

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 29<sup>th</sup> day of  
January, 2014.

In the Matter of a Requested Rate Increase for	)	
Annual Sewer Operating Revenues by	)	File No. SR-2014-0166
Hickory Hills Water & Sewer	)	

**ORDER GRANTING MOTION TO COMPEL**

Issue Date: January 29, 2014

Effective Date: January 29, 2014

The Missouri Public Service Commission is granting *The Office of the Public Counsel's Motion to Compel Discovery* ("motion").

Background

Hickory Hills Water & Sewer, Inc., ("Hickory Hills") initiated this action by filing a request for a rate increase.<sup>1</sup> Parties to this action have the right to discovery by serving a data request, which is an informal written request for documents or information.<sup>2</sup> To protect that right, the Office of the Public Counsel ("OPC") filed the motion,<sup>3</sup> and an update to the motion.<sup>4</sup> Hickory Hills filed a response to the motion.<sup>5</sup> Hickory Hills is acting through its receiver, who is an attorney.

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<sup>1</sup> Electronic Filing and Information System ("EFIS") No. 1, *Requests for Increases in Annual Sewer & Water System Operating Revenues MO PSC Small Utility Rate Case Procedure* filed on December 2, 2013.

<sup>2</sup> 4 CSR 240-2.090(2).

<sup>3</sup> EFIS No. 5, *The Office of the Public Counsel's Motion to Compel Discovery* filed on January 17, 2014.

<sup>4</sup> EFIS No. 7, *The Office of the Public Counsel's Update to Motion to Compel Discovery* filed on January 23, 2014.

<sup>5</sup> EFIS No. 9, *Company's Response to the Motion to Compel* filed by the Office of the Public Counsel filed on January 23, 2014.

## Facts

On December 6, 2013, the Office of the Public Counsel (“OPC”) served Hickory Hills with data requests. Responses to data requests (“DR responses”) are due 20 days from service according to Commission regulation.<sup>6</sup> Hickory Hills did not comply with that regulation.

On December 27, 2013, OPC informed Hickory Hills by email that the DR responses had not arrived and Hickory Hills responded that Hickory Hills was assembling responses. On January, 9, 2014, OPC informed Hickory Hills by email that the DR responses had not arrived but Hickory Hills did not respond. On January 16, 2014, OPC informed Hickory Hills by email that the DR responses had not arrived but Hickory Hills did not respond.

On January 17, 2014, the following occurred. OPC sought an informal telephone conference to discuss service of the DR responses, with Hickory Hills and the regulatory law judge assigned to this action (“RLJ”), in compliance with the Commission’s regulations.<sup>7</sup> All parties but Hickory Hills responded to the Commission’s scheduling inquiries. The Commission telephoned Hickory Hills to schedule a telephone conference. Hickory Hills responded, stating that Hickory Hills was assembling the DR responses, by email to the RLJ. The RLJ replied by email inquiring as to Hickory Hills’ availability for the conference. Hickory Hills did not acknowledge the RLJ’s inquiry.

On January 22, 2014, Hickory Hills transmitted an email to OPC stating that certain DR responses were attached but omitted the attachments. OPC informed Hickory Hills by email that the attachments were omitted but Hickory Hills did not respond.

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<sup>6</sup> 4 CSR 240-2.090(2).

<sup>7</sup> 4 CSR 240-2.090(8)(B).

As of January 22, 2014, DR responses were outstanding as to data requests 1101, 1107, 1109, 1122, 1123, 1124, 1125, and 1126.

#### Discussion

OPC has followed the Commission's regulations in letter and spirit with considerable patience. In response to the motion, Hickory Hills states that it is assembling the DR responses without offering a date for compliance. It has made that representation for more than a month in response to inquiries, from OPC and the Commission, when it acknowledged such inquiries. Other inquiries, Hickory Hills simply ignored. Therefore, the Commission will grant the motion and will order Hickory Hills to comply with the data requests.

#### **THE COMMISSION ORDERS THAT:**

1. *The Office of the Public Counsel's Motion to Compel Discovery* is granted.
2. Hickory Hills Water & Sewer Company, Inc. shall comply with the data requests, as described in the body of this order, so that the Office of the Public Counsel receives any outstanding response to any data request no later than February 3, 2014.
3. This order shall become effective immediately upon issuance.

#### **BY THE COMMISSION**



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

R. Kenney, Chm., Stoll, W. Kenney,  
and Hall, CC., concur.

Jordan, Senior Regulatory Law Judge