

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

In the Matter of R.D. Sewer Company,)
LLC Small Company Rate Increase.) **File No. SR-2009-0226**

**THE OFFICE OF THE PUBLIC COUNSEL’S REQUEST
FOR EVIDENTIARY HEARING**

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

1. On November 26, 2008, R.D. Sewer Company, LLC (RD Sewer) initiated a small company rate increase proceeding with the Missouri Public Service Commission (Commission) requesting approval of the interim rates ordered by the Commission in SO-2008-0289.
2. On April 27, 2009, the Staff of the Missouri Public Service Commission (Staff) filed a Notice of Staff/Company Agreement Regarding Disposition of Small Sewer Company Increase (Staff/Company Disposition) indicating an agreement between Staff and RD Sewer for an annualized sewer operating revenue increase of \$14,540 annually (approximately 33.69%). Public Counsel did not join in the agreement because it believes that the Staff/Company Disposition overstates the revenue requirement of RD Sewer.
3. On April 30, 2009, RD Sewer filed proposed revised tariff sheets related to the Staff/Company Disposition. The proposed revised tariff sheets bore an effective date of June 15, 2009. In the Commission’s June 4, 2009 Order Granting Request for a Local Public Hearing and Suspending Tariff, these proposed revised tariff sheets were suspended for 60 days, or until August 14, 2009, or until otherwise ordered by the Commission.

4. On July 1, 2009, a local public hearing was held to allow customers to comment on the proposed sewer rate increase.

5. 4 CSR 240-3.050 (19) requires Public Counsel to file, no later than ten (10) working days after the local public hearing, a pleading stating its position regarding the Staff/Company Disposition and the related tariff revisions, or requesting that the Commission hold an evidentiary hearing, and providing the reasons for its position or request. 4 CSR 240-3.050 (20) states that if Public Counsel requests an evidentiary hearing, the request shall include a specified list of issues that the Public Counsel believes should be the subject of the hearing.

6. Public Counsel, Staff and RD Sewer have been in active discussion regarding a resolution of this matter, and Public Counsel now states that it believes a resolution to its issues has been achieved and that a unanimous agreement will be filed with the Commission shortly. However, Public Counsel does not wish to waive its right to an evidentiary hearing should a unanimous agreement not come to fruition.

7. Therefore, pursuant to the requirements in 4 CSR 240-3.050 (19), Public Counsel now states that, out of an abundance of caution, it wishes to request an evidentiary hearing. Public Counsel also states that, should a unanimous agreement be filed with the Commission, Public Counsel will withdraw its evidentiary hearing request.

8. Pursuant to 4 CSR 240-3.050 (19) and (20), Public Counsel states that its specified list of issues and the reasons for its request are as follows:

- a) Customer Numbers: The Staff/Company Disposition utilizes customer numbers which are lower than the actual customer numbers provided by RD Sewer in response to a Public Counsel data request. Public Counsel believes actual customer numbers as provided by the Company should be used to determine revenue.

b) Duplex Billing: The Staff/Company Disposition records revenues from five (5) duplexes (side-by-side construction) under the much lower multi-family tariff rate. Public Counsel believes duplexes which are side-by-side construction should be considered as single-family construction not multi-family construction and as such should be charged the higher residential tariff rate.

c) Administration and Billing Expense: The Staff/Company Disposition contains an annualized salary expense for Ms. LaDawn Owens for her administrative and billing activities. As no timesheets were available in response to Public Counsel's data request, Public Counsel compared similar costs from a recent Staff audit of Port Perry Water and Sewer Company, a utility which is approximately the same size as the total regulated operations of Mr. Rodger Owens. From this comparison, Public Counsel believes that the annualized salary expense for Ms. LaDawn Owens is excessive.

d) Sludge Removal Expense: The Staff/Company Disposition contains an annualized expense for sludge removal which exceeds that which the Commission determined was just and reasonable in a previous transfer of assets case for RD Sewer. In the regard to sludge removal expense, the Commission stated "The Commission concludes that the substantial and competent evidence on the record as a whole supports the determination that the correct amount to be allocated in Stoddard County's current cost structure for sludge hauling expense is \$1,800."¹

e) Telephone/Internet Expense: The Staff/Company Disposition contains an annualized expense for telephone/internet which is based on Staff's audit amount allocated based on customer numbers for each utility owned by Mr. Rodger Owens. Public Counsel believes the telephone/internet expense should be allocated based on an

¹ Report and Order, October 23, 2008, Case No. SO-2008-0289, pg. 132.

even split between the utilities. Based on an even split allocation, a smaller portion of the telephone/internet expense would be allocated to RD Sewer.

