

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.

CASE NO. SR-84-44

In the matter of GODFREY GARDENS
UTILITIES, INC. 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: Willard C. Reine, Attorney at Law, 314 East High
Street, Jefferson City, Missouri 65101, for Applicant.

Michael C. Pendergast and Darnell W. Pettengill,
Assistants Public Counsel, P. O. Box 7800, Jefferson
City, Missouri 65101, for the Office of the Public
Counsel and the Public.

Douglas M. Brooks and Paul H. Gardner, Assistants
General Counsel, P. O. Box 360, Jefferson City, Missouri
65102, for the Staff of the Missouri Public Service
Commission.

REPORT AND ORDER

PROCEDURAL HISTORY

On August 17, 1983, the Commission issued its Report and Order in Case No.
SR-83-319 disapproving proposed interim tariffs filed by the Imperial Utility
Corporation of Arnold, Missouri (hereinafter Imperial) and authorizing Imperial to
file interim tariffs designed to produce gross revenues of approximately \$113,286.
The monthly rates authorized under the interim tariffs are as follows: residential -
\$17.28; multi-family and mobile home - \$13.82; commercial establishments - \$17.28.
The Commission authorized the rates to be effective for a one-year period.

On September 15, 1983, Imperial filed an application requesting the Commission to schedule proceedings in order to set permanent rates. On September 29, 1983, the Commission Staff filed a motion requesting the Commission to schedule proceedings and set permanent rates for Imperial.

By order issued November 2, 1983, in Case No. SR-83-319 the Commission set an intervention deadline, set a filing date for prepared testimony and scheduled a prehearing conference and hearing for February 8 and 9, 1984. The Commission's order also directed the Company to send notice of the proceedings to each affected customer.

By order issued December 20, 1983, the Commission approved the Company's proposed notice to customers.

On September 12, 1983, Godfrey Gardens Utilities, Inc., of Arnold, Missouri, (hereinafter Godfrey) filed with the Commission revised tariffs in Case No. SR-84-44 designed to increase rates for sewer service. The proposed tariffs would result in an increase of 200 percent over existing rates. The proposed monthly rate is as follows: single family - \$36; multi-family and mobile home - \$27; commercial - \$36.

By order issued September 28, 1983, the Commission suspended the effective date of the Godfrey tariffs until August 12, 1984, and scheduled a prehearing conference and hearing. The prehearing conference was held on November 15, 1983, and a hearing was held on November 22, 1983.

On January 24, 1984, the Commission issued its Report and Order in Case No. SR-84-44 which denied the Public Counsel's motion to merge Godfrey and Imperial but granted Public Counsel's motion for consistent ratemaking treatment for the two Companies. The Commission concluded in the order that Godfrey should be combined with Imperial for ratemaking purposes and ordered the two cases consolidated. The Commission ordered Godfrey and Imperial to provide newspaper publication of the consolidation, consistent ratemaking treatment and hearing date.

On January 26, 1984, Godfrey filed its motion to extend the effective date of the Commission's Report and Order in Case No. SR-84-44. On January 30, 1984, the Commission extended the effective date until February 10, 1984.

On February 2, 1984, the Commission granted Public Counsel's, Staff's and the Company's joint motion to continue the hearing to February 16, 1984, and to alter the newspaper notice such that the notice of the hearing be published on or before February 6, 1984.

On February 8, 1984, Godfrey filed its application for rehearing in Case No. SR-84-44.

On March 21, 1984, Godfrey and Imperial each filed interim tariffs requesting monthly rates as follows: for Imperial - single family \$37.35; multi-family and mobile homes \$27; commercial \$37.35. For Godfrey - single family \$47.88; multi-family and mobile home \$18.58; commercial \$45.88.

By session orders issued March 30, 1984, in Case Nos. SR-84-44 and SR-83-319, the Commission suspended the proposed interim tariffs for both Companies until July 29, 1984, unless otherwise ordered.

The consolidated hearing in Case Nos. SR-83-319 and SR-84-44 was held on February 16 and 17, 1984. The parties did not waive the reading of the record pursuant to Section 536.080. Upon the filing of the transcript a briefing schedule was established. Initial and reply briefs have been filed by the Companies, the Public Counsel and the Staff.

