

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

In the Matter of the Request for an                    )  
Increase in Sewer Operating Revenues of        )  
Emerald Pointe Utility Company.                )        **File No. SR-2013-0016**

**THE OFFICE OF THE PUBLIC COUNSEL'S RESPONSE**

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

1. On July 16, 2012, Emerald Pointe Utility Company (Emerald Pointe) initiated a small company rate increase proceeding with the Missouri Public Service Commission (Commission) requesting an increase of \$186,000 in its total annual sewer service operating revenues.
2. On October 11, 2012, the Staff of the Missouri Public Service Commission (Staff) filed a Motion to Extend Filing of Company/Staff Disposition Agreement and Request for Local Public Hearing. In its filing, Staff requests a 60-day extension of the date by which a disposition agreement must be filed and attached an updated timeline reflecting this extension. Additionally, Staff requests that the Commission schedule the local public hearing contemplated in 4 CSR 240-3.050 (15) at this time. Staff states that it has received several public comments and asserts that the customers would benefit from a local public hearing to answer customer questions.
3. Public Counsel now states that while Staff may certainly answer the questions of the customers at any time, it is premature to hold the local public hearing contemplated in 4 CSR 240-3.050 (15) at this time. Therefore, Public Counsel opposes Staff's request that the

Commission schedule the local public hearing contemplated in 4 CSR 240-3.050 (15) at this time.

4. Currently, the parties have no idea how this case will be resolved. Staff's request comes even before Day 90 in the current timeline when an overview of Staff's initial audit/investigation results are to be provide to the utility and Public Counsel. Staff is also requesting a 60-day extension of the date by which a disposition agreement must be filed which significantly delays the resolution of this case.

5. 4 CSR 240-3.050 (15) provides guidance on Public Counsel's right to state its position or request a local public hearing if a Company/Staff-only disposition agreement is filed. As a rule specifically dictating the actions of Public Counsel, there is no provision for Staff to request a local public hearing per 4 CSR 240-3.050 (15). Nor is there any provision for Public Counsel's rights per this rule to be denied or usurped by another party to this case.

6. Affording customers the opportunity to speak to the Commission at a hearing is a critical part of the ratemaking process. However, Staff's proposed new timeline for this case indicates that a Company/Staff Disposition Agreement is not due to be filed until February 11, 2013. Accordingly, the earliest customers would be notified of the proposed agreement would be February 21, 2013. If the Commission schedules the local public hearing contemplated in 4 CSR 240-3.050 (15) at this time, the customers would be denied the opportunity to ask questions about or provide comment on the Company/Staff Disposition. This would be detrimental to the customers.

7. Additionally, 4 CSR 240-3.050 (19) requires Public Counsel to file, no later than ten (10) working days after the local public hearing contemplated in 4 CSR 240-3.050 (15), 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. 4 CSR 240-3.050 (19) also requires Staff to file a pleading no later than five (5) working days after the local public hearing indicating whether any material information was provided at the local public hearing which might result in changes to the Company/Staff Disposition. As the Company/Staff Disposition Agreement is now not proposed to be filed until February 11, 2013, neither Public Counsel nor Staff would have the ability to meet the requirements of 4 CSR 240-3.050 (19).

8. Nothing prevents Staff from responding to public comments as they are received or from holding an informal question and answer session while the case is being processed. However, holding the local public hearing contemplated in 4 CSR 240-3.050 (15) at this time is unworkable in the Commission's rules, unnecessary and detrimental to Public Counsel and the customers.

9. Therefore, Staff's request that the Commission schedule the local public hearing contemplated in 4 CSR 240-3.050 (15) at this time should be denied.

10. One possible resolution to Staff's request would be to schedule a separate local public hearing at this time and hold a local public hearing pursuant to 4 CSR 240-3.050 (15) if one is requested after a Company/Staff Disposition Agreement has been filed. However, this would present a large expense to the company, and ultimately the customers, who would be asked to prepare an additional customer notice beyond those already contemplated in the Commission Rules. A formal local public hearing at this time would also mean time and expense for the Commission, Staff and Public Counsel with no real benefit, given that the customers will not be able to comment on a proposed Company/Staff Disposition Agreement. Therefore, Public Counsel does not support this potential resolution.

**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 12<sup>th</sup> day of October 2012:

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**/s/ Christina L. Baker**

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