

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 30th day
of January, 2019.

The Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	<u>File No. TC-2019-0141</u>
v.)	
)	
TelAgility Corp.,)	
)	
Respondent.)	

**ORDER GRANTING STAFF’S MOTION FOR
DEFAULT JUDGMENT AND AUTHORITY TO SEEK PENALTIES**

Issue Date: January 30, 2019

Effective Date: March 1, 2019

On November 13, 2018, the Staff of the Missouri Public Service Commission (“Staff”) filed a *Complaint* against Respondent, TelAgility Corp. (the “Company”), for failing to pay the fiscal year 2019 assessment. On November 14, 2018, the Missouri Public Service Commission (“Commission”) issued its *Notice of Contested Case and Order Directing Filing*, ordering the Company to file an answer to the *Complaint* no later than December 14, 2018. On January 16, 2019, Staff filed a *Motion for Default Judgment and Authority to Seek Penalties* (“Motion for Default”). Staff’s Motion for Default states that the Company has filed no Answer in this matter.

Commission Rule 4 CSR 240-2.070(9) provides: “The respondent shall file an answer to the complaint within the time provided. All grounds of defense, both of law and of fact shall be raised in the answer.” Commission Rule 4 CSR 240-2.070(10), states:

“If the respondent in a complaint case fails to file a timely answer, the complainant’s averments may be deemed admitted and an order granting default entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.”

More than 30 days have elapsed since the Respondent was served on November 14 and November 18, 2018.¹ The Company has filed no Answer to the Complaint. Therefore, the Commission will grant Staff’s Motion, deem all the Complaint’s allegations admitted, and make further findings as follows.

Findings of Fact

The Commission finds that the Company is a provider of “interconnected voice over internet protocol services” to the public for gain as defined by Section 386.020(23) and is, thus, a “public utility” as defined by Section 386.020(23), RSMO. The Commission finds that the Company is, accordingly, subject to the jurisdiction of the Commission pursuant to Section 386.250(3), RSMO. The Commission finds that on June 20, 2018, in Case No. AO-2018-0379, the Commission issued its Assessment Order for Fiscal Year 2019 (“2019 Assessment Order”) pursuant to Section 386.370, RSMo.²

The Commission finds that on June 21, 2018, the Commission’s Budget and Fiscal Services sent the Company notice stating that \$50.67 was due no later than July 15, 2018. Subsequently, on August 15, 2018, the Commission sent the Company a “late notice”

¹ EFIS Items No. 3 and 4.

² This Order fixed the amount allocated to telephone service providers at \$1,304,107.

stating that the said amount was due immediately. The Commission finds that the Company still has not paid the said assessment.

Conclusions of Law

Section 386.570.1, RSMO provides:

“Any . . .public utility which violates or fails to comply with any. . .law, or which fails to comply with any order, decision, decree, rule, direction, demand or requirement, or any part of provision thereof, of the commission in a case in which a penalty has not herein been provided for such. . .public utility, is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.”

Section 386.570.2, RSMO, provides that “. . .in case of a continuing violation each day’s continuance thereof shall be and be deemed to be a separate and distinct offense.”

The Commission finds that the Company’s failure to pay its 2019 assessment of \$50.87 constitutes a violation of Section 386.370, RSMO. The Commission further finds that each day’s failure to pay the assessment from and after August 15, 2018, has constituted a separate and distinct violation and offense per Section 386.570.2, RSMO, and that the Commission is entitled to a penalty of from \$100.00 to \$2,000.00 for each such separate and distinct violation.

Staff asks the Commission to direct its General Counsel to proceed to circuit court to seek the imposition of penalties against TeleAgility Corp for violations of Missouri law. The Commission’s rules allow TeleAgility Corp an opportunity to contest Staff’s allegations before the Commission, and TeleAgility Corp has chosen not to respond.

By rule, TelAgility Corp has seven days from the issue date of this order to file a motion to set aside this order of default.³ As this order has a thirty-day effective date of March 1, TelAgility Corp has until February 28 to request rehearing of this order.⁴

³ Commission Rule 4 CSR 240.2.070(10)

THE COMMISSION ORDERS THAT:

1. The Staff's Motion for Default Judgment and for Authority to Seek Penalties is granted.
2. A default judgment is entered against TelAgility Corp.
3. The facts alleged in Staff's Complaint are found to be established.
4. The Commission's General Counsel is authorized to bring an action in the Circuit Court for Fifty and 67/100 Dollars (\$50.67) plus such interest thereon as may be allowed by law from and after August 15, 2018; and for penalties of from one hundred dollars (\$100.00) up to two thousand dollars (\$2,000.00) for each separate and distinct violation of Section 386.370, RSMO, from and after August 15, 2018, plus such interest on the said penalties as may be allowed by law.
5. TelAgility Corp has until no later than February 7, 2019, to move to set aside this order of default.
6. This order shall be effective on March 1, 2019.
7. This file may be closed on March 2, 2019.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur.

Graham, Regulatory Law Judge

⁴ Section 386.500.2, RSMO.