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JUN 13 2014

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

PSC Docket No. 2014-153-S

Arch Enterprises, LLCPetitioner

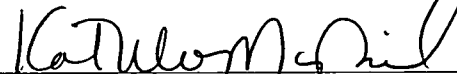
v.

Palmetto Wastewater Reclamation, LLC d/b/a Alpine Utilities
and South Carolina Office of Regulatory Staff.....Respondents

NOTICE OF APPEAL

Arch Enterprises, LLC appeals two decisions of the South Carolina Public Service Commission. The first decision appealed is the Public Service Commission Directive, dated May 1, 2014. The second decision appealed is the Public Service Commission of South Carolina Commission Directive, dated May 21, 2014, denying the Petition for Rehearing and Reconsideration of Arch Enterprises, LLC. Copies of the decisions appealed from are attached hereto.

CALLISON TIGHE & ROBINSON, LLC



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June 13, 2014
Columbia, South Carolina

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OFFICE OF REGULATORY STAFF**

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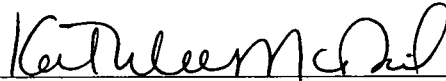
Palmetto Wastewater Reclamation, LLC d/b/a Alpine Utilities
and South Carolina Office of Regulatory Staff.....Respondents

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the following by causing a copy to be mailed to the parties on June 13, 2014, at the addresses shown below:

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RECLAMATION, LLC D/B/A
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**ATTORNEYS FOR PETITIONER
ARCH ENTERPRISES, LLC**

June 13, 2014

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u>May 01, 2014</u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u>2014-153-S</u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u>2014-400</u>

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.

SUBJECT:

DOCKET NO. 2014-153-S - Arch Enterprises, LLC d/b/a McDonalds, Complainant/Petitioner v. Palmetto Wastewater Reclamation, LLC d/b/a Alpine Utilities, Defendant/Respondent - Discuss with the Commission the Motion to Dismiss on an Expedited Basis Filed on Behalf of Palmetto Wastewater Reclamation, LLC d/b/a Alpine Utilities.

COMMISSION ACTION:

We have before us for consideration a Motion to Dismiss the Complaint of Arch Enterprises, LLC d/b/a McDonalds ("Arch") filed by Palmetto Wastewater Reclamation LLC d/b/a Alpine Utilities ("Alpine"). The Complaint requests two forms of relief. The first request was for an emergency order halting disconnection of sewer service. This request was discussed with the parties shortly after the complaint was filed, and, as was stated to them - and agreed to by Alpine - was actually moot upon the filing of the complaint requesting a hearing before the Commission, pursuant to Commission Regulation 103-538 (B). The second request for relief was that the Commission hold a hearing and determine that the past due amount owed to the utility by the complainant was \$9,560.00. This amount was derived by the Complainant attempting to apply a rate approved for Palmetto Utilities in its 2013 rate case. In addition, Arch points out that this rate is proposed for adoption by the Commission for the respondent utility in this case, Alpine. The Commission has neither held a hearing, nor ruled on the Alpine rate matter.

In its Motion to Dismiss, among other arguments, Alpine cites Commission Regulation 103-533, which states that a utility must charge its customers according to schedules filed in compliance with Title 58 of the South Carolina Code of Laws, which requires approval of such schedules by the Commission. The Regulation clearly states that the utility is prohibited from charging a customer in any manner inconsistent with its filed schedules, and prescribes remedies in the event that charges outside these schedules are billed to the utility's customers. In this case, Arch requests the imposition of rates approved only for another utility company. Alpine has no such approved rates. Further, Alpine notes that the case law in South Carolina prohibits a retroactive reduction of charges imposed under a previously approved rate, which is the remedy sought by Arch in this case. In other words, Alpine states, in so many words, that granting the rate relief requested by the Complainant in this case would be unlawful. I agree with this view of the law, find it sufficient to resolve the issue in the case, and move that the Arch Complaint be dismissed on this ground, while expressly declining to rule on Alpine's other arguments.

However, there is one other matter that must be addressed. The Complaint asserts that 30-day and 10-day disconnection notices under Commission Regulation 103-535.1 were served on Arch under the Palmetto Utilities, Inc. name. Copies of the notices are in fact attached to the Complaint, and Alpine does not dispute the fact that this occurred. We are not aware of any disconnection notices that have been issued under the actual service provider in this case, Palmetto Wastewater Reclamation LLC d/b/a Alpine Utilities. I believe that just as it is unlawful to charge a customer under a rate schedule approved only for a utility that does not serve the customer in question, it is also unlawful, and of no force and effect, for one utility to serve disconnection notices on the customer of a different utility. Unless the disconnection notices come from the actual utility serving the particular customer, the customer could appropriately consider the notices to be a mistake, and disregard them. Accordingly, I move that we

hold that the disconnection notices in the present case served by Palmetto Utilities were of no force and effect on Arch, since Arch was receiving service by Alpine.

PRESIDING: Hamilton

SESSION: Regular

TIME: 11:00 a.m.

	MOTION	YES	NO	OTHER
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MCGEE	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

(SEAL)



RECORDED BY: J. Schmieding

Motion to Dismiss, and, under the circumstances of this case, was not contrary to the public interest. This Commission may dismiss complaints without hearing when the complainant fails to state facts sufficient to constitute a claim upon which relief could be granted by this Commission. However, for sake of clarity, I move that we also specifically find that we have waived the provisions allowing oral arguments in granting the Company's request for dismissal. It is not contrary to the public interest to forego oral argument or hearing when relief cannot be granted in any event based on the face of the Petitioner's pleadings. This procedure is consistent with that used by other State tribunals.

Arch also alleges that the Commission erred in concluding that its request for a reduction in previously charged rates would amount to prohibited retroactive rate making. I continue to believe that there was no error in this conclusion, based on the same reasoning discussed in our original Order in this matter. I also believe that we should affirm our holding that Arch's desire to adopt the rates of another wastewater company is unlawful. Essentially, we dismissed the complaint because it failed to state facts sufficient to constitute a claim upon which relief could be granted by this Commission. This was because the complaint requested either rates that, if granted, would constitute retroactive ratemaking, or rates that had only been approved for another wastewater utility. In conclusion, our dismissal of the Arch Complaint was proper and consistent with the law, and was based on settled regulatory principles. Further, since the complaint was properly dismissed, the scheduled hearing was properly cancelled by the Standing Hearing Officer's Directive of May 6, 2014.

Accordingly, I move that Arch's Petition for Rehearing and Reconsideration be denied.

PRESIDING: Hamilton

SESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER	
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
HALL	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
MC GEE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Absent</u>	Annual Leave
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
WHITFIELD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Absent</u>	Commission Business

(SEAL)

RECORDED BY: J. Schmieding

