

Bethesda Health Group, Inc.

Al Poelker
Senior Vice President
Senior Living

BETHESDA
HEALTH GROUP



Bethesda Barclay House
Bethesda Gardens
Bethesda Orchard
Bethesda Terrace
Bethesda Townhouse

FILED²

MAR 01 2004

Missouri Public
Service Commission

February 25, 2004

Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Dear Sirs:

Tenet Healthsystem DI d/b/a Orchard House Partnership does not exist at 21 N. Old Orchard Road, Webster Groves, MO 63119. I am not aware of the current state of this entity or a forwarding address for such a company.

Sincerely,

Al Poelker
Senior Vice President
Senior Living

AP/sk

Enclosure

**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

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 (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 18th 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

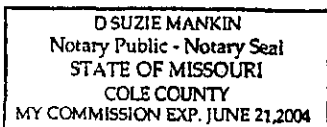
AFFIDAVIT

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 17th day of February, 2004.



D. Suzie Mankin
NOTARY PUBLIC