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:

Godfrey Gardens Utilities, Inc. and Imperial Utility Corporation (hereinafter Companies) are public utilities and sewer corporations as defined in Chapters 386 and 393, RSMo 1978, and as such are under the jurisdiction of this

Commission. Godfrey and Imperial are engaged in the provision of sewer service within their authorized Missouri service areas located in Jefferson County, Missouri. Godfrey serves 30 customers and Imperial serves 573 customers. The Companies are located approximately 15 miles apart. Imperial has nine separate sewer systems which include three mechanical treatment plants. Godfrey operates one mechanical treatment plant. Godfrey and Imperial are solely owned by Construction Enterprises, Inc., which in turn is solely owned by Hank Collins. Mr. Collins is the sole manager and president of Godfrey, Imperial and Construction Enterprises, Inc.

The Commission determined in its Report and Order issued on January 24, 1984, in Case No. SR-84-44 that the two Companies should be combined for ratemaking purposes. Therefore, the rate increase requested by Godfrey has been consolidated with the rate case of Imperial. The Commission reaffirms its finding in its Report and Order of January 24, 1984, and will proceed with the establishment of rates for the two Companies on a combined basis.

The proposed rate for each Company has been set forth in the procedural history of this Report and order.

The proposed revenue requirement recommended by the parties on a consolidated basis is contained in the final reconciliation submitted as late-filed Exhibit T. The Companies propose a revenue requirement of \$342,243, the Staff proposes a revenue requirement of \$176,792 and Public Counsel proposes a revenue requirement of \$125,937. The parties propose a combined rate for the Companies as follows:

	<u>COMPANIES</u>	<u>STAFF</u>	<u>PUBLIC COUNSEL</u>
Residential	\$ 46.20	\$ 23.88	\$ 17.00
Mobile Homes	46.20	23.88	17.00
Multi-family	36.96	19.10	13.60
Commercial	46.96	23.88	17.00
School	1,091.00	564.17	401.56

The matters at issue between the parties are discussed below.

I. OPERATING EXPENSES

A. Taxes

The Companies propose \$2,958 for taxes other than income taxes. This amount includes \$35 for Godfrey and \$2,923 for Imperial. Staff agrees with the Godfrey amount but proposes a downward adjustment of \$2,510 for Imperial since Staff identified \$413 in tax payments by Imperial during the calendar year 1983. Companies maintain that the proposed amount is justified because of property reassessment currently taking place in Jefferson County.

The Commission finds that \$448 as proposed by the Staff should be allowed for taxes since any changes due to reassessment are not known and measurable at this time.

B. Electricity

The Companies propose \$21,686 for electricity expenses, \$1,686 for Godfrey and \$20,000 for Imperial. Staff proposes \$17,485 for Imperial based on an analysis of current electric bill invoices from June, 1983 to January, 1984. Public Counsel supports the Staff. The Companies contend that electricity expenses should be increased to take into account increases which will result from the proposed rate increase currently pending before the Commission for the Union Electric Company.

The Commission finds that any electricity increases are not known and measurable and, therefore, \$19,171 shall be allowed for electricity expense.

C. Regulatory Expense

Companies propose \$205 for regulatory expense. This amount includes \$15 for Godfrey and \$190 for Imperial. Staff proposes \$181 for Imperial, resulting in a total regulatory expense of \$196. Staff's proposal is based on an annualization of PSC assessments to current levels. The Commission finds for Staff and will allow \$196 for regulatory expense.

D. Accounting

The Companies propose an accounting expense of \$588 for Godfrey and \$6,274 for Imperial, resulting in a combined total of \$6,862. Staff proposes a downward adjustment of \$2,832 for Imperial. Public Counsel supports Staff. Staff's adjustment is an annualization of accounting fees based on analysis of 18 months of actual invoices.

The Commission determines that Staff's adjustment is proper and, therefore, \$4,030 shall be allowed for accounting expense.

