

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of St. Louis County Water )  
Company for authority to file tariffs )  
to increase rates for water service ) Case No. WR-91-361  
provided to customers in the Missouri )  
service area of the company. )

APPEARANCES: Richard T. Ciottone, Vice President and General Counsel and  
David P. Abernathy, Assistant General Counsel, 535 North New  
Ballas Road, St. Louis, Missouri 63141, for St. Louis County  
Water Company.

David J. Newburger, Attorney at Law, Newburger & Vossmeier,  
393 North Euclid Avenue, Suite 300, St. Louis, Missouri  
63156, for Home Builders Association, et al.

Harry D. Williams, Senior Counsel, P.O. Box 475, Jefferson  
City, Missouri 65105, for Missouri Department of Revenue.

John B. Coffman, Assistant Public Counsel, P.O. Box 7800,  
Jefferson City, Missouri 65102, for the Office of the  
Public Counsel and the Public.

Robert J. Hack, Assistant General Counsel, and Michaelene A.  
Knudsen, Assistant General Counsel, P.O. Box 360, Jefferson  
City, Missouri 65102, for the Staff of the Missouri Public  
Service Commission.

HEARING

EXAMINER: Janet L. Sievert

REPORT AND ORDER

Procedural History

This case commenced on May 10, 1991 when St. Louis County Water  
Company (SLCWC) filed tariffs reflecting increased rates for water service  
provided to customers in the Missouri service area of the company. The proposed  
tariffs bore a requested effective date of June 10, 1991 and were designed to  
produce an increase of approximately 18.75% (\$11,723,288) in charges for water  
service.

Pursuant to the procedural schedule established by Commission order, testimony has been filed in this matter. Additionally, a prehearing conference was held commencing on October 21, 1991. At the hearing held November 6, 1991, the parties submitted to the Commission a Stipulation and Agreement and proposed settlement of all issues. The Stipulation and Agreement is attached hereto as Appendix A.

#### Findings of Fact

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

SLCWC is a public utility which provides water service primarily in St. Louis County, Missouri. In this case, SLCWC sought Commission approval of an annual increase in water service of \$11,723,288. As a result of the negotiations between the parties, it is recommended that the Commission approve an increase to produce an overall Missouri jurisdictional gross annual revenues of \$5.5 exclusive of any applicable franchise and occupational taxes or other similar fees or taxes.

At the hearing held November 6, 1991, the parties submitted a Stipulation and Agreement in proposed settlement of all issues. At that time, the Commission questioned the parties concerning the method used to resolve the issues regarding capitalization of administrative and general costs. The parties asserted that the method in question calculated and allocated a percentage of SLCWC's officers' and managers' salaries to capitalize construction as all officers and managers perform functions which directly or indirectly benefit construction related activities. Additionally, the Commission questioned the Department of Revenue's (DOR) request for a docket to consider its concerns regarding the definitional section of the proposed

tariffs. DOR explained that the purpose of an additional docket would be to clarify the definition of residential (domestic) customers in relation to multi-family dwellings. DOR asserted that the proposed definition of residential (domestic) customers will have a significant effect on the ability of the Director of Revenue to enforce the revenue laws of the State of Missouri as they apply to the collection of sales tax and the sales of metered and unmetered water in the State pursuant to Section 144.030.2(23), RSMo 1990.

Upon consideration of the Stipulation and Agreement and evidence presented at the hearing, the Commission is of the opinion that it is reasonable and proper and should be accepted in disposition of all issues. The Commission views the issue raised by DOR as a question of law concerning the collection of taxes and, thus, may be beyond its jurisdiction. Therefore, the Commission is of the opinion that the parties should file briefs on the question of whether the Commission has jurisdiction to resolve this issue.

#### Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1990. The tariffs which were the subject matter at this proceeding were suspended pursuant to the authority vested in this Commission in Section 393.150, RSMo 1990. The burden of proof to show that the proposed increased rates are just and reasonable shall be upon the Company. The Commission, after notice and hearing, may order a change in any rate, charge or practice including rate design and it may determine and prescribe a lawful rate, charge or practice hereafter to be observed. From that ratemaking and rate design purposes, the Commission may accept a Stipulation of settlement on any contested matter submitted by the parties. The Commission is

of the opinion that when the matters of agreement between parties appear to be reasonable and proper they should be accepted. The Commission concludes the proposed rate increase provided for in the Stipulation and Agreement attached hereto is just and reasonable and should be adopted. The Commission concludes that SLCWC should file tariffs conforming to the terms of the Stipulation and Agreement. The Commission further determines the parties should file briefs on the question of whether the Commission has jurisdiction to resolve the issue raised by the Department of Revenue.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement entered into by the parties to this case be adopted hereby in disposition of all issues.

2. That pursuant to the findings and conclusions in this Report and Order the proposed tariffs filed on May 10, 1991, by St. Louis County Water Company of St. Louis, Missouri, in this case are disapproved hereby and St. Louis County Water Company is authorized to file in lieu thereof, for the approval of this Commission, tariffs designed to increase gross revenues exclusive of gross receipts and franchise taxes by the amount of \$5.5 million on an annual basis over the currently effective rates.

