

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

The Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	
v.)	Case No. WC-2006-0029
)	
Missouri Utilities Company,)	
)	
Respondent.)	

**STAFF'S RESPONSE TO
ORDER DIRECTING STAFF
TO IDENTIFY AN INTERIM RECEIVER**

COMES NOW the Staff of the Missouri Public Service Commission and, for its Response to Order Directing Staff to Identify an Interim Receiver, states to the Missouri Public Service Commission as follows:

1. On July 21, 2005, the Staff filed a Complaint against Missouri Utilities Company, seeking the appointment of a receiver and the appointment of an interim receiver. The Commission ordered Missouri Utilities to file its answer to the Staff's Complaint by no later than August 5, 2005. As of 2:00 p.m. on August 10, 2005, Missouri Utilities has not answered the Staff's Complaint, and it is therefore in default.

2. On August 8, 2005, the Commission issued an order, in which it stated that if it finds Missouri Utilities in default, it will appoint an interim receiver in the order granting default. The Commission also ordered the Staff to file a pleading by no later than 3:00 p.m. on August 10, 2005, identifying the person that it recommends for appointment as an interim receiver for Missouri Utilities Company, and also identifying the county in which the Staff wishes to files an

action for appointment of a receiver for Missouri Utilities Company. This pleading responds to that order.

3. Section 393.145.1, as effective on and after June 29, 2005, provides in part as follows: “If, **after hearing**, the commission determines that any sewer or water corporation ... is unable or unwilling to provide safe and adequate service, has been actually or effectively abandoned by its owners, or ... the commission may petition the circuit court for an order attaching the assets of the utility and placing the utility under the control and responsibility of a receiver.” (Emphasis supplied.)

4. Section 393.145.2, as effective on and after June 29, 2005, includes the following provision: “If the commission orders its general counsel to petition the circuit court for the appointment of a receiver under subsection 1 of this section, it may **in the same order** appoint an interim receiver for the sewer or water corporation.” (Emphasis supplied.)

5. The Staff therefore believes that the Commission may only appoint an interim receiver if it orders the general counsel to petition the circuit court for the appointment of a receiver, and that it may only order the general counsel to seek appointment of a receiver “after hearing.” Accordingly, the Staff submits that the Commission may not have the legal authority to appoint an interim receiver in an order granting default, nor until after the hearing in this case, which is now scheduled for Monday, August 15, 2005.

6. The Staff has not yet finally determined whom it will recommend for appointment as the interim receiver for Missouri Utilities, because no one has yet agreed to so serve. The Staff has contacted Aqua Missouri, Inc., and has also contacted and is engaged in ongoing discussions with Missouri-American Water Company about their possible service as an interim receiver in this case. Before it will agree to serve as interim receiver, MAWC would like to know how

certain issues would be resolved. These issues include: whether it would receive any compensation other than reimbursement for the actual out-of-pocket expenses that it would incur; whether it would be able to recoup any expenditures that it makes that are in excess of the revenues it would collect; whether it would be able to recover any capital expenditures that it would have to make in order to ensure that ratepayers continue to receive safe and adequate service; and what it would have to do to satisfy the Missouri Department of Natural Resources requirements that govern operation of the wastewater treatment plant. The Staff will notify the Commission as soon as it reaches any agreement with MAWC, Aqua Missouri, Inc., or any other person who is qualified to act as an interim receiver.

7. Although the Staff would not be a party to any circuit court proceeding seeking the appointment of a receiver, the Staff recommends that any such proceeding be initiated in the Cole County Circuit Court. This is a venue that is authorized by statute, the Staff believes that Cole County would be the most convenient venue for the Commission, and the Staff believes that it would also be convenient for the owner of Missouri Utilities, who resides near Osage Beach, Missouri, and whose business address is in Camden County, Missouri.

WHEREFORE, the Staff submits its Response to order Directing Staff to Identify an Interim Receiver, for the Commission's consideration.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or e-mailed to all counsel of record on this 10th day of August 2005.

/s/ Keith R. Krueger