

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	Case No. WC-2008-0079
v.	)	
	)	
Universal Utilities, Inc., and Nancy Carol Croasdell,	)	
	)	
	)	
Respondents.	)	

**MOTION FOR DEFAULT JUDGMENT**

COMES NOW, the Staff of the Missouri Public Service Commission, by counsel, and moves the Commission for an order rendering a decision by default in this case for Respondent's refusal to comply with the Commission's November 1, 2007 Order Granting Staff's Motion to Compel Discovery.

1. The Commission directed the parties to file a proposed procedural schedule by November 14, 2007. A procedural schedule and hearing are not necessary in this case. Rather, the Staff moves the Commission for a decision in its favor by default finding that Universal Utilities is a public utility subject to Commission regulation and authorizing the General Counsel's office to proceed to circuit court to obtain penalties.

2. The Commission issued an order on November 1, 2007, Granting Staff's Motion to Compel Discovery and directing Universal to respond to Staff's Data Requests within five business days.

3. To date, Universal has provided absolutely no discovery responses in spite of the Commission's Order. Universal has failed to comply with the Commission's Order and stands in defiance of the Commission's authority.

4. Commission Rule 4 CSR 240-2.090(1) provides that "[s]anctions for abuse of the discovery process or failure to comply with Commission orders regarding discovery shall be the same as those provided for in the rules of civil procedure."

5. Rule 61 of the Rules of Civil Procedure states that when a party fails to answer interrogatories, a Court may render a judgment by default against the disobedient party. Rule 61.01(b)(1). When a party fails to produce documents, a Court may render a judgment by default against the disobedient party. Rule 61.01(d)(2).

6. Default is the appropriate remedy in this case because Universal refuses to acknowledge the Commission's authority, refuses to comply with the Commission's November 1, 2007 discovery order, and apparently plans to delay and stall this case for as long as possible.

7. Granted, Universal has not provided sufficient information to allow the Staff to determine the extent of Universal's statewide business operations. But at least as to the service areas identified in the Amended Complaint, the Commission should determine that Universal is a public utility. Universal is a corporation no different than AmerenUE or KCPL and wherever Universal is engaging in the water and sewer business, the corporate entity is subject to Commission regulation. The Commission should issue a report and order finding that as to all of its Missouri business operations involving water and sewer services wherever located, Universal is a public utility subject to Commission jurisdiction and regulation. Further information can still be obtained

through subpoenas, circuit court and Commission orders identifying the additional areas where Universal is doing business.

Wherefore, the Staff prays that the Commission grant the relief sought in Staff's Amended Complaint seeking a Commission decision that Universal: 1) is a water corporation, sewer corporation, and public utility at each and every location it operates in Missouri; 2) has violated section 393.170 RSMo by providing water and sewer services without Commission authority since January 31, 2003, and that each and every day's violation of law is a separate and continuing offense; 3) is subject to penalties and that the General Counsel's office is authorized to proceed to circuit court to collect penalties for each and every day's violation of law extending back to January 31, 2003.

Respectfully Submitted,

**/s/ Steven C. Reed**

Steven C. Reed  
Missouri Bar No. 40616

Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
573-751-3015 (telephone)  
573-751-9285 (facsimile)  
[steve.reed@psc.mo.gov](mailto:steve.reed@psc.mo.gov)

### **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 14<sup>th</sup> day of November, 2007.

/s/ Steven C. Reed