3. That the parties shall file briefs as set forth in this order on or before December 5, 1991.

4. That this order shall become effective on November 15, 1991.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

(S E A L)

Steinmeier, Chm., Mueller, Rauch,  
McClure and Perkins, CC., Concur.

Dated at Jefferson City, Missouri,  
on this 8th day of November, 1991.

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

In the Matter of St. Louis	)	
County Water Company for	)	
authority to file tariffs to	)	
increase rates for water	)	Case No. WR-91-361
service provided to customers	)	
in the Missouri service area	)	
of the Company.	)	

STIPULATION AND AGREEMENT

As a result of the prehearing conference, St. Louis County Water Company (Company), the Staff of the Missouri Public Service Commission (Staff), the Office of the Public Counsel (Public Counsel), the Home Builders Association of Greater St. Louis (HBA) and the Department of Revenue (DOR) agree and stipulate as follows:

1. The Company shall be authorized to file revised water rate schedules designed to produce an increase in overall Missouri jurisdictional gross annual revenues of \$5.5 million, exclusive of any applicable franchise and occupational taxes or other similar fees or taxes. In the event Proposition B is voted into effect by vote to take place on November 5, 1991, thereby negating the reduction in state income tax rates that is presently scheduled to occur on January 1, 1992, the Company shall be authorized to file revised water rate schedules designed to produce an increase in overall Missouri jurisdictional gross annual revenues of \$5.64 million, exclusive of any applicable franchise and occupational taxes or other similar fees or taxes.

2. The revised water rate schedules reflecting the \$5.5 million increase and the \$5.64 million increase are

respectively set forth in Attachments 1 and 2 hereto, one set of which shall be effective for service rendered on and after November 15, 1991, depending upon whether Proposition B passes in the vote to be held November 5, 1991. The Company shall inform the Commission by letter no later than November 7, 1991, of the outcome of the Proposition B vote or as soon thereafter as the official election results are delivered.

3. The parties agree that the issue regarding Capitalization of Administrative and General Costs Capitalized shall be resolved on the following basis:

(a) Current rates shall be determined using the methodology demonstrated in Attachment 3 attached hereto (hereinafter "the Methodology").

(b) Company's charges to Developers for construction work shall be determined using the Methodology.

(c) The Methodology shall be used by the Company from time to time as it performs its periodic capitalization studies as directed by the Commission in Case No. WR-89-246 subject to change as provided in subparagraph d below.

(d) The Methodology attached may be the subject of contest in future rate proceedings by any party but the parties hereto agree that application of any proposed changes in the Methodology shall be prospective only; i.e. that additions to rate base made by Company as a result of proper application of the Methodology pursuant to this Stipulation shall in fairness not be the subject of contest or challenge by the parties hereto.

(e) The parties have agreed to the Methodology and have accepted its future application as set forth above because they believe it represents a reasonable compromise for purposes of disposing of this entire case. No party shall be bound by the Methodology except to the extent specified herein.

4. DOR, on behalf of the Missouri Department of Revenue, requests that this Commission establish a docket separate from the primary docket in this matter, for the express purpose of addressing and deciding the issue raised in the DOR's Application to intervene. The issue raised by DOR concerns the definitional section of the proposed tariffs. In particular, the proposed definition of "'residential'" (domestic) customer". It is the DOR's position that the proposed definition will have a significant effect on the ability of the Director of Revenue to enforce the revenue laws of the State of Missouri as they apply to the collection of sales tax on the sale of metered and unmetered water in this state. DOR, believes that it is in the best interests of the parties to address this issue in a separate docket.

5. Except as specified by paragraph 3 herein, this Stipulation and Agreement represents a negotiated dollar settlement for the sole purpose of disposing of this case. None of the signatories shall be prejudiced or bound in any manner by the terms of this Stipulation and Agreement in any other proceeding, except as otherwise specified herein.



6. The direct testimony, schedules, exhibits and minimum filing requirements prefiled by the Company, the Staff, the Public Counsel and the HBA shall be received into evidence without the necessity of their witnesses taking the stand.

7. None of the signatories shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost determination or cost allocation underlying or allegedly underlying this Stipulation and Agreement and the rates provided for herein.

8. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Stipulation and Agreement in total, or in the event the revised water rate schedules do not become effective in accordance with the provisions contained herein, this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

9. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive their respective rights to cross-examine witnesses and to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 1986; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1986; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1986.

10. The Staff shall have the right to submit to the Commission by filing with the case papers in memorandum form an explanation of its rationale for entering into this Stipulation and Agreement, and to provide to the Commission whatever further explanation the Commission requests. The Staff's memorandum shall not bind or prejudice the Staff in any future proceeding. In the event the Commission does not approve this Stipulation and Agreement, the Staff's memorandum shall not bind or prejudice the Staff in this proceeding. Any rationales advanced by the Staff in such a memorandum are its own and are not acquiesced in or otherwise adopted by the other signatories.

WHEREFORE, the signatories respectfully request that the Commission issue its order which approves this Stipulation and Agreement and directs the Company to file tariffs conforming to the terms hereof.

Respectfully submitted,

STAFF OF THE MISSOURI  
PUBLIC SERVICE COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been  
mailed or hand-delivered to all parties of record this 23 day  
of October, 1991.

