

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

CASE NO. SR-83-319

In the matter of IMPERIAL UTILITY CORPORATION of Arnold, Missouri, for authority to file tariffs increasing rates for sewer service provided to customers in the Missouri service area of the company.

APPEARANCES: RODNEY W. SIPPEL, Attorney at Law
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COMMISSION.

REPORT AND ORDER

On April 7, 1983, Imperial Utility Corporation of Arnold, Missouri, submitted to the Commission tariffs reflecting increased interim rates for sewer service provided to customers in the Missouri service area of the Company. The proposed tariffs bore a requested effective date of May 7, 1983, and reflected an increase of approximately 93 percent above present rates.

By Order issued April 19, 1983, the Commission suspended the proposed tariffs for a period of 120 days beyond May 7, 1983, to September 4, 1983, unless otherwise ordered by this Commission. Said Order also set the matter for hearing and scheduled local hearings in Arnold, Missouri.

Local hearings were held in Arnold, Missouri, on May 5 and May 26, 1983. The evidentiary hearing was held in the Commission's hearing room in Jefferson City, Missouri, on June 20, 1983. The parties did not waive the provisions of Section

536.080, RSMo 1978, concerning the reading of the record by the Commission. At the close of the hearing the parties presented oral argument and the record was submitted to the Commission for its decision.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

The Company

Imperial Utility Corporation is a public utility and a sewer corporation as defined in Chapters 386 and 393, RSMo 1978, and as such is under the jurisdiction of this Commission. It is engaged in the provision of sewer service with its authorized Missouri service area located in Jefferson County, Missouri. The Company is owned by Construction Enterprises, Inc., whose stock is owned by Mr. Hank Collins, president of Imperial. Construction Enterprises, Inc., also owns a real estate company which is operated by Mr. Collins.

Elements of Cost of Service

The Company's authorized rates are generally based on its cost of service or its revenue requirement. As elements of its revenue requirement, the Company is authorized to recover all of its reasonable and necessary operating expenses and, in addition, a reasonable rate of return on the value of its property used in public service. It is necessary, therefore, to establish the value of the Company's property and to establish a reasonable return to be applied to the value of its property or rate base which, when added to the allowable operating expenses, results in the total revenue requirement of the Company. By calculating the Company's reasonable level of revenues, it is possible to mathematically calculate the revenue requirement to be allowed in this rate proceeding.

Evidence Adduced at the Local Hearings

At the local hearings held in Arnold, Missouri, the Commission received testimony from numerous customers of the Company and one State Representative. The

witnesses expressed dissatisfaction with the Company with respect to operation and maintenance as well as customer relations.

The Commission was referred to reports of the Department of Natural Resources (DNR) as evidence of poor maintenance of the Company's system. Two sets of DNR reports were received into evidence dated August 11, 1982 and May 18, 1983, respectively. The 1982 reports document a myriad of problems with the system: presence of rodents, weeds, improper maintenance of access roads to some of the plants; lack of fences and warning signs near lagoons and lift stations; lack of pumps, lack of aerators, sewage overflows; and one exposed sewer line. The reports dated May 18, 1983, reflect substantial improvement. However, the reports indicate problems still remain with respect to the presence of rodents, improper maintenance of access roads, warning signs, and fencing. Overflows occur at the Mansion Ridge lift station, however, the Company intends to design a new lift station. Although a DNR official indicated on the record that substantial progress had been made with respect to the system, he expressed the opinion that improvements still need to be made.

The Commission is not convinced, based on this record, that the system is in good operating condition. The evidence reveals at least one instance of an inability to develop the land because of the inadequacy of the system. There also exists a situation of an inability to build in the Montebello Woods Subdivision because of a dispute between the Company and B & R Enterprises, a developer. The Commission notes, however, that the situation involving B & R Enterprises does not appear to be the fault of the Company.

