

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

**In the matter of Aqua Missouri, Inc.’s )  
Request for an Increase in Rates for )  
Water Service Pursuant to the )  
Commission’s Small Company Rate )      **Case No. WR-2008-0266**  
Increase Procedure. )  
)  
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**In the matter of Aqua Missouri, Inc.’s )  
Request for an Increase in Rates for )  
Sewer Service Pursuant to the )  
Commission’s Small Company Rate )      **Case No. SR-2008-0267**  
Increase Procedure. )  
)  
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**In the matter of Aqua Missouri, Inc.’s )  
Request for an Increase in Rates for )  
Sewer Service Pursuant to the )  
Commission’s Small Company Rate )      **Case No. SR-2008-0268**  
Increase Procedure. )  
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**In the matter of Aqua Missouri, Inc.’s )  
Request for an Increase in Rates for )  
Water Service Pursuant to the )  
Commission’s Small Company Rate )      **Case No. WR-2008-0269**  
Increase Procedure. )  
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**STAFF’S RESPONSE TO ORDER DIRECTING FILING**

COMES NOW the Staff of the Missouri Public Service Commission and, for its Response to Order Directing Filing, states to the Missouri Public Service Commission as follows.

### **Order Directing Filing**

On February 20, 2008, the Commission ordered the Staff to file a report stating why it believes it will be unable to complete its audit in the originally expected timeframe. The Order Directing Filing (the “Order”) stated that the Staff told the Commission on January 31 that it expected to complete its audit by March 6, but that in a subsequent e-mail to the regulatory law judge, counsel for the Staff said Staff could not complete its audit until May 5.

### **The e-mail message**

The Staff believes that the Company, its ratepayers, the Office of the Public Counsel, the Staff and the Commission will all receive the greatest benefit from a local public hearing if the Staff is able to present specific information to the ratepayers about how their rates would be affected by the Staff’s evaluation of the rate request. For this reason, Staff counsel sent an e-mail message to the regulatory law judge, to help her determine when the Staff would be able to provide the most meaningful information for the ratepayers.

Staff counsel acknowledged in the subject e-mail that Staff did not believe it would be able to complete the audit by March 6; but he did not say the Staff did not expect to complete the audit until May 5. As stated in the e-mail, the principal reason why the Staff cannot complete the audit in the originally expected timeframe is that the Staff expects the Company to request an extension of 30 to 60 days in the time for processing Aqua Missouri’s small company rate increase request. In addition to that, however, there are additional reasons why more time is needed, which are discussed below.

### **Why the Staff cannot complete its audit by March 6**

Staff counsel sent a memo to the Commission on January 29, stating: “The Company has been cooperative, and the Staff expects to complete the audit on time.” At the time of the

January 31 Agenda, both Staff counsel and the case coordinator, Jim Russo, still believed that Staff would complete its audit by March 6, in accordance with the Staff's standard timeline for processing small company revenue increase cases. Mr. Russo did inform the Commission, however, that only a preliminary audit, subject to revision, would be available by March 6<sup>th</sup>. Staff counsel's expectation thereafter changed, for several reasons.

*Company failed to provide data on a timely basis.* The Staff was aware of problems with the revenue data soon after receiving Company's initial responses in mid-January. The Staff communicated its concerns to the Company. The Company recognized these concerns and explained that it had undergone a billing conversion process on May 1, 2007 that had resulted in the situation where all of its customers did not receive bills. This helps to explain why the Company is having problems gathering its revenue data. The Company attempted to provide accurate revenue data to the Staff again on February 13, 2008. The Staff held a meeting with the Company on February 14, 2008 and explained that again the data was inaccurate and incomplete. During this meeting the Staff also identified that Company had failed to provide accurate plant, plant retirement, allocations and other expense data. The Company attempted a third time to supply revenue data to the Staff on February 19, 2008. Once again this data was inaccurate and incomplete. In a meeting held in Company's Jefferson City office on February 19, 2008, Judy Kelley, President of Aqua-Maine, and the lead contact in this case, indicated to the Staff that the Company was planning to file an extension for additional time in order to address these data problems. Ms. Kelley, was out of the country on vacation the entire week of February 18 – 22, 2008 and would not be able to address the extension request until at the earliest Monday February 25, 2008. It is the Company's continued delays in providing revenue, plant, plant retirements, allocations and other expense data that will necessarily result in delays in the