E. Insurance

The Companies propose \$7,430 for insurance expense for Imperial. Staff originally was opposed to including insurance expense since Imperial, at the time of Staff's audit, had only a verbal quote for insurance coverage and had not entered into a contract.

During the course of the hearing Company witness Collins produced a written proposal for insurance from Aetna Insurance Company. Based on the Aetna proposal Staff has changed its position and recommends that insurance expense as requested by Imperial should be allowed.

The Public Counsel opposes the allowance of this expense, since the Company had not signed a contract at the time of the hearing. Public Counsel contends that the Company has not proved the reasonableness of the insurance bid. In addition, Public Counsel points to the fact that the Commission allowed insurance expense in the interim case and Imperial failed to purchase insurance coverage.

The record reflects that neither company has ever had insurance coverage. The Commission is of the opinion that insurance coverage is essential for a company which operates a sewer plant given the potential for liability. Company witness Collins cited numerous instances of vandalism throughout the Imperial system and stated that the cost to repair instances of vandalism in the last year was approximately twice the cost of insurance. Mr. Collins sought seven bids for

insurance coverage, received two bids and only one company was ultimately willing to write the policy.

The Commission determines that both Companies should be ordered to secure insurance coverage and file evidence of insurance coverage simultaneously with the filing of the tariffs authorized herein. The Commission finds that \$7,430 should be allowed for insurance expense if the Companies timely file evidence of insurance coverage.

F. Legal Expense

Imperial proposes \$14,012 for legal expense which represents an annualized amount based on 18 months of actual invoices. Staff agrees with the annualized amount but proposes to amortize legal expense over two years which results in a \$7,006 adjustment.

Legal expenses are associated with three lawsuits: Imperial v. Cytron; Borgmann v. Imperial; and a condemnation case involving the State Highway Commission.

Borgmann v. Imperial, 24 Mo. P.S.C. (N.S.) 194 (1981), was a complaint case brought against the Company for wrongful disconnection. The Commission found for the Complainant and was upheld in the Missouri Court of Appeals, State ex rel. Imperial v. Borgmann, 664 S.W.2d, 215 (Mo. App. 1983). Imperial v. Cytron is a civil case involving the refusal of Cytron to return certain documents belonging to the Company. Imperial has received a jury award of \$48 and the case is on appeal. The Highway Commission case involves a condemnation of certain easements belonging to Imperial which involved the engineering and moving of the Company's sewer lines.

Public Counsel proposes disallowance of the \$5,236.65 associated with Borgmann v. Imperial and \$7,535.74 associated with the Cytron case. Public Counsel recommends that the full \$1,239.85 associated with the State Highway Commission case be included in this case.

Public Counsel opposes legal expenses associated with Borgmann and Cytron on the basis that they are past expenses, have not been shown to be recurring, and have not been shown to be reasonably incurred or in the interest of the ratepayers. Public Counsel further argues that Borgmann should be disallowed since Company has failed to support the contention that ratepayers should bear the cost of a legal proceeding which is a result of the Company's violation of its tariff. With respect to the Cytron case, Public Counsel argues that a \$7,535 legal expenditure resulting in \$48 actual damages is imprudent.

The Commission determines that legal expenses associated with the Cytron case should be disallowed. There is very little evidence in the record as to what the case involves. Thus, the Company has not produced sufficient evidence to allow the Commission to find that the costs incurred in pursuing the lawsuit are reasonable. Accordingly, the Commission finds that the Company has not proved the reasonableness of this expense.

The Commission determines that the expense associated with the Borgmann case should be allowed. That case involved a proceeding regarding the interpretation of the Company's filed tariffs. The mere fact that the Company did not prevail in the lawsuit does not support a finding of imprudence. In the Commission's opinion legal expenses are a legitimate operating expense.

The Commission rejects Public Counsel's argument that the expenses are past expenses and, therefore, prohibited retroactive ratemaking. The amounts proposed represent annualized legal expenses amortized over a two-year period which in the Commission's opinion represent a reasonable estimate of legal expenses for the period these rates will be in effect.

Based on the foregoing, \$6,477 shall be allowed for legal expenses. Based on a two-year amortization \$3,238 shall be allowed in this case.

