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November 9, 2001

Mr. Dale H. Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED³
NOV 09 2001

Re: **Warren County Water & Sewer Co. and Gary L. Smith**
Case No. WC-2002-155

Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **PUBLIC COUNSEL'S RESPONSE TO REQUEST FOR MEDIATION AND MOTION TO ESTABLISH PROCEDURAL SCHEDULE AND CONDUCT AN EARLY LOCAL PUBLIC HEARING**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,

M. Ruth O'Neill
Assistant Public Counsel

MRO:jb

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
NOV 09 2001

Office of the Public Counsel,
Complainant,

Missouri Public
Service Commission

v.

Case No. WC-2002-155

Warren County Water and Sewer
Company and Gary L. Smith,
Respondents.

**PUBLIC COUNSEL'S RESPONSE TO REQUEST FOR MEDIATION AND
MOTION TO ESTABLISH PROCEDURAL SCHEDULE AND CONDUCT AN
EARLY LOCAL PUBLIC HEARING**

COMES NOW, the Office of the Public Counsel, and respectfully informs the Missouri Public Service Commission and the Respondents, Warren County Water and Sewer Company and Gary L. Smith, that it declines the offer to mediation in this case. Further, Public Counsel respectfully moves that the Commission establish a procedural schedule in this matter which includes an early public hearing. In support of this response and motion, Public Counsel states the following:

1. While Public Counsel believes that mediation can be a reasonable and positive alternative in cases where a complaint is lodged against a utility, this complaint does not fall into the category of cases which can be resolved through mediation. The ongoing nature and number of complaints which Public Counsel has received, and continues to receive, regarding these Respondents factor into Public Counsel's decision to reject the mediation option in this case.

2. Public Counsel suggests that the long history of problems with Warren County Water and Sewer and the number of issues raised in the complaint make mediation inappropriate. Because the parties are extremely unlikely to be able to resolve the many

ongoing issues contained in the complaint as the result of mediation, agreeing to such a request will only prolong the time period before the Respondents' customers actually receive relief.

3. Public Counsel respectfully moves the Missouri Public Service Commission to establish a procedural schedule for this case, and the related complaint case, Case No. SC-2002-160, and to schedule these matters for a joint local public hearing. (The Commission has pending before it a motion to consolidate these cases pursuant to 4 CSR 240-2.070(12).)

4. As the Commission stated in its case of In the Matter of Missouri-American Water Company's Tariff Sheets Designed to Implement General Rate Increases for Water and Sewer Service Provided to Customers in the Missouri Service Area of the Company, Case No. WR-2000-281, (**Order Regarding Local Public Hearings**, May 4, 2000):

"The purpose of the local public hearing is to hear from the public. This is an opportunity for individual ratepayers to make their concerns known to the Commission. These concerns may center on rates or on quality and safety of services, or both. They may also specifically relate to the issues that are before the Commission in this contested case."

5. Public Counsel believes that a local public hearing should be held in this case in order for the Commission to have the opportunity to hear directly from the customers of Warren County Water and Sewer Company. By scheduling a public hearing early in the proceedings, the public who have been harmed by the Respondents' conduct will have an opportunity to describe specific instances in which they have encountered problems with the Company and its management.

WHEREFORE, Public Counsel rejects the proposal for mediation in this case, and respectfully moves the Commission to establish a procedural schedule which will include an early local public hearing.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: 
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 9th day of November 2001:

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