One gentleman, who resides in the Woodland Terrace Subdivision, experiences periodic backup of sewers in his basement, apparently as a result of a connecting sewer which was improperly constructed on a downward grade. Company and Staff assert that the Company never accepted the connecting sewer in question and therefore is not responsible for its repair. However, it is not clear whether the line in question is part of the Company's system. Therefore, the Commission deems it appropriate for the

Staff to investigate this situation and report back to the Commission the following:
(1) whether the Company has directly or indirectly accepted the line in question; (2) whether under the Company's tariffs the Company is obligated to repair the line in question.

Finally, one customer was dissatisfied with the manner in which the Company responded to a backup in her basement caused by a blockage in the Company's system. As a result of this complaint, Staff has recommended that the Company institute 24-hour telephone service to enable the Company to respond to emergency calls. Although the cost of the 24-hour service is not included in the proposed rates, Staff estimates that such a service would require expenditures of approximately \$600 to \$700. Staff recommends that if the Commission accepts its recommendation, the cost for this service be included as an expense for purposes of this case.

Since the record reflects that the maintenance contractor is obligated to be available for emergencies, it would seem that a method could be devised whereby the maintenance contractor could receive emergency calls during off hours. However, given the magnitude of the rate requests, the Commission is reluctant to allow additional expenses which have not been cost justified. Therefore, the Commission determines that 24-hour telephone service should be deferred until the permanent rates go into effect in this matter. When permanent rates are filed, expenses should be proposed which will provide for 24-hour telephone service. The Commission will then determine whether such a service is cost justified.

The Company's president has exhibited an unwillingness to deal courteously and fairly with the Company's customers and to correct deficiencies. For example, the president asserted that the Company was not responsible to correct problems caused by others. Although the Company should certainly seek redress from those who cause damage to the system, that does not mean that the Company is not responsible for the maintenance of the system.

Based on the foregoing, the Commission can only conclude that this Company fails to fully appreciate its legal obligation to provide safe and adequate service.

The Commission expects the Company to meet its statutory duties and its progress in this regard will be closely scrutinized when the Company comes forward seeking permanent rates.

Staff's Audit

The rates proposed herein provide for revised monthly rates as follows: single family dwelling, \$23.22; multi-family and mobile home, \$18.58; commercial establishments, \$23.22.

Although Staff originally recommended the approval of the tariffs as proposed, Staff's presentation at the hearing contained certain adjustments to its original recommendation based on facts that have become known subsequent to the filing of the tariffs and the local hearing. Staff calculates the Company's operating expenses at \$145,876 resulting in a residential rate of \$22.44 per month. In making its determination as to the reasonableness of the rate proposed, the Commission will address those expense items that have become issues or have been brought into question during the course of these proceedings.

A. Computer Expense

The Staff has included \$4,532 for computer expense. The computer is owned by Construction Enterprises, Inc. The Company contends that the expense level for the computer reflects the competitive price for this service, since it is based on bids of several computer firms. The computer will be used to keep the books, records, and for automatic billing. Since these tasks were previously done by hand, the Company estimates that the computer will save \$1,500 to \$1,600 in accounting expenses and asserts that Staff has adjusted accounting expenses to reflect the amounts that will not be necessary because of the new computer.

Staff recommends the expense level as reasonable since the computer service is 50 percent of the cost quoted to the Company by the computer firm, and since a comparison of sewer and water companies of similar size suggests that the proposed amount would satisfy the Company's requirement.

Public Counsel questioned the Company's president concerning the incremental cost to the construction company associated with the service. However, Public Counsel did not specifically recommend that the amount allowed for the service be adjusted.

Having considered the amount attributable to computer expense as recommended by the Staff, the Commission finds that it is reasonable since the expense level appears to be based on a competitive price and since it should result in a cost savings for the Company and its customers.

B. Accounting

The amount of operating expenses recommended by the Staff for accounting is \$5,258. It was elicited on cross-examination that \$3,252 of that amount is attributable to the preparation of this rate case and were incurred because it was necessary to establish the Company's original cost rate base.

Public Counsel takes the position that the \$3,252 should be disallowed since it represents a one time unusual expense and does not represent expected cost to be covered by the proposed rates.

