

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

In the Matter of Missouri Utilities Company)
Small Company Rate Increase.)

Case No. SR-2009-0153

**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 October 23, 2008, Missouri Utilities Company (MO Utilities), through its court appointed receiver, Mr. Gary V. Cover, Esq., initiated a small company revenue increase request for its sewer services in Pettis County, Missouri.
2. On May 21, 2009, the Staff of the Missouri Public Service Commission (Staff) filed a Notice of Company/Staff Agreement Regarding Disposition of Small Sewer Company Revenue Increase Request (Company/Staff Agreement) indicating an agreement between Staff and MO Utilities for a sewer rate increase of \$5,648 annually (approximately 54.69%). Public Counsel did not join in the agreement.
3. Revised tariff sheets reflecting the proposed rates agreed to in the Company/Staff Agreement were filed by MO Utilities on May 26, 2009.
4. On June 15, 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 Company/Staff Agreement and the related tariff revisions, or requesting that the Missouri Public Service

Commission (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 states that it did not sign the Company/Staff Agreement because, although Public Counsel agreed with many of Staff's audit positions, Public Counsel had concerns regarding the appropriate cost of service for the utility. To this date, Public Counsel continues to have the same cost of service concerns with the Company/Staff Agreement and the related proposed tariff revisions.

7. Public Counsel, Staff and MO Utilities have been in active discussion regarding a resolution of this matter, and Public Counsel now states that it believes a resolution to its issue 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.

8. Therefore, pursuant to the requirements in 4 CSR 240-3.050 (19) and (20), Public Counsel now states that, out of an abundance of caution, it wishes to request an evidentiary hearing on the issue of the appropriate cost of service for this utility. Public Counsel also states that, should a unanimous agreement be filed with the Commission, Public Counsel will withdraw its evidentiary hearing request.

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. Public Counsel requests that the

suspension of the tariffs be for a sufficient timeframe so as to allow adequate time for the evidentiary hearing and subsequent case disposition.

WHEREFORE, Public Counsel respectfully submits its request for an evidentiary hearing.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By:_____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 29th day of June 2009:

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