

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

The Staff of the Missouri Public Service  
Commission,  
  
Complainant,  
  
v.  
  
Port Perry Service Company,  
  
Respondent.

Case No. WC-2006-0062

**STAFF MOTION FOR DETERMINATION ON THE PLEADINGS**

COMES NOW Staff of the Missouri Public Service Commission, and moves for determination on the pleadings in its favor. In support of its motion the Staff respectfully states:

1. On August 4, 2005, Staff filed a Complaint against Port Perry Service Company (Company), alleging that the Company failed to timely file a completed 2004 annual report form, and that that failure constituted a violation of the Commission's statutes and rules relating to annual report filings.

2. Commission Rule 4 CSR 240-2.117 (2) provides that a party may move for a determination on the pleadings of its case. The sole material fact in this case involves the filing of a 2004 annual report required by the Public Service Commission's statutes. The parties have agreed that the Company did not file its 2004 annual report in a timely manner. *See* page one, paragraphs two and three of the *Answer* and Staff's Affidavit attached to its *Complaint* as Exhibit A, both previously filed in this case. As the parties do not dispute that the Company did not file its annual report in a timely manner, there is no genuine issue of material fact before the Commission in this matter and Staff is entitled to relief as a matter of law. Therefore, in

accordance with the prayer for relief in Staff's Complaint, the Staff requests that the Commission also issue an order (1) finding that Port Perry Service Company failed, omitted or neglected to timely file its 2004 Annual Report as required by Missouri statute, and (2) authorizing 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 Sections 393.140 (6) (for failing to timely file annual reports), with any penalty calculation limited to the time before August 30, 2005, when the Company filed its 2004 annual report.

WHEREFORE, the Staff respectfully recommends that the Commission issue an order:

1. Finding that Port Perry Service Company failed, omitted or neglected to timely file its 2004 Annual Report as required by Missouri statute; and
2. Authorizing the Commission's 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 Sections 393.140 (6) (for failing to timely file annual reports).

Respectfully submitted,

DANA K. JOYCE  
General Counsel

**/s/ Mary E. Weston**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to the following this 3<sup>rd</sup> day of October 2005.

**/s/ Mary E. Weston**

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