Staff contends that this is an allowable expense and if the Commission should determine that it not be allowed as an expense item then it should be placed in rate base as an organizational expense.

Having considered the arguments of Staff and Public Counsel with respect to this matter, the Commission determines that the amount of accounting expense associated with establishing the Company's original cost rate base should be disallowed, since it does not represent an expense item that will be incurred during the period these rates will be in effect.

C. Postage

Staff recommends that operating expenses allowed for postage be the same as the amount booked by the Company, \$1,172.

The Public Counsel suggests that the amount allowed for postage is excessive since the Company bills quarterly at 13 cents per billing. Given the number of customers Public Counsel asserts billings would be \$256.

The Commission notes that the proposed tariffs propose a monthly and not a quarterly rate. Therefore, the billings based on the Company's number of customers will result in postage expense of \$828 leaving \$344 for other mailings.

Based on the Company's proposal to institute monthly billing, the Commission finds that Staff's recommended expense level for postage is reasonable.

D. Salaries

Staff recommends \$10,200 for salaries. This amount is to compensate the Company's president for general management duties. The president has heretofore received no salary from the Company. In determining the recommended amount the Staff compared water and sewer companies of comparable size and discovered a salary range of \$10,000 to \$25,000 per year. Staff selected a figure at the bottom of the range since day-to-day maintenance management decisions would be made by the maintenance consultant, leaving general management duties to be performed by the president who would be called any time a sewer problem arises. Public Counsel opposes the inclusion of a salary for the Company's president.

The Company's president operates the construction company and the real estate company. Upon cross-examination the president was unable to state the amount of time spent in the various businesses.

The Company employs a person who takes care of billings, bookkeeping and answers the phones during regular business hours. As pointed out above, maintenance, is performed by the maintenance consultant. Since most of the duties associated with running the company are performed by persons other than the Company's president, and since the Company cannot verify the time spent by the president in the Company's management, the Commission concludes that the proposed salary amount of \$10,500 should be disallowed. As a result of this adjustment, Staff's allowance for FICA and unemployment associated with salaries should be adjusted downward from \$1854 to \$834.

E. Contract Maintenance

) The Company has entered into a maintenance contract with Fribis & Associates who have taken over maintenance duties. The purpose of the arrangement is to get the system in good operating condition. Staff has allowed operating expenses of \$64,072 for contract maintenance. The contract has a fixed portion of \$50,000 and a variable portion. Therefore, Staff had to estimate expenses attributable to the variable portion of the contract. The variable portion is primarily associated with sludge hauling. Staff adjusted the original estimate for sludge hauling from \$10,000 to \$8,000 based on ten months actual experience under the contract. Staff further determined that variable costs other than sludge hauling are close to original estimates.

The existence of the maintenance contract is one of the primary reasons that Staff has recommended the proposed rates be put into effect on an interim basis. Staff intends to audit the Company to verify expenses under the maintenance contract along with other expenses to ensure that they are not overstated.

) Considering the above, the Commission finds that the Company's hiring of a maintenance consultant is desirable since the purpose is to upgrade the system. However, the record does not reflect whether the contract is the most cost effective method of meeting this goal. For example, it is not known if the contract was let on a bid basis. The Commission would expect the Company to show when it seeks permanent rates that the contract is cost effective. Nevertheless, the Commission determines that the expense level for contract maintenance is reasonable for interim purposes since Staff verified ten months of operating experience and since the expenditures will be audited at the end of the interim period.

F. Return

) Staff recommends an allowance for return of \$14,494 which it asserts represents a 13 percent return on rate base. Staff states that it allowed a return to the Company which it did not have in the past.

The evidence presented in this matter does not reflect the amount of the Company's rate base or the Company's capital structure. The only evidence as to the Company's debt level is Staff's statement that it designates the \$14,494 amount as return because the Company's president owns the Company that loaned the money to the sewer company. Therefore, all that can be discerned from this record is that some debt exists.

