

**CT CORPORATION**

February 25, 2004

FILED

FEB 26 2004

Dale Harby Roberts  
Missouri Public Service Commission  
200 Madison, Suite 800  
Jefferson City, MO 65101

Missouri Public  
Service Commission

RE: The Staff of the Missouri Public Service Commission, complainant, v Tenet Healthsystem DI, d/b/a Orchard House Partnership, respondent, TO: ORCHARD HOUSE PARTNERHSIP, Caes #TC-2004-0418

Dear Mr. Roberts:

After checking our records and the records of the Secretary of State of Missouri, it has been determined that C T Corporation System is not the registered Agent in Missouri for a company by the name of Orchard House Partnership.

Accordingly we are returning the enclosed documents.

Sincerely,



Bonnie L. Love  
Sr Process Specialist

Encl.

FEDERAL EXPRESS

cc: New York Office/Agent Service Division/Annie  
log #6096598

120 South Central Avenue  
Suite 400  
Clayton, MO 63105  
Tel. 314 863 5545  
Fax 314 863 0259

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

The Staff of the  
Missouri Public Service Commission,  
  
Complainant,

v.

Tenet Healthsystem DI, d/b/a Orchard  
House Partnership,  
  
Respondent.

**Case No. TC-2004-0418**

**NOTICE OF COMPLAINT**

Orchard House Partnership  
21 N. Old Orchard Rd.  
Webster Groves, Missouri 63119

The Corporation Company  
120 S. Central Ave.  
St. Louis, Missouri 63105

**CERTIFIED MAIL**

On February 18, 2004, the Staff of the Missouri Public Service Commission filed a complaint with the Commission against Orchard House. A copy of the complaint is enclosed. Under Commission Rule 4 CSR 240-2.070, Orchard House has 30 days from the date of this notice to file an answer or to file notification that the complaint has been satisfied. Orchard House is reminded that, as a corporation, it cannot appear before the Commission unless it is represented by an attorney licensed to practice law in Missouri. Therefore, its answer must be signed by a Missouri attorney.

All pleadings must be mailed to:

Secretary of the Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102-0360

A copy must be served upon the Staff of the Commission at the address listed within the enclosed complaint.

**BY THE COMMISSION**

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(S E A L)

Dated at Jefferson City, Missouri,  
on this 23rd day of February, 2004.

Pridgin, Regulatory Law Judge

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

The Staff of the Missouri Public Service  
Commission, )

Complainant, )

v. )

Case No. TC-2004-

Tenet Healthsystem DI, d/b/a Orchard  
House Partnership, )

Respondent. )

**COMPLAINT**

**COMES NOW** the Staff of the Missouri Public Service Commission ("Staff") and initiates its complaint pursuant to Section 386.390 and 4 CSR 240-2.070, against Tenet Healthsystem DI, d/b/a Orchard House Partnership (the "Company" or "Orchard House Partnership") for violation of the Commission's statutes and rules relating to annual report filings. In support of its complaint, Staff respectfully states as follows:

**GENERAL ALLEGATIONS**

1. Respondent Tenet Healthsystem DI d/b/a Orchard House Partnership is a "telecommunications company" and "public utility" as defined in Section 386.020 RSMo (2000) and is subject to the jurisdiction of the Missouri Public Service Commission pursuant to Section 386.250. The Commission granted the Company a certificate of service authority to provide shared tenant services in Case No. TA-90-17 on October 31, 1989. The Company has provided the following contact information to the Commission:

Orchard House Partnership  
21 N. Old Orchard Rd.  
Webster Groves, MO 63119

The Tenet Healthsystem DI's registered agent, according to the records of the Missouri Secretary of State's Office, is:

The Corporation Company  
120 S. Central Ave.  
Clayton, MO 63105

2. Section 386.390.1 authorizes the Commission to entertain a complaint "setting forth any act or thing done or omitted to be done by a public utility in violation of any law, or of any rule, order or decision" of the Commission.

3. Commission practice Rule 4 CSR 240-2.070(1) provides that the Commission's Staff, through the General Counsel, may file a complaint.

4. The Missouri courts have imposed a duty upon the Public Service Commission to first determine matters within its jurisdiction before proceeding to those courts. As a result, "[t]he courts have ruled that the Division cannot act only on the information of its staff to authorize the filing of a penalty action in circuit court; it can authorize a penalty action only after a contested hearing." *State ex rel. Sure-Way Transp., Inc. v. Division of Transp., Dept. of Economic Development, State of Mo.*, 836 S.W.2d 23, 27 (Mo.App. W.D. 1992) (relying on *State v. Carroll*, 620 S.W.2d 22 (Mo. App. 1981)); see also *State ex rel. Cirese v. Ridge*, 138 S.W.2d 1012 (Mo.banc 1940). If the Commission determines after a contested hearing that the Company failed, omitted, or neglected to file its annual report and/or pay its annual assessment, the Commission may then authorize its General Counsel to bring a penalty action in the circuit court as provided in Section 386.600.

