

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

In the Matter of the Application of Mid)	Case No. SR-2010-0095
Mo Sanitation, LLC for a Small Company)	
Rate Increase)	

MID MO'S STATEMENT OF POSITION AND WITNESS LIST

COMES NOW, Mid Mo Sanitation, LLC (Mid Mo) and provides the following Statement of Position and Witness List to the Missouri Public Service Commission (Commission) concerning the issues contained in Staff's Statement of Facts, List of Issues, Statement of Position and List of Witnesses filed on July 13, 2010:

STATEMENT OF POSITION

1. **Salary – What is the appropriate level of salary for the management, accounting and billing/collections for the sewer utility to be included in Mid Mo's revenue requirement?**

Mid Mo Position -- The salary figures utilized by Staff for management, accounting, billing and collection reflect reasonable levels of expense to be included in the revenue requirement in this case.

2. **Rate Base – How should Mid Mo's plant be reflected in rate base?**

Mid Mo Position – The Company's plant in service should be based on its net original cost to the Company, as reflected in Staff's calculation of the revenue requirement. The Commission should not accept the approach suggested by the Office of the Public Counsel (Public Counsel).

 The ownership of Mid Mo was at one time vested in Mr. William Bright and three other individuals, each having a 25% share in the Company. Mr. Bright acquired a

100% ownership interest in the Company through a Relinquishment of Owner Rights from the other three owners in a manner similar to a stock transfer.

This change of ownership of the Company should not be treated as a contribution of plant as suggested by the Public Counsel in that it has nothing to do with the net original cost of the Company's plant.

3. Amortization for Contributed Plant – Should an amortization of the contributed plant be included as an offset to depreciation?

Mid Mo Position – It is Mid Mo's understanding that Staff has agreed with the Public Counsel position as to this issue and that this issue is no longer in controversy.

4. PSC Assessment – Should the amount of the PSC annual assessment included in rates reflect the current amount assessed to Mid Mo?

Mid Mo Position -- The revenue requirement in this case should reflect the current PSC Annual Assessment for Mid Mo. Further, Mid Mo should be authorized to collect the PSC Annual Assessment amount through a surcharge that can be adjusted on a yearly basis to reflect the current assessment amounts going-forward.

5. Rate Case Expense – Should rate case expenses be included?

Mid Mo Position -- It is Mid Mo's understanding that Staff's previous calculations of the revenue requirement and the agreement between Staff and Mid Mo did not provide for all rate case expenses and does not include rate case expenses associated with the evidentiary hearing in this matter.

Because the Public Counsel has requested an evidentiary hearing in this matter, Mid Mo is required by Commission Rule 4 CSR 240-2.040(5) to be represented by counsel. *See also In the Matter of the Application of Rosebud Telephone, LLC*, File No.

LA-2010-0298 (June 14, 2010) ("The company is reminded that its officers may not represent it before the Commission. The company *must be represented* by an attorney licensed to practice law in Missouri.) (emphasis added). The Commission has previously explained the basis of its rule as follows:

The underlying basis for this rule is found in RSMo sections 484.010 and 484.020. Section 484.010 defines the practice of law as "the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court of record, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies." Section 484.020 restricts the practice of law and engagement in law business to licensed attorneys.

Crain Pest and Lawn, L.L.C. v. Embarq Missouri, Inc., Case No. TC-2010-0053 (November 23, 2009).

Thus, litigating this case has required Mid Mo to incur attorney fees associated with the processing of this case. The Commission has previously stated as follows concerning attacks on the recovery of rate case expense:

The Commission does not want to put itself in the position of discouraging necessary rate cases by discouraging rate case expense. This is a particularly treacherous area for the Commission to be addressing in that the Commission cannot be viewed as having a dampening effect upon a regulated company's statutory procedural rights to seek out a rate increase when it believes that facts so justify it. Disallowing prudently incurred rate case expense can be viewed as violating the company's procedural rights.

In re St. Joseph Light & Power Company, 2 Mo.P.S.C.3d 248, 260 (1993); *See also In re St. Joseph Light & Power Company*, 3 Mo.P.S.C.3d 207, 214 (1994).


Accordingly, reasonable rate case expenses, normalized over a three year period, should be included in Mid Mo's revenue requirement.

WITNESSES LIST

Mid Mo Sanitation may call Mr. William Bright as a witness in this matter.

WHEREFORE, Mid Mo respectfully requests that the Commission consider this statement of position.

Respectfully submitted,



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ATTORNEYS FOR MID MO SANITATION, LLC

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 13th day of July, 2010, to:

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