

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

In the Matter of)	
Janice Shands,)	
Complainant,)	
)	
v.)	<u>File No. WC-2015-0030</u>
)	
Missouri-American Water Company,)	
)	
Respondent.)	

**STAFF’S MOTION IN SUPPORT OF INTERVENTION, MOTION TO DISMISS
NON-CUSTOMER COMPLAINANT AND MOTION FOR EXTENSION OF TIME
TO FILE UPDATED STAFF RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and hereby files its motion in support of Lewis & Clark Tower Condo Association’s motion to intervene. Staff also renews its motion to dismiss Complainant, Janice Shands, from this matter as Complainant is not a customer of record with Respondent as set forth in set forth in 4 CSR 240-13.015. In support of this motion the Staff avers as follows:

1. Staff filed its motion to dismiss and Staff Recommendation in support of dismissal of the Complainant’s case on September 10, 2014, grounded largely on the fact that Complainant was not the customer of record with Respondent, which was instead Lewis & Clark Tower Condo Association.

2. On September 19, 2014, Complainant’s attorney filed a pleading entitled “Entry of Appearance” attempting to communicate to the Commission that attorney Susan Mello was appointed by the St. Louis County Circuit Court to represent Lewis & Clark Tower Condo Association as a party plaintiff in the private civil action currently pending.

3. This Commission in its Order of September 24, 2014, directed attorney Susan Mello to conform to Commission rules on intervention found in 4 CSR 240-2.075 if she sought to represent Lewis & Clark Tower Condo Association in the instant complaint.

4. On the same day as the Commission Order regarding Intervention, attorney Susan Mello filed the following pleading “Motion to set aside or amend order questioning Joinder/ Entry for LCTCA and Motion to intervene for good cause”, but the pleading was so unclear, unconcise and confusing it was not readily apparent to Staff what relief or what action was being sought through its filing.

5. On September 29, 2014, Respondent filed its response to Staff’s Recommendation and Statement in Support of Lewis & Clark Tower Condo Association’s Motion to Intervene. In that motion, Respondent provided to Staff and the Commission Appendix A, which represents a court order from St. Louis County Circuit Court, wherein it appears that the civil court has realigned the Lewis & Clark Tower Condo Association as a party plaintiff under the representation of attorney Susan Mello.¹

6. It now appears through the filings by Respondent that attorney Susan Mello is the attorney appointed by the court to represent Lewis & Clark Tower Condo Association. Attorney Susan Mello has filed a motion for intervention for good cause by Lewis & Clark Tower Condo Association. The Staff supports attorney Susan Mello’s motion to intervene on behalf of Lewis &

¹ *St. Ex Rel Bennett v. Lewis & Clark 195 LLC*, 14SL-CC02207, Order entered September 18, 2014

Clark Tower Condo Association as it is the customer of record with Respondent², and any violation that may have occurred could now be properly resolved as the real party in interest is now before the Commission.

7. Staff renews its motion to dismiss Ms. Janice Shands as a party in this case as she does not meet the definition of a customer under the definition set forth in 4 CSR 240-13.015. Ms. Shands was not responsible for payment for water service at 9953 Lewis and Clark. The condominium association is the responsible party for payment of service; therefore, Lewis and Clark Tower Condo Association is the customer, not Ms. Shands per Commission rules and Ms. Shands should be dismissed from this complaint.

8. Staff requests an additional 90 days from the entry of any Order granting intervention, should the Commission decide to do so, in which to file an updated Staff Recommendation based on an investigation of the real party in interest, the customer, Lewis & Clark Tower Condo Association.

WHEREFORE, Staff prays that the Commission will grant the Motion to Intervene filed on behalf of Lewis & Clark Tower Condo Association, will dismiss Janice Shands as a party to this action as she is not a customer under the Commission Rules, and will grant an additional 90 days from the entry of any Order granting Intervention to file an updated Staff Recommendation; and for such other and further relief as is just in the circumstances.

² See Answer of Missouri American Water Company.

Respectfully submitted,

/s/ Cydney D. Mayfield

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by First Class United States Mail, postage prepaid, to all counsel of record this 2nd day of October, 2014.

/s/ Cydney D. Mayfield