G. Rate Case Expense

Companies and Staff propose \$11,356 for rate case expense to be included in

this case. This amount represents one-third of rate case expense, since Companies and Staff agree that rate case expense should be amortized over three years. Therefore, total rate case expense can be calculated as \$34,068. Rate case expense includes legal fees for the interim and permanent cases, accounting expense, witness expense for witnesses Carlie, Fribis and expenses for Mr. Collins association with preparation of the rate case.

Public Counsel recommends a \$6,996 downward adjustment to rate case expense. Public Counsel's adjustment excludes expenses for Mr. Collins, Mr. Fribis, accounting expense and the Imperial interim rate case expense.

Mr. Fribis, president of Colton/Lester/Fribis Associates, Inc., provided testimony regarding the service contract between his firm and Companies. Public Counsel contends that witness expenses for Mr. Fribis should be excluded since he is already being compensated under the management contract and has a financial stake in testifying. With respect to Mr. Collins, Public Counsel argues that Collins should not be paid for testifying since he has an ownership interest in the Company.

Public Counsel proposes that accounting expense should be disallowed since it was incurred to establish a rate base for Imperial, a one-time nonrecurring expense which the Commission disallowed in the Imperial interim case.

Public Counsel finally contends, that the Imperial interim rate case expense should be disallowed since the expenses associated with the interim case are past one-time nonrecurring expenses.

The Commission determines that compensation for Mr. Fribis should be allowed as part of the rate case expense. Companies' contract with Mr. Fribis does not include compensation associated with rate case preparation and therefore it is reasonable to include compensation for Mr. Fribis' time associated with the rate case.

The Commission further determines that the costs associated with the interim case should be included. Interim rate case expense should not be regarded as

a past nonrecurring expense. The interim and permanent cases have been consolidated in one lengthy proceeding and because of the extensive proceedings Companies and Staff have amortized the expenses over a three-year period in order to set a reasonable level of rate case expense to be recognized in future rates.

The Commission determines that Mr. Collins' compensation should be disallowed since the Company has failed to show the reasonableness or the basis of Mr. Collins' charges. The record reflects only that Mr. Collins is charging \$70 an hour for the Godfrey case.

Finally, the Commission finds that accounting expense associated with establishing the rate base should be disallowed. The Commission found in the interim case that this expense does not represent an expense to be incurred during the period these rates will be in effect. In addition, the Commission notes that if the Companies had kept proper accounts over the years the expense would not have been incurred.

The amount to be disallowed for Mr. Collins' compensation is \$6,000. The amount to be disallowed for accounting associated with establishing a rate base is \$8,444. Thus, the total amount to be disallowed is \$14,444. Subtracting the total disallowance from \$34,068 results in total rate case expense of \$19,624. Amortized over three years, rate case expense to be included in this case amounts to \$6,541.

H. Interest Expense

1. Interest on Long-term Debt

Companies propose to treat as an operating expense interest on long-term debt of \$78,577. The Companies' capital structures show long-term debt of \$9,000 for Godfrey and \$599,671 for Imperial. The interest expense sought for Godfrey and Imperial is \$630 and \$77,957 for Imperial. Staff has disallowed the total amount of interest expense. Public Counsel supports Staff.

Staff contends that interest on long-term debt is recovered through the allowable return on rate base and therefore should not be treated as operating

expense. In addition, Staff contends that Companies have shown no relation between its debt and used and useful plant. In the case of Imperial long-term debt is \$599,671 while rate base is \$111,493. Total capital investment for Imperial as reflected in the capital structure is \$1,076,644, more than nine times its rate base. The capital investment for Godfrey is almost three times its rate base.

In 1976 the Commission authorized Imperial to borrow \$599,671 from Construction Enterprises, Inc., for the purpose of completing construction and development of sewer treatment facilities in the amount of \$500,000 to pay short-term note to Construction Enterprises, Inc., in the amount of \$91,187 and to pay open account of Construction Enterprises of \$8,484. See Re Application of Imperial Corporation, Case No. 18,585, (1976). Given the amount of Imperial's rate base it is likely that the debt authorized by the Commission was used for purposes other than the construction of used and useful plant.