f) Vehicle Expense (Fuel Cost/Insurance): The Staff/Company Disposition contains an annualized expense for vehicle fuel cost/insurance which is based on Staff's audit amount allocated based on customer numbers for each utility owned by Mr. Rodger Owens. Public Counsel believes the vehicle fuel cost/insurance expense should be allocated based on an actual percentage of use for each utility, not customer numbers. Based on an actual percentage of use allocation, a smaller portion of the vehicle fuel cost/insurance expense would be allocated to RD Sewer.

g) Medical Insurance (Health Insurance): The Staff/Company Disposition contains an annualized expense for medical insurance (health insurance) for Ms. LaDawn Owens. Public Counsel believes that the medical insurance expense for Ms. LaDawn Owens should be eliminated as she is only a part-time employee.

h) Rent: The Staff/Company Disposition contains rent expense which includes an annualized expense for office use allocated based on customer numbers for each utility owned by Mr. Rodger Owens. Public Counsel believes the annualized rent expense should include office use and a Public Counsel imputed cost for a storage unit, allocated based on an even split between the utilities. (The Staff/Company Disposition did not include an imputed storage unit rent because it included a storage building as plant investment, as discussed below.) Based on an even split allocation, smaller portions of the annualized expense for office use and the imputed cost for a storage unit would be allocated to RD Sewer.

- i) Real Estate and Personal Property Taxes: The Staff/Company Disposition contains real estate taxes and personal property taxes which include amounts associated with office use and a Dodge truck, both of which are allocated based on customer numbers for each utility owned by Mr. Rodger Owens. Public Counsel believes the annualized real estate tax expense for the office use should be allocated based on an even split between the utilities. Based on an even split allocation, smaller portions of the annualized real estate tax expense for the office use would be allocated to RD Sewer. Public Counsel also believes the personal property tax expense for the Dodge truck should be allocated according to an actual percentage of use for each utility, not on customer numbers. Based on an actual percentage of use allocation, smaller portions of the annualized personal property tax expense for the Dodge truck use would be allocated to RD Sewer.
- j) Payroll Taxes: The Staff/Company Disposition contains payroll taxes which are based on the annualized salary expense for Ms. LaDawn Owens for her administrative and billing activities. As stated above, Public Counsel believes that the annualized salary expense reflected in the Staff/Company Disposition for Ms. LaDawn Owens is excessive. Consequently, Public Counsel believes the associated payroll taxes on the annualized salary expense for Ms. LaDawn Owens are also excessive.
- k) Depreciation: The Staff/Company Disposition contains depreciation expense for over-depreciated plant, as well as for plant associated with the prior transfer case, a storage building and pump repairs/replacements where no costs have been incurred by RD Sewer. Public Counsel believes depreciation expense for the over-depreciated plant should not be included as its inclusion would not be just and reasonable for the

customers. Public Counsel also believes that, as no costs have been incurred by RD Sewer, depreciation expense for the plant associated with the prior transfer case, the storage building and pump repairs/replacements should be excluded.

1) Return and Tax (Plant Items): The Staff/Company Disposition contains return and tax costs for plant items which are a calculated amount based on RD Sewer's capital structure and rate base. These plant items include plant associated with the prior transfer case, a storage building and pump repairs/replacements where no costs have been incurred by RD Sewer. Public Counsel believes that, as no costs have been incurred by RD Sewer, the plant associated with the prior transfer case, the storage building and pump repairs/replacements should be excluded. Additionally, Public Counsel believes the debt costs associated with the storage building should be excluded from the capital structure.

9. 4 CSR 240-3.050 (20) also states that, upon an evidentiary hearing request, the utility's pending tariff revisions shall then be suspended by the Commission to allow time to conduct an evidentiary hearing, complete any post-hearing procedure, and allow time for a Commission decision within the timeframe of the small company rate case. As the completion of these activities could easily extend past the current suspension date of August 14, 2009, Public Counsel requests that the tariffs be suspended for a sufficient timeframe beyond August 14, 2009 so as to allow adequate time for the evidentiary hearing and subsequent case disposition.

WHEREFORE, Public Counsel respectfully requests that the Commission schedule an evidentiary hearing in this matter.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By: _____

Christina L. Baker (#58303)

Senior Public Counsel

PO Box 2230

Jefferson City, MO 65102

(573) 751-5565

(573) 751-5562 FAX

christina.baker@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 16th day of July 2009:

General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
PO Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Jennifer Hernandez
General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
PO Box 360
Jefferson City, MO 65102
jennifer.hernandez@psc.mo.gov

Terry C Allen
R. D. Sewer Co., L.L.C.
PO Box 1702
612 E. Capitol Ave
Jefferson City MO 65102
terry@tcallenlawoffices.com

/s/ Christina L. Baker