completion of the audit. These areas of the case have contributed to the Company's need for an extension of additional time to provide data. The Company has not been accurately recording plant retirements in its books and records and to date the Staff is still waiting for information from the Company regarding this issue. Furthermore, the Company's 2007 plant records are inaccurate and additional information from the Company is required. Finally, the Company has not provided a satisfactory response to the Staff regarding what corporate expenses the Company has allocated to Aqua-Missouri.

*The data the Company provided was not up-to-date, and was not "actual" data.* In order to perform an accurate, reliable audit, the Company must provide the Staff with accurate, actual historical data. The Staff has determined that what the Company previously called "actual" data in its filing was, in fact, budgeted data. The Staff did not receive the actual data for the test year until February 5, 2008.

*The Company has experienced problems with a billing conversion that cause information to be unreliable.* In May 2007, the Company changed its billing software from Reflections to Banner. Although the Company's affiliates in other states had previously converted to the Banner software, the Company experienced great difficulty in effecting this conversion. Customers were not billed in timely fashion and, in fact, some customers, even now, have not received any bill since the conversion to Banner software.

The Company has also experienced significant problems in the management of its accounts payable, with some bills being paid two, three, or even four times.

*The data the Company provided was not accurate and reliable.* In order to complete a satisfactory audit of the Company, the Staff must have accurate, reliable information about the number of customers the Company serves and the amount of water that it sells in each of the

service territories for which rates are designed. If these numbers are too low, the audit would result in customer rates and usage rates that are higher than is just and reasonable; if these numbers are too high, the audit would result in customer rates and usage rates that are lower than is just and reasonable.

The Company first provided consumption information to the Staff in mid-January, but the information was not responsive to the Staff's original data request dated December 20, 2007 and was unusable. The Staff communicated these concerns to the Company through several discussions. The Company recognized the Staff's concerns and explained to the Staff that it had undergone a billing conversion process on May 1, 2007 that resulted in the situation where all of its customers did not receive bills in a timely manner. This serves to explain why the Company is having problems gathering its revenue data. Furthermore, the Company's in its own filing adopted the Staff's annualized revenues from the last rate case as its current position for annualized revenues in this case. The Staff suggests that the Company should have access to its own customer revenue data in order to annualize revenues rather than relying on data that is over three years old. In response to the Staff's concerns, the Company subsequently provided information in electronic form on February 13, 2008 but this information was inaccurate. It then replaced this information with new information in electronic form on February 19, but this information is also inaccurate.

The Staff is dependent upon the information that the Company provides regarding the number of customers and the consumption. The Company has acknowledged that it has not provided the Staff with accurate consumption data. Without accurate consumption data, it is impossible for the Staff to complete its audit or for the Commission to establish just and reasonable rates for the Company's customers.

*The Company said it will request an extension of time for processing the rate request.* In discussions with the Staff's auditors, the Company has recognized the shortcomings of the data that it has provided to the Staff, and has indicated that it would therefore probably request a 30-day or 60-day extension of the time by which the Staff and the Company must negotiate an agreement. The Staff would not oppose a request for an extension of this deadline. However, it would, necessarily, delay the completion of the Staff's preliminary audit by a commensurate length of time.