Under traditional ratemaking procedures a utility is entitled to its reasonable operating expenses and a reasonable return on its investment devoted to public service. Ordinarily a company's capital structure will be supported by its rate base. Thus, although special circumstances might persuade the Commission to allow interest expense on debt as an operating expense, ordinarily the company is adequately compensated by determining the weighted cost of capital and applying that cost to the company's rate base. These Companies have not sought a return in the past and are now seeking both a return on rate base and annual interest as an operating expense. The Commission determines that the Companies have shown no justification which would persuade the Commission to allow return on long-term debt as an operating expense. Therefore, the Commission determines that interest expense on long-term debt should be excluded.

2. Interest on Short-term Debt

The Companies seek interest on short-term debt as an operating expense in the amount of \$61,492. The short-term debt for the combined Companies amounts to

\$475,098 and is debt owed to Construction Enterprises, Inc. The debt was incurred as a result of accumulated prior expenses and the accumulation of unpaid interest incurred on long-term debt from prior years.

In the Commission's opinion, the short-term debt represents amounts that should have been recovered in prior rates through operating expenses and through the return component. To allow the interest on such debt as an operating expense would constitute prohibited retroactive ratemaking as defined by the Supreme Court of Missouri:

. . .the setting of rates which permit a utility to recover past losses or which require it to refund past excess profits collected under a rate that did not perfectly match expenses plus rate of return with the rate actually established. (Citations omitted) State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission, 585 S.W.2d 41, 59 (Mo. banc 1979).

Accordingly, the Commission finds that interest on short-term debt should be disallowed as an operating expense.

I. Management Contract

Companies have entered into service contracts with Colton/Lester/Fribis Associates, Inc. The Fribis firm provides all operation and maintenance work for the two Companies as well as all management duties.

The amount to be charged Imperial under the service contract is \$109,612. \$40,012 of the amount is for management expenses while \$69,600 is for analytical testing, operation and maintenance.

Public Counsel proposes that the full amount of the testing, operation and maintenance portion of the contract be allowed but that \$23,300 of management expenses be disallowed. Public Counsel proposes disallowance of the following items: \$8,000 for future penalties under a consent decree with the Environmental Protection Agency; \$12,600 for engineering services; \$2,400 for rent; and \$300 for postage. Staff also proposes disallowance of \$8,000 associated with Environmental Protection Agency penalties, but proposes that no further adjustments be made to the expenses associated with the Imperial contract.

The Commission determines that no adjustments should be made to postage cost associated with the Imperial contract. The \$1,200 postage figure is close to the amount allowed in the Imperial interim case which was based on the amount booked by the Company. The record reflects that Mr. Fribis based the \$1,200 amount on information received by Staff. The mere fact that Mr. Fribis apparently thought the figure was based on a 20 cent rather than a 13 cent cost of postage for billings, does not render the amount proposed unreasonable, since billings represent only a portion of mailings.

The engineering costs included in the contract are related to new development, expansion of existing development and problems associated with existing development, which include the review of plans submitted, inspection of new sewers and the preparation of as-built surveys. The Commission is of the opinion that such engineering services are essential to the operation and planning associated with a sewer system. Therefore, the Commission will make no adjustment for engineering costs.

The Commission finds that the \$8,000 associated with stipulated penalties under a consent decree in the event of future EPA violations should be disallowed since such future penalties are not known and measurable.

The Imperial contract includes \$4,800 for rent. The building utilized by Colton/Lester/Fribis Associates, Inc., is owned by Frontier Properties which in turn is owned by Hank Collins. The Fribis firm is leasing the building from Frontier at a lower price than the building that it was previously utilizing. The rent in the previous location was \$1,154 a month contrasted with the present rental amount of \$400 a month. Mr. Fribis testified that the firm allocates overhead to each of its clients in proportion to the percentage of its gross revenues. The Commission believes that such an allocation is reasonable and since the contract for Imperial amounts to approximately two-thirds of the Fribis firm's gross revenues an approximate one-third downward adjustment should be made to reflect a reasonable amount for rent. This results in a \$1,600 adjustment.