#### COUNT ONE

5. Section 392.210.1 states that telecommunications companies must "file an annual report with the Commission at a time and covering the yearly period fixed by the commission."

6. Commission Rule 4 CSR 240-3.540(1) requires all telecommunications companies to file their annual reports on or before April 15 of each year.

7. On February 3, 2003, the Executive Director of the Commission sent all regulated utilities, including Orchard House Partnership, a letter notifying them of the requirement to file

an annual report covering the calendar year 2002, together with the appropriate form for the Company to complete and return to the Commission and instructions on how the Company may complete its filing electronically. The letter was sent to the address that was current in the Commission's Electronic Filing and Information System ("EFIS") at that time, and the letter was not returned.

8. The Company never returned a completed form, nor did it file its annual report electronically; and as of the date of this pleading, has not filed its 2002 Annual Report. See Affidavit of Janis Fischer, attached to this Complaint as Exhibit A.

9. Section 392.210.1 provides that "[i]f any telecommunications company shall fail to make and file its annual report as and when required or within such extended time as the commission may allow, such company shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report...."

#### PRAYER FOR RELIEF

**WHEREFORE**, Staff now requests that the Commission open a complaint case pursuant to Section 386.390; and, after hearing, find that Orchard House Partnership failed, omitted, or neglected to file its 2002 Annual Report with the Commission as required by Missouri statute and Commission orders, and authorize its General Counsel to bring a penalty action against the Company in the circuit court as provided in Section 386.600, based on the statutory penalties set forth in Section 392.210.1 (for failing to file annual reports).

Respectfully submitted,

DANA K. JOYCE  
General Counsel

/s/ Bruce H. Bates

Bruce H. Bates  
Associate General Counsel  
Missouri Bar No. 35442

Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-7434 (Telephone)  
(573) 751-9285 (Fax)  
[bruce.bates@psc.mo.gov](mailto:bruce.bates@psc.mo.gov) (E-Mail)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 18<sup>th</sup> day of February 2004.

/s/ Bruce H. Bates

Orchard House Partnership  
21 N. Old Orchard Rd.  
Webster Groves, MO 63119

The Corporation Company (Registered Agent)  
120 S. Central Ave.  
Clayton, MO 63105

John Coffman, Esq.  
Office of the Public Counsel  
P. O. Box 7800  
Jefferson City, MO 65102

**AFFIDAVIT**

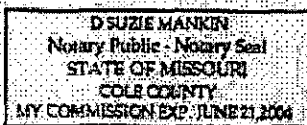
STATE OF MISSOURI   )  
                                  )  
COUNTY OF COLE     )

I, Janis E. Fischer, Utility Regulatory Auditor IV, of the Commission's Auditing Department, first being duly sworn on my oath state that the Public Service Commission's records do not reflect the receipt of the 2002 Annual Report from Orchard House Partnership.

*Janis E. Fischer*

Janis E. Fischer

Subscribed and sworn to before me this 17<sup>th</sup> day of February, 2004.



*Suzie Mankin*

NOTARY PUBLIC

Exhibit A



**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 23<sup>rd</sup> day of Feb. 2004 .

*Dale Hardy Roberts*

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**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

**MISSOURI PUBLIC SERVICE COMMISSION**

**February 23, 2004**

**Case No. TC-2004-0418**

Dana K Joyce  
P.O. Box 360  
200 Madison Street, Suite 800  
Jefferson City, MO 65102

John B Coffman  
P.O. Box 7800  
200 Madison Street, Suite 640  
Jefferson City, MO 65102

Orchard House Partnership  
Legal Department  
21 N. Old Orchard Road  
Webster Grove, MO 63119

The Corporation Company  
Legal Department  
120 S. Central Ave.  
St. Louis, MO 63105

**Enclosed find a certified copy of a NOTICE in the above-numbered case(s).**

**Sincerely,**

A handwritten signature in dark ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, somewhat stylized script.

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

PUBLIC SERVICE COMMISSION  
P O BOX 360  
JEFFERSON CITY MO 65102

MO 419-1183 (12-91)

CERTIFIED MAIL



7001 1940 0002 6942 6119



Legal Department  
The Corporation Company  
120 S. Central Ave.  
St. Louis, MO 63105

