

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

In the Matter of Osage Water Company)
Small Company Rate Increase.) **Case No. SR-2009-0152**

**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, Osage Water Company (Osage), through its court appointed receiver, Mr. Gary V. Cover, Esq., initiated a small company revenue increase request with the Missouri Public Service Commission (Commission) for its sewer services in Camden 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 Disposition) indicating an agreement between Staff and Osage for an annualized sewer operating revenue increase of \$24,071 annually (approximately 20.49%). Public Counsel did not join in the agreement.
3. On May 26, 2009, Osage filed proposed revised tariff sheets related to the Company/Staff Disposition. The proposed revised tariff sheets bear an effective date of July 10, 2009.
4. On June 12, 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

Disposition and the related tariff revisions, or requesting that the Commission hold an evidentiary hearing, and providing the reasons for its position or request.

6. Therefore, pursuant to the requirement in 4 CSR 240-3.050 (19), Public Counsel requests an evidentiary hearing in this matter. Public Counsel states that the reasons for its request are as follows:

a) The Company/Staff Disposition includes payments made pursuant to the Hancock Judgment which includes interest as well as principal. Given the fact this service was provided more than five years ago and that the owners of the utility created a situation resulting in this court order against the utility, Public Counsel believes ratepayers should not be required to pay penalties in the form of interest on these payments. The documentation shows that the amount of interest for calendar year 2010 is \$6,080 on a total company basis. Using Staff's allocation procedures, Public Counsel believes there should be a \$2,979 reduction in the annual sewer utility revenue requirement reflected in the Company/Staff Disposition.

While Public Counsel believes the inclusion of the interest on payments for this judgment is not just and reasonable and is not in the best interests of the ratepayer, if the Commission requires the ratepayers to pay these penalties rather than this being a cost to the ownership, Public Counsel believes regulatory equity should at a minimum result in the accumulation of these payments (principal and interest) creating an offset to rate base in future cases.

b) The Company/Staff Disposition includes payments made pursuant to the Jim Clary Judgment which includes interest as well as principal. Given the fact this service was provided more than five years ago and that the owners of the utility created a

situation resulting in this court order against the utility, Public Counsel believes ratepayers should not be required to pay penalties in the form of interest on these payments. Public Counsel also believes the 18% interest rate on this judgment is evidence of the punitive nature of these interest payments. The documentation shows that the amount of interest for calendar year 2010 is \$1,109 on a total company basis. Using Staff's allocation procedures, Public Counsel believes there should be a \$565 reduction in the annual sewer utility revenue requirement reflected in the Company/Staff Disposition.

While Public Counsel believes the inclusion of the interest on payments for this judgment is not just and reasonable and is not in the best interests of the ratepayer, if the Commission requires the ratepayers to pay these penalties rather than this being a cost to the ownership, Public Counsel believes regulatory equity should at a minimum result in the accumulation of these payments (principal and interest) creating an offset to rate base in future cases.

c) The Company/Staff Disposition includes the amount of \$13,247 as payment on the Water Lab Judgment obtained by a separate business owned and operated by the current owners of the utility. Included in this amount is \$4,161 of interest payments for the sewer utility. Given the fact that the current owners will ultimately receive any proceeds from the sale of the utility, Public Counsel believes the inclusion of these monies will enhance the revenue stream and thus the expected purchase price, further enriching the very individuals who have driven this utility into court-ordered receivership. Public Counsel opposes the inclusion of any of these payments because ratepayers should not be required to further enhance the earnings of the individuals who

own the utility. Public Counsel believes adequate earnings exist in the sewer revenue requirement to make these payments should the receiver choose to do so.

While Public Counsel believes the inclusion of these payments is not just and reasonable and is not in the best interests of the ratepayer, if the Commission requires the ratepayers to pay the judgment and the interest on it rather than this being a cost to the ownership, Public Counsel believes regulatory equity should at a minimum result in the accumulation of these payments (principal and interest) creating an offset to rate base in future cases.

7. 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. Public Counsel now states that its specified list of issues are those as listed in paragraph (6) above.

8. 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 requests that the Commission schedule an evidentiary hearing in this matter.

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 26th day of June 2009:

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