

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

In the Matter of)	
Missouri Public Service Commission)	
)	
Complainant,)	
v.)	Case No. WC-2008-0079
)	
Universal Utilities, Inc.)	
)	
Respondent.)	

MOTION FOR LEAVE TO FILE OUT OF TIME

COME NOW Richard J. Wilhelm (“Wilhelm”) and all other entities that may be subject to the subpoena referenced below, by and through their attorneys, (“Movants”) and pursuant to 4 CSR 4-240-2.015 request leave of this Commission to file a motion to quash subpoena out of time. In support thereof, Movants submit the following:

1. On or about November 13, 2007, Wilhelm was served with a Subpoena Duces Tecum (“Subpoena”) requiring that he and “his affiliates, representatives, business entities, associates in any way related to Universal Utilities, Inc.” produce certain documents within twenty (20) days of the date of service.
2. Pursuant to 4 CSR 240-2.100(3), parties have ten days from the date of service to object to or file motions to quash subpoenas.
3. The undersigned counsel was first contacted by Wilhelm about the Subpoena on November 29, 2007.
4. Pursuant to 4 CSR 240-2.015, the Commission may waive a rule in Chapter 2 of its regulations for good cause.

5. Movants request that the Commission waive the rule in 4 CSR 240-2.100(3) requiring that motions to quash subpoenas be filed within days ten days of the service date and allow Movants to file the motion to quash attached hereto as Exhibit 1.

6. Good cause exists to waive this rule because counsel was not retained by Movants until November 29, 2007 and the twenty-day time period for producing the documents has not yet expired.

7. Furthermore, there is no hearing or other proceeding currently set in this matter.

8. The waiver sought will not prejudice any party to the action and will not unfairly delay the disposition of this cause.

WHEREFORE, in the interest of fairness and justice, Movants respectfully request that the Commission enter an Order waiving the requirement that their motion to quash be filed within ten days of the date on which service of the Subpoena was accomplished and allowing them to file their motion to quash outside of the ten-day time period and for such other relief as the Commission deems just and proper.

Respectfully submitted

/s/ Mark W. Comley

Mark W. Comley, Mo. Bar #28847
Alicia Embley Turner, Mo. Bar #48675
Newman, Comley & Ruth P.C.
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102-0537
(573) 634-2266 (voice)
(573) 636-3306 (facsimile)
comleym@ncrpc.com

Attorneys for Richard J. Wilhelm and all
other entities that may be subject to the
Subpoena

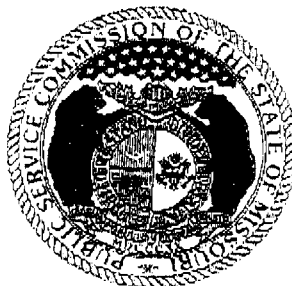
Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 30th day of November, 2007, to General Counsel's Office at gencounsel@psc.mo.gov; Office of Public Counsel at opcservice@ded.mo.gov; and Paul DeFord at pdeford@lathropgage.com.

/s/ Mark W. Comley

11/10/07
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SUBPOENA DUCES TECUM



THE STATE OF MISSOURI.

To Richard Wilhelm, his affiliates, representatives, business entities, associates in any way related to Universal Utilities, Inc.: You are hereby commanded to produce, within twenty (20) days, originals for copying of the documents contained in Attachment A, pertaining to the matter of *Missouri Public Service Commission v. Universal Utilities*, Case no. WC-2008-0079.

and hereof fail not at your peril. The person or officer serving this writ is commanded to have the same at the time and place aforesaid, certifying thereon its return. Given under my hand, this 8th day of November, 2007,

Richard E. Hunsley
[Name]

Regulatory Law Judge
[Title]

RETURN

I HEREBY CERTIFY that I have served the within writ by reading the same in the presence and hearing of the within named Richard Wilhelm on the ____ day of _____, 2007, in _____ County, in the State of Missouri.

[Name]

[Title]

ATTACHMENT A

DEFINITIONS

For the purposes of this request for production, the following definitions control:

- A. "Documents" are documents, records, books, papers, contracts, memoranda, invoices, correspondence, notes, studies, reports, photographs, drawings, charts, maps, graphs, other writings, recording tapes, recording discs, mechanical or electronic information or recording elements, and any other "documents" as defined in Rule 34, FRCP. If a document has been prepared in several versions, or if additional copies have been made which are not identical or are no longer identical by reason of subsequent notation or marking of any kind, each nonidentical copy is a separate document.
- B. "Relating" means referring to, being evidence of, memorializing, or concerning in any way all or any portion of the specified facts or contentions.

REQUESTS

1. Records of any accounting records, accounting history, billing statements, billing sheets, usage reports, generated by or on behalf of Universal Utilities, Inc.
2. Records, from January 1, 2003, to date, of any accounting records, accounting history, billing statements, billing sheets, usage reports, generated by or on behalf of RJW Investments, pertaining to any mobile home park, tenement or entity owned or operated by RJW Investments or Richard Wilhelm for which any arrangement with Universal Utilities, Inc. exists, regardless of whether currently memorialized in writing.
3. Records, from January 1, 2003, to date, of any all repairs, maintenance or improvements to property owned or managed by RJW Investments, Richard Wilhelm, or any of his associates, affiliates or representatives, including invoices, receipts, canceled checks and any other documents which refer or relate to any such repairs, maintenance or improvements to water and/or sewer facilities.
4. From January 1, 2003, to date, checks or records for any expenses related to discontinuation or 'shut-off' of water supply or service, sewer service, or refuse service proceedings or any other expenses related to the business of selling, renting, leasing or subleasing mobile homes (including attorneys' fees) for any mobile home park owned, managed or controlled by Richard Wilhelm or RJW Investments and having any arrangement with Universal Utilities, Inc.

5. From January 1, 2003, to date, checks or records for any income or fees received by Richard Wilhelm or RJW Investments, related to discontinuation or 'shut-off' of water supply or service, sewer service, or refuse service proceedings or any other expenses related to the business of selling, renting, leasing and subleasing mobile homes (including attorneys' fees) for any mobile home park owned, managed or controlled by Richard Wilhelm or RJW Investments and having any arrangement with Universal Utilities, Inc.
6. Any financial statement including any application you have produced for any purpose relating to the provision of water and/or sewer facilities in the State of Missouri since January 1, 2003.
7. Books and Records of your income and business affairs relating to the provision of water and/or sewer facilities in the State of Missouri since January 1, 2003.
8. Any world wide web address and access codes used for communication or business dealing of any and every type with Universal Utilities, Inc.
9. Plaintiff requests that Richard Wilhelm permit Plaintiff to access the website of Universal Utilities, Inc. by producing the access codes necessary to be allowed entry onto said site as Richard Wilhelm accesses said website for business and communication purposes.
10. Any contracts with Universal Utilities, Inc. (including those not yet final or agreed to since January 1, 2003) and RJW Investments or Richard Wilhelm.
11. Any documentation received from Universal Utilities, Inc. since January 1, 2003 or sent by Universal Utilities to RJW Investments, Richard Wilhelm, and/or residents of any mobile home park owned, managed or controlled by Richard Wilhelm or RJW Investments and having any arrangement with Universal Utilities, Inc., and/or customers of water and/or sewer service provided by, maintained by, billed by, or affiliated with Universal Utilities, Inc.
12. Any documentation relating to RJW Investments or Richard Wilhelm acting as an agent, employee, representative or assignee of Universal Utilities, Inc.