

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

In the Matter of the Application of Terre)	
Du Lac Utilities Corporation for a Small)	<u>Case No. WR-2009-0218</u>
Utility Rate Increase.)	<u>SR-2009-0219</u>

**OFFICE OF THE PUBLIC COUNSEL’S RESPONSE TO STAFF’S MOTION FOR
EXTENSION OF TIME AND RESPONSE TO THE OFFICE OF
PUBLIC COUNSEL’S REQUEST FOR DISCUSSION MEDIATION**

COMES NOW the Office of the Public Counsel (Public Counsel or OPC) and for its Response states as follows:

1. On April 9, 2009, the Staff of the Missouri Public Service Commission (Staff) filed a Motion for Extension of time stating that Staff and Terre Du Lac Utilities Corporation (Terre Du Lac) agreed that it is necessary to extend the Small Utility Rate Increase process for thirty (30) days.
2. In its filing, Staff stated “Staff notes that such an extension of time would allow OPC more time to review and evaluate Staff’s update workpapers, and get clarification and additional information if necessary.”
3. Public Counsel wishes to provide clarification to the Commission that the reason for the requested delay is not to allow Public Counsel more time for review, as Public Counsel has not yet been presented with a settlement proposal reflecting Staff’s recommendations which it could review.
4. Staff’s filing stated: “On March 23, 2009, Staff provided a disposition agreement proposal packet to OPC and the Company which proposed a revenue decrease in the utility rates.

Staff noted in the disposition agreement that there were going to be adjustments to the audits that most likely would result in no changes in utility rates.”

5. 4 CSR 240-3.050 (10) states:

No later than one hundred twenty (120) days after a case is opened, the staff *shall* provide a settlement proposal to the utility and the public counsel. ... The staff *shall* also provide the following with its settlement proposal: draft revised tariff sheets reflecting staff’s **recommendations**; a draft disposition agreement reflecting the staff’s **recommendations**; its audit workpapers; its rate design workpapers; and any other documents **supporting its recommendations**. A disposition agreement is a document that sets forth the signatories’ proposed resolution of some or all of the issues pertaining to the utility’s revenue increase request. (Emphasis added)

6. On March 23, 2009, Staff was required by 4 CSR 240-3.050 (10) to provide to both Terre Du Lac and Public Counsel a settlement proposal which reflected Staff’s recommendations in this case. However, what was provided on that date was not Staff’s recommendation at all. It could not have been a recommendation since, as Staff itself states, Staff added the caveat that “there were going to be adjustments to the audits that most likely would result in no changes in utility rates.” Therefore, Staff did not meet the day one hundred twenty (120) requirement that a settlement proposal reflecting Staff’s recommendations be provided to Terre Du Lac and Public Counsel by that date.

7. Public Counsel cannot review what it has not been given. Therefore, the reason for this delay is more accurately described as necessary to allow more time for Staff to meet its requirement from 4 CSR 240-3.050 (10) to provide to both Terre Du Lac and Public Counsel a settlement proposal which reflects Staff’s recommendations in this case.

8. Keeping in mind that Staff has not yet met the day one hundred twenty (120) requirement, a thirty (30) day extension from the original March 23, 2009 due date would make April 22, 2009 be the new date for Staff to provide a settlement proposal reflecting Staff’s

recommendations to Terre Du Lac and Public Counsel. As today is April 10, 2009, this leaves only twelve (12) remaining days for Staff to complete this requirement without requesting another extension.

9. Public Counsel has communicated with Staff, Terre Du Lac and the Regulatory Law Judge in this case regarding its desire to hold a discussion mediation regarding questions Public Counsel has as a result of Staff's request for extension. Public Counsel sees no reason why it must wait thirty (30) days to seek answers to its questions. Therefore, Public Counsel opposes Staff's request for a thirty (30) day postponement of Public Counsel's request for discussion mediation.

WHEREFORE, Public Counsel respectfully submits its Response.

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 10th day of April 2009:

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