Staff proposes a \$2,500 downward adjustment to the \$6,120 operation and maintenance portion of the Godfrey Gardens' service contract with Colton/Lester/Fribis Associates. Public Counsel supports the Staff.

Staff's adjustment is based on the per customer cost of the contract between the firm and Imperial. Staff contends that Godfrey should be charged the same per customer amount for operation and maintenance as the Fribis firm charges Imperial. Godfrey on the other hand contends that the \$6,120 should be allowed because of differences in maintaining Godfrey's mechanical treatment plant as opposed to the cost of maintaining Imperial's treatment facilities. Godfrey contends that there are additional charges for sludge hauling and other secondary services as provided for in its contract with the Fribis firm. The \$6,120 sought by Godfrey is the amount for primary services set forth in the contract. No amount for secondary services are shown in the contract since the costs are variable and are charged as they are incurred.

The Imperial contract does not separate primary and secondary services. All services which include sludge hauling are being provided under the contract for a set amount.

The Commission determines that there is no reasonable justification for the difference between the per customer cost of the maintenance contract of Imperial and that of Godfrey and therefore finds that the per customer cost of Imperial should be used in determining the proper amount to be allowed to Godfrey for operation and maintenance expense. Under the present Imperial contract the per customer cost for the operations and maintenance portion is \$121.46 (\$69,600 divided by 573 customers). Godfrey has 30 customers. Therefore, its total allowable operation and maintenance contract expense is \$3,643.80 based on the per customer cost of Imperial. This results in a downward adjustment of the total contract expense for Godfrey of \$2,477.

Combining all the adjustments set forth above for service contract expenses, the Commission determines that the combined total to be allowed for service contract expense for the Companies is \$105,120.

II. RATE OF RETURN

The parties agree that the rate base of Godfrey amounts to \$8,626. Staff and the Companies agree that the rate of return on the Godfrey rate base should be 10.07 percent.

With respect to Imperial, all parties agree that the rate base is \$111,493. Companies' and Staff agree that the rate of return for Imperial should be 13 percent.

Public Counsel argues that no return on rate base should be allowed because of management inefficiency.

The Commission is of the opinion that Public Counsel's argument should be rejected. Although the management of the Imperial Company has suffered in the past as the Commission found in its interim order, the Company has made efforts to improve both operation, maintenance and management. The Commission determines that the service contracts with the Colton/Lester/Fribis Associates firm are a positive step and will result in benefits to the Company's ratepayers. Mr. Collins acknowledged in the Godfrey case that he had little knowledge of sewer operations. The contracts were let on a bid basis and the Commission has allowed the expenses associated with the contracts with certain adjustments.

Staff witness Merciel testified that the majority of problems enumerated at the public hearing in the interim case have been solved. A problem still exists at the Mansion Ridge lift station which has an overflow problem. Staff and the Fribis firm are seeking a solution to this problem. In addition, Staff testified that capital improvements will be necessary in the near future to accommodate customer growth. In order to attract capital the Companies are entitled to a reasonable return on rate base.

The Commission determines that the rates of return agreed to by the Companies and Staff are reasonable. Accordingly, the Commission finds that the consolidated return requirement for the two companies is \$15,363.

III. REVENUE REQUIREMENT

Based on the findings set forth above, the Commission determines that the revenue requirement for the combined Companies amounts to \$166,632.

The resulting monthly rates, using the methodology contained in Staff Exhibit M are as follows: residential - \$22.50; multi-family and mobile homes in parks - \$18.00; commercial establishments - \$22.50 monthly minimum plus \$3.75 per 1,000 gallons water usage. The Commission also intends that the Company bill on a quarterly basis.

IV. STAFF'S REPORT CONCERNING SEWER LINE IN WOOD LYN SUBDIVISION

In the Commission's Report and Order in the Imperial interim case, Staff was directed to investigate the improperly constructed sewer line located in the Wood Lyn Subdivision which was referred to at the local hearings. Staff's Exhibit N contains the report of Staff's investigation.