The management inefficiency of this Company has been clearly demonstrated in this record. In addition, the fact that this Company is seeking the highest rates in the State of Missouri raises questions as to its ability to efficiently manage the Company. The Commission expects the Company to address this question in its permanent rate proceeding. If the Commission had the proper information before it, the Commission would make a downward adjustment in determining the proper rate of return on equity to provide this Company with an incentive to improve management efficiency. However, since the record contains no justification or analysis as to what might constitute a reasonable return for this Company, the Commission is unable to determine an appropriate return. Therefore, the return recommended by the Staff should be disallowed for this Company.

The record reflects that this Company has not had a return in the past. If the Company seeks a return on rate base it is incumbent on the Company to come forward to meet its burden of proof as to what amount is appropriate. Therefore, if the Company seeks a return on rate base it should justify its proposal at the end of the interim period when it files for permanent rates.

Revenue Requirement

Based upon the findings set forth above, the Commission determines that operating expenses of this Company total \$113,286.

Having recomputed Exhibit 17 Schedule A-2 and substituting \$2.88 where the amount \$3.65 appears in Schedule A-2 the rates shall be as follows: residential - \$17.28; multiple family and mobile home - \$13.82; commercial establishments - \$17.28. The Commission further determines that the interim tariffs approved herein should be

subject to refund with interest calculated at the average prime rate in effect during the interim period. A refund will be ordered should the Commission determine in the Company's permanent case that the rates authorized herein are excessive.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions:

The Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1978.

The Company's tariffs, which are the subject matter of this proceeding, were suspended pursuant to authority vested in this Commission by Section 393.150, RSMo 1978.

The burden of proof to show that the proposed increased rates are just and reasonable is upon the Company.

The Commission, after notice and hearing, may order a change in the rate, charge or rental, in any regulation or practice affecting the rate, charge or rental, and it may determine and prescribe the lawful rate, charge or rental and the lawful regulation or practice affecting said rate, charge or rental thereafter to be observed.

The Commission may consider all facts which, in its judgment, have any bearing upon a proper determination of the price to be charged with due regard, among other things, to reasonable average return upon the capital actually expended and to the necessity of making reservations out of income for surplus and contingencies.

The order of this Commission is based upon competent and substantial evidence upon the whole record.

The Company's existing rates and charges for sewer service are insufficient to yield reasonable compensation for sewer service rendered by it in this State, and accordingly, revisions in the Company's applicable sewer tariff charges, as herein authorized, are proper and appropriate for the interim period.

The Company should file in lieu of the proposed tariffs, new tariffs designed to produce gross revenues of approximately \$113,286, reflecting the rate levels authorized herein. Said tariffs shall clearly reflect that they are interim to be effective for a period of twelve (12) months and that they are subject to refund to be computed at the average prime rate in effect during the interim period.

It is, therefore,

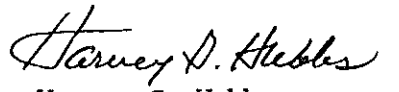
ORDERED: 1. That the proposed tariffs filed by the Imperial Utility Corporation of Arnold, Missouri, in Case No. SR-83-319 are hereby disapproved, and the Company is authorized to file in lieu thereof, for approval by this Commission, interim tariffs consistent with the findings and conclusions of this Report and Order.

ORDERED: 2. That the Staff of the Missouri Public Service Commission is directed to investigate the improperly constructed connecting sewer discussed at page 4 herein and report back to the Commission with respect to the issues outlined above on or before November 15, 1983.

ORDERED: 3. That the interim tariffs authorized herein may be effective for service rendered on and after August 29, 1983.

ORDERED: 4. That this Report and Order shall become effective on the 29th day of August, 1983.

BY THE COMMISSION


Harvey G. Hubbs
Secretary

(S E A L)

Shapleigh, Chm., Musgrave, Mueller,
and Hendren, CC., Concur and certify
compliance with the provisions of
Section 536.080, RSMo 1978.
Dority, C., Not Participating.

Dated at Jefferson City, Missouri,
this 17th day of August, 1983.