public Counsel states that the Commission is the state agency with the authority and duty to regulate Missouri public utility companies, including Fawn Lake under Chapters 386 and 393, RSMO (2017).
4. Public Counsel joins with Staff's September 14 *Renewed Motion for Default* and agrees with Staff's conclusions that a Judgment in Default is appropriate in that:
 - a. Respondents have neither filed an answer, nor filed any other type of responsive pleading. Respondents continue to charge for service.

- b. There are continued concerns regarding the safety and adequacy of service, as well as the system's continued operation without the protections for the company or the customers afforded by Commission regulation.
- c. Commission Rule 4 CSR 240-2.070(10) provides, "If the respondent in a complaint case fails to file a timely answer, the complainant's averments may be deemed admitted and an order granting default entered."
- d. In Staff's January 5, 2017 *Motion for Default Determination* in Case No. WC-2015-0330 Staff recommends the Commission order its General Counsel to pursue "an action to recover a penalty...under this chapter or to enforce the powers of the commission under this or any other law may be brought in any circuit court in this state in the name of the state of Missouri and shall be commenced and prosecuted to final judgment by the general counsel to the commission."

5. Public Counsel also joins Staff's recommendation the commission seek injunctive relief under Section 386.360 RSMo (2017) to "(1) prohibit Respondents from any operations as a water corporation; or alternatively, and (2) prohibit Respondents from receiving any further remuneration from the customers, as Respondents continued to charge for service while operating unlawfully as a water corporation, without a certificate of convenience and necessity from the Commission."

WHEREFORE Public Counsel respectfully requests the Commission issue its *Motion to Dismiss* this case and proceed as recommended by Staff in Case No. GC-2015-0330.

Respectfully submitted,

/s/ Lera Shemwell

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Attorney for the Office of the Public Counsel

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties of record electronically on this 1st day of November 2017.

/s/ Lera Shemwell

Lera L. Shemwell