*The Staff cannot propose a rate design until after the audit is complete.* Another factor (which does not technically relate to the completion of the audit) is that after the audit is complete, the Staff must still do a rate design, which might take as little as three or four days, but would more likely require seven to ten working days. Absent delays, of the type described above, the Staff's internal deadline for completion of the audit would be March 6. The Staff would therefore probably not be able to complete its rate design until a couple of weeks after that, even if there were no delays. And the Staff would not be able to tell the Company's ratepayers what rates the Staff will recommend until the rate design is complete. The Staff believes that ratepayers would benefit most from a local public hearing if they know, before the local public hearing, what specific rates the Staff will propose for their specific district.

*Summary of reasons the Staff cannot complete its audit by March 6.* The Staff will not be able to propose rates until a couple of weeks after the completion of the preliminary audit, the completion of the preliminary audit may be delayed because the Company has not timely provided the required information, the information that the Company has provided is not accurate and reliable, and the preliminary audit may also be delayed – at the Company's request

– because the Company plans to request a 30- to 60-day extension in order to address its data problems.

**The Staff's monitoring of the last rate case  
does not reduce the time the Staff needs to perform its audit**

The Commission noted in its Order that the Staff's monitoring of the Company was to continue after the conclusion of the Company's most recent rate cases. The orders in those rate cases included the following provision:

The Commission finds that the Staff of the Missouri Public Service Commission shall continue to monitor the issues identified in this case, including call response and water quality.

The Staff is continuing to monitor those issues, as ordered. However, the Company's compliance with call response requirements and water quality requirements does not reduce in any way the amount of data that the Staff must collect from the Company or the amount of time that is required to complete an accurate audit of the Company's financial records.

**Extension of the time for negotiating an agreement with the Company**

Pursuant to the current small company rate case rule, the Staff and the company must reach an agreement about the disposition of the request within 150 days after the company requests an increase. This deadline may be extended, but only upon the agreement of both the Company and the Staff. In the vast majority of these cases, the parties have requested such extensions in order to allow the company to provide additional information that is needed for the completion of an accurate audit.

The Staff's current practice is that it does not request the extension of this deadline; rather such requests must come from the company only. If the company does not request an extension, then no extension will occur.

The Staff intends to continue to follow this policy in the present case. If the Company requests an extension of the 150-day deadline, the Staff will likely consent to such extension. If the Company does not request an extension, the Staff will negotiate with the Company based upon the information that is then available to the Staff. In such a case, as the burden of proof is on the one proposing a rate increase, the Company's failure to provide information necessary to the completion of the audit will redound to the disadvantage of the Company, and it may be difficult or impossible for the Company and the Staff to reach agreement upon new rates for the Company's customers.

**The Staff's procedure in this case would comply  
with the new small company rate case rule**

The Commission noted, in its Order, that the Commission is now revising the small company rate case rule so that small company rate can be processed within 11 months, just as regular rate cases are. The Commission submitted its Final Order of Rulemaking for Rule 4 CSR 240-3.050 to the Secretary of State in late January. That rule will not become effective until about April 1, 2008, or later. The current rule does not require that a small company case be processed within 11 months.

However, even if the completion of the Staff's audit is delayed by two months, the Company's rate increase request could still be processed within 11 months. This is consistent with Paragraph (12) of the new rule, which allows the Staff and the Company to extend the deadline for negotiating an agreement by up to two months. Even if an agreement is not reached until 210 days after the Company files its rate increase request, the Commission will still have sufficient time to act upon the Company's requests within 11 months after they were submitted, as is contemplated by the new rule.



**WHEREFORE**, the Staff submits its Response to Order Directing Filing for the Commission's consideration.

Respectfully submitted,

*/s/ Keith R. Krueger*

Keith R. Krueger  
Deputy General Counsel  
Missouri Bar No. 23857

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-4140 (Telephone)  
(573) 751-9285 (Fax)  
[keith.krueger@psc.mo.gov](mailto:keith.krueger@psc.mo.gov) (e-mail)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed with first-class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 22<sup>nd</sup> day of February, 2008.

*/s/ Keith R. Krueger*