

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

In the Matter of the Application of Ozark Meadows,	)	
Aqua Development Company, d/b/a Aqua Missouri,	)	
Inc. Request for Increase in Annual Sewer System	)	<b><u>Case No. SR-2010-0023</u></b>
Operating Revenues MPSC Sewer Utility Small	)	
Company Rate Increase Procedures.	)	

**RECOMMENDATION REGARDING CONSOLIDATION OF CASES**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its Recommendation Regarding Consolidation of Cases (“Recommendation”) states as follows:

**Factual and Procedural Background**

1. On July 15, 2009, the Missouri Public Service Commission (“the Commission”) received a Rate Increase Request Letter from Aqua Development Company d/b/a Aqua Missouri, Inc. (“Aqua Development” or “the Company”), requesting that the Commission allow an increase in its annual sewer service operating revenues pursuant to Commission Rule 4 CSR 240-3.050 (“Small Utility Rate Case Procedure”). This request has been designated by the Commission as Case No. SR-2010-0023.

2. Also on July 15, 2009, the Commission received Rate Increase Request Letters from Aqua RU, Inc. d/b/a Aqua Missouri, Inc. and from Aqua Missouri Inc<sup>1</sup>. The requests have been designated by the Commission as Case Nos. WR-2010-0025, SR-2010-0026, and WR-2010-0027, respectively. Staff shall hereinafter refer collectively to Case Nos. SR-2010-0023, WR-2010-0025, SR-2010-0026, and WR-2010-0027 as “the Rate Cases”.

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<sup>1</sup> Aqua Missouri, Inc. submitted to the Commission one request for its regulated sewer service (SR-2010-0026) and one request for its regulated water service (WR-2010-0027).

3. On November 20, 2009, Staff filed with the Commission four complaints, naming as respondents Aqua Development Company d/b/a Aqua Missouri, Inc. (Case No. SC-2010-0150), Aqua Missouri, Inc. (Case Nos. WC-2010-0151 and SC-2010-0152) and Aqua RU, Inc. d/b/a Aqua Missouri, Inc. (Case No. WC-2010-0153). Staff shall hereinafter refer collectively to Case Nos. SC-2010-0150, WC-2010-0151, SC-2010-0152, and WC-2010-0153 as “the Complaint Cases”.

4. On November 24, 2009, the Commission issued its Order Directing Staff to File a Recommendation, ordering Staff to file by December 28, 2009, a recommendation as to the consolidation of any or all of these matters.

5. On December 16, 2009, Staff filed a Notice of Agreement Regarding Disposition of Small Company Revenue Increase Request, informing the Commission that Staff and Aqua Development had reached a Company/Staff Agreement Regarding Disposition of Small Sewer Company Revenue Increase Request (“Company/Staff Disposition Agreement”). Similar filings were made by Staff in Case Nos. WR-2010-0025, SR-2010-0026, and WR-2010-0027.

### **Law**

6. Commission Rule 4 CSR 240-2.110(3) states that “[w]hen pending actions involve related questions of law or fact, the Commission may order a joint hearing of any or all of the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.”

### **Recommendation**

7. Staff does not support consolidation of the Rate Cases into one case. Staff is of the opinion that due to the complex factual nature of the Rate Cases, resulting largely from the fact that the Aqua Missouri entities provide regulated services in eleven (11) rate divisions,

that consolidation of the rate cases into one case may increase confusion, thus resulting in unnecessary delay and unnecessary costs. In addition, the Company/Staff Disposition Agreements filed in the Rate Cases contain agreements, which if approved, would result in revenue requirement increases ranging in magnitude from \$3,305 to \$201,482. Given this broad range in potential increases, Staff is of the opinion that consolidation of the Rate Cases into one case may affect the probability that a unanimous settlement may be reached by the parties in any or all of these matters prior to hearing.

8. In addition, Staff does not support consolidation of the Complaint Cases with the Rate Cases. Although both sets of cases deal with the same entities, the issues that remain in contention are quite different. In addition, as affirmed by the Notice Regarding Timelines, issued by the Commission on November 24, 2009, per the Small Utility Rate Case Procedure the Rate Cases must be presented to the Commission by no later than April 15, 2009. This requirement does not exist for the Complaint Cases, which may take less expedited courses.

9. Staff does support consolidation of the Complaint Cases in and of themselves. As stated in the Recommendation Regarding Consolidation of Cases, filed by Staff in the Complaint Cases on December 15, 2009, the Complaint Cases involve related questions of law and fact and their consolidation may avoid unnecessary cost or delay.

**WHEREFORE,** Staff submits this Recommendation for the Commission's information and consideration in this matter.

Respectfully submitted,

**/s/ Eric Dearmont**

Eric Dearmont  
Assistant General Counsel  
Missouri Bar No. 60892

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-5472 (Telephone)  
(573) 751-9285 (Fax)  
[eric.dearmont@psc.mo.gov](mailto:eric.dearmont@psc.mo.gov)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 28th day of December, 2009.

**/s/ Eric Dearmont**