

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

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| In the Matter of Request for Increase in Annual Sewer System Operating Revenues by R. D. Sewer Company LLC. |))) | <u>File No. SR-2012-0263</u> |
| In the Matter of a Rate Increase for Lakeland Heights Water Company, Inc. |)) | <u>File No. WR-2012-0266</u> |
| In the Matter of a Rate Increase for Oakbrier Water Company, Inc. |)) | <u>File No. WR-2012-0267</u> |

THE OFFICE OF THE PUBLIC COUNSEL'S RESPONSE

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response states as follows:

1. On October 12, 2012, Public Counsel requested that the Commission reconsider its October 11, 2012, Order Setting Evidentiary Hearings and set a procedural schedule that meets the requirements 4 CSR 240-3.050 (19) allowing ten (10) working days after the local public hearing for Public Counsel make a determination of its position and develop a list of issues should evidentiary hearings be necessary.
2. On October 18, 2012, Staff filed its Response asking that the Commission deny Public Counsel's request for reconsideration and keep the hearing schedule ordered on October 11th. Staff states that this schedule is workable given the unique circumstance the parties are in to meet the 11-month timeline; and the Commission's calendar is open for two consecutive days, November 15-16, which is ample time for this hearing to occur. Staff also states:

This schedule is permissible under Commission Rule 240 CSR 3.050 (10) because while Public Counsel may take up to ten (10) working days, by rule that is the maximum amount of time Public Counsel can take to make its determination. Public Counsel may, by rule, take less time to make that determination and therefore no due process violation occurs if the hearing schedule remains as ordered on October 11.

3. Staff has no problem taking all the time that it is allotted in the small rate case procedure, but now opines that Public Counsel should take less time that it is allotted. What Staff is asking now is to basically make up time on the back of Public Counsel at the expense of the customers.
4. The parties are facing an 11-month deadline due to actions by Staff and the Company, not Public Counsel. In its Response, Staff states:

Staff acknowledges that part of the difficulty in this case is that the Company and Staff were provided an additional sixty (60) days to file its agreement, which is specifically allowed by Commission Rule 240 CSR 3.050 (12). In order to ensure the receipt of all pertinent information regarding the Company's activities, an extension was necessary and appropriate in this matter.

Public Counsel had no say in whether an extension was necessary or appropriate.

5. Once the additional sixty days had passed and the timeline recommenced, Staff filed the Company/Staff disposition agreement on August 28, 2012, exactly the day allowed by the timeline. Every single day allotted to Staff was utilized.
6. That Staff has taken advantage of the opportunity to extend its review of a rate increase request is hardly a unique circumstance. Of the ten pending small water and sewer company rate increase cases, Staff has requested an additional sixty days for its review in five of them.
7. Staff also seems to indicate that Public Counsel already knows exactly what its issues are and does not require the entire time allotted to it:

However, in its request for a local public hearing, Public Counsel identified an overstated revenue requirement and an unreasonable return o[n] equity as concerns related to the Company Staff Agreement, so it is possible for Public Counsel to anticipate and prepare for those issues that may be ripe for a hearing at

this time, before any local public hearing is held; Public Counsel does not require an additional ten (10) working days after October 30 to make that determination.

The generalized concern of an overstated revenue requirement and an unreasonable return on equity is not anywhere close to a specific list of issues on which an evidentiary hearing should be held. Only a thorough review of each of these three separate cases, can Public Counsel make a determination of its exact position and what issues it believes are ripe for evidentiary hearing.

8. Given the number of rate cases currently being heard by the Commission, Public Counsel is quite justified in its request for reconsideration. Public Counsel's expert who must make the determination of the pending issues in these cases is currently involved in rate cases for Ameren, Kansas City Power & Light, Kansas City Power & Light – Greater Missouri Operations and Empire. Every single day available to Public Counsel is necessary and appropriate. Work is done by Public Counsel employees on the weekend and holidays if necessary. Taking away six calendar days for review would be detrimental to Public Counsel and the customers it represents.

9. In its filing, Staff offers two alternative amendments to the evidentiary hearing schedule, both of which include filing the Joint List of Issues and Order of Witnesses on November 15, 2012. Public Counsel now states that either of these alternative amendments are acceptable in that they both meet the requirements 4 CSR 240-3.050 (19) allowing ten (10) working days after the local public hearing for Public Counsel make a determination of its position and develop a list of issues should evidentiary hearings be necessary.

WHEREFORE, Public Counsel respectfully submits its response.

