

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

In the Matter of a Small Utility Rate)
Case Procedure for Rogue Creek)
Utilities, Inc.) **File No. SR-2013-0435**

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**THE OFFICE OF THE PUBLIC COUNSEL’S OBJECTION TO STAFF
RECOMMENDATION AND RENEWED REQUEST TO SUSPEND**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Objection to Staff Recommendation and Renewed Request to Suspend states as follows:

1. On March 27, 2013, Rogue Creek Utilities, Inc. (Rogue Creek) initiated small company rate increase proceedings with the Missouri Public Service Commission (Commission) requesting an increase of \$48,565 (278%) in its total annual sewer service operating revenues and an increase of \$40,425 (254%) in its total annual water service operating revenues.
2. Additionally, Rogue Creek submitted proposed revised tariff sheets designed to implement interim increases in its sewer and water rates, as well as special surcharges related to its sewer and water services. The proposed revised tariff sheets bear an effective date of April 26, 2013.
3. On April 2, 2013, Public Counsel objected to the proposed revised tariffs and requested that the tariffs be suspended. As of the date of this filing, the proposed revised tariffs have not been suspended.

4. On April 15, 2013, the Staff of the Missouri Public Service Commission (Staff) filed a Recommendation for Emergency Rate Relief in each of the above stated cases. In its Recommendation, Staff concludes that a potential operational emergency exists where, absent proper immediate repairs and the ongoing ability to make future repairs, there is risk of contamination of both ground water and drinking water. Staff also states the potential danger to the continued provision of safe and adequate service, in consideration of Rogue Creek's ongoing receivership status, constitutes a financial emergency.

5. In its filing, Staff recommended interim rates of \$10.33 per month for water service and \$8.52 per month for sewer service, to take effect May 1, 2013. Staff recommended that these rates be collected subject to refund pending completion of the current rate cases.

6. Additionally, Staff recommended a special surcharge of \$13.67 per month for water service and \$13.84 per month for sewer service. Staff recommended that this surcharge be in place from May 1, 2013, through April, 2014, unless the amounts of \$15,035 for water and \$14,310 for sewer are collected first. Staff also recommended that the surcharge be tracked, and any excess in collection under the surcharge be refunded through a mechanism in the company's next general rate cases.

7. Staff also recommends that Commission order the company to immediately file tariff sheets in conformance with the sample tariff sheets attached to Staff's Recommendation as Appendix 3, with an effective date of May 1, 2013.

8. The Commission has neither express nor implied authority to award an interim increase except to alleviate or avert an emergency. As Staff stated in its Recommendation, the October 31, 2012, *Report and Order Regarding Interim Rates*, in Case No. ER-2012-0345, indicates an interim rate increase may be requested where an emergency need exists, and the Commission has

declined to grant interim relief unless the utility is facing extraordinary circumstances and there is a compelling reason to implement an interim rate increase.

9. Staff states it has determined that Rogue Creek is at serious risk both operationally and financially of failing to provide safe and adequate service. Public Counsel will agree that in extraordinary circumstances, where the lack of immediate relief would pose a risk to the health and safety of the customers, would be a compelling argument for the imposition of an interim rate increase. The amount of the interim rate increase should then be no more than is absolutely necessary to alleviate the immediate extraordinary circumstances threatening the customer's health and safety until a rate proceeding can be completed.

10. However, Staff's Recommendation is not limited to an interim rate increase tailored only to alleviate immediate extraordinary circumstances threatening the customer's health and safety.

11. Many of the items Staff recommends to be included in the interim rate increase are not emergency health and safety items that cannot wait until the pending rate cases have been completed. For example, costs for office supplies and meter reading while needed for the normal operation of the utility are not emergency health and safety items that require the drastic measure of an interim rate increase.

12. The Staff's recommendation includes not only an interim rate tied to the pending rate cases but a separate surcharge which has no tie to the existing rate cases. Staff's recommendation for the special surcharge is that it be collected from May 1, 2013, through April, 2014, long after the normal small company rate case 9-month deadline in these cases and even after the 11-month deadline should the rate cases be extended. Staff specifically recommended that any excess in collection under the surcharge be refunded through a

mechanism in the company's next general rate cases, not in the current pending rate cases. Staff has no recommendation as to when the next general rate case is to be filed.

13. Staff provides no explanation nor legal basis as to why the interim rate increase procedure must be abandoned for some costs and instead a special surcharge be implemented without a pending rate case where the rates can be actually determined to be just and reasonable.

14. The main concern with granting interim relief is that the parties are not able to investigate and the Commission is not able to address all relevant factors that may be affecting a utility's financial results before the interim rates go into effect. Since an interim rate is in response to an emergency, it goes without saying that an interim rate requires that a rate case be pending before the Commission where all the relevant factors may be addressed in as short a timeframe as possible. As it is not tied to a pending rate case and no timeframe has been given for when a rate case is to be filed, the special surcharge proposed by Staff is nothing more than permanent single issue ratemaking.

15. Therefore, as the Recommendation by Staff is not limited to an interim rate increase tailored only to alleviate immediate extraordinary circumstances threatening the customer's health and safety while the pending rate cases are completed, Public Counsel objects to both the interim rate increase and the special surcharge as proposed by Staff.

16. As the April 26, 2013, effective date is fast approaching, Public Counsel also renews its request that the Commission suspend the proposed revised tariff sheets filed by Rogue Creek on March 27, 2013, for the maximum period or at the very least for a sufficient period to allow adequate time for subsequent case disposition through the small rate case procedure as appropriate.

WHEREFORE, Public Counsel respectfully submits its objection and renews its request to suspend tariffs.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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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 22nd day of April 2013:

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