The line is connected to manhole No. 16 at the four-way intersection of Mayberry Drive, Blackberry Drive and Cranberry Drive, extending eastward along Blackberry Drive, adjacent to lot 110 (5862 Mayberry Drive). The line has a dead end and apparently does not extend beyond lot 110. The line apparently slopes away from the manhole. Sewage from the house on lot 110 flows through a service sewer connected to the line where sewage apparently must flow up slope to the manhole causing periodic back ups.

Staff reviewed the as-built plans and the line in question is not shown. The plans show the service sewer from lot 110 connecting directly to manhole No. 16.

Staff concludes that the Company is not responsible for the improper construction since it is not included in the as-built plans and since the line might be considered the customer's service sewer under the Company's tariffs.

Having reviewed the Staff's report, there are insufficient facts in this record to enable the Commission to determine whether the Company or the homeowner would be responsible to repair the lines. In order to make a determination the Commission would require sufficient facts to enable it to determine whether the line is a collecting sewer owned by the Company under Company Rule 2.3 or a customer service sewer owned by the customer under Company Rule 2.4. The mere fact that this sewer is not contained in the as-built plans is not determinative in itself. If the customer desires to pursue the problem he should bring a formal complaint before the Commission.

Conclusions

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

The Companies are public utilities subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1978.

The Commission, after notice and hearing, may order a change in the rates, charge or rental, in any regulation or practice affecting the rate, charge or rental, and it may determine and prescribe the lawful rate, charge and 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 on competent and substantial evidence upon the whole record.

The Companies' existing rates and charges for sewer service are insufficient to yield reasonable compensation for sewer service rendered by them in this state and accordingly, revisions in the Companies' applicable sewer tariff charges, as herein authorized, are proper and appropriate.

Godfrey Gardens Utilities, Inc., shall file in lieu of the proposed permanent tariffs which were suspended by the Commission, new tariffs reflecting the rate levels authorized herein.

The interim tariffs filed by Godfrey Gardens Utilities, Inc., which have been suspended by the Commission shall be disapproved, since the Commission's decision regarding permanent rates for the Company renders the interim matter moot.

The Imperial Utility Corporation shall file new tariffs reflecting the rate levels authorized herein. The interim tariffs filed by Imperial Utility Corporation which have been suspended by the Commission shall be disapproved, since the Commission's decision regarding permanent rates for the Company renders the interim matter moot.

It is, therefore,

ORDERED: 1. That proposed permanent tariffs filed by Godfrey Gardens Utilities, Inc., of Arnold, Missouri, in Case No. SR-84-44 are hereby disapproved, and the Company is authorized to file in lieu thereof, for approval by this Commission, tariffs consistent with the findings and conclusions of this Report and Order.

ORDERED: 2. That the interim tariffs filed by Godfrey Gardens Utilities, Inc., of Arnold, Missouri, in Case No. SR-84-44 are hereby disapproved.

ORDERED: 3. That the Imperial Utility Corporation is authorized to file, for approval by this Commission, tariffs consistent with the findings and conclusions of this Report and Order.

ORDERED: 4. That the interim tariffs filed by Imperial Utility Corporation in Case No. SR-83-319 be, and they are, disapproved.

ORDERED: 5. That Late-filed Exhibits R, S and T be, and they are, hereby received.

ORDERED: 6. That the Companies shall procure insurance in accordance with the findings and conclusions herein and shall file concurrently with the tariffs

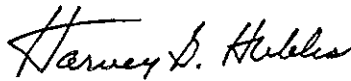
authorized herein proper evidence of insurance coverage and shall thereafter file with the Commission evidence of insurance coverage on a semi-annual basis.

ORDERED: 7. That the tariffs authorized herein may be effective for sewer service rendered on and after July 12, 1984.

ORDERED: 8. That the motion for rehearing filed by Godfrey Gardens Utilities, Inc. in Case No. SR-84-44 be, and it is, hereby denied.

ORDERED: 9. That this Report and Order shall become effective on the 12th day of July, 1984.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
this 2nd day of July, 1984.