

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Re: Tariff Filing of Meramec Sewer Company

Filed Mar. 5-1-77-167

STATEMENT OF POSITION

Comes now the Public Counsel and opposes in part Meramec Sewer Company's ("Company") Rule 3 as filed August 2, 1979.

Rule 3 (j) states:

(j) All bills for sewer service become delinquent after the due date stated on the bill. Service may be discontinued after thirty (30) days' written notice by the company. Bills not paid within this 30-day notice period bear delinquent late charge for nonpayment of ten percent (10%) of the unpaid balance. A delinquent customer shall pay all of the unpaid balance. A delinquent customer shall pay all lien costs, lien release costs, reconnect costs, collection costs and reasonable attorney's fees for collection.

1. Public Counsel is opposed to a written notice of discontinuance as the sole means of notification. The Public Counsel would suggest that a registered letter and/or telephone contact be required. Because the discontinuance of sewer service involves much more physical work (i.e., digging up a sewer main) than other utility services, there should be personal contact with the customer.

2. The Public Counsel opposes a ten percent (10%) late payment charge on the unpaid balance. This may be usurious and is definitely unconscionable.

3. The statement, "A delinquent customer shall pay all of the unpaid balance" appears to be a tautological expression of common sense. As such it is unclear why the Company wishes to include it in a tariff. However, if this sentence is going to be used to deny service or the reconnection of service to a customer for the excessive costs incurred from a disconnection, reconnection, liens, attorney's fees, etc., then it has become an overly strong whip and the Public Counsel opposes the inclusion of the sentence without a statement of its intended uses.

4. The Public Counsel opposes the final sentence in Rule 3, (J). The passing of costs is totally unacceptable and the incurrence of the costs is unreasonable. The Company by common law has a right to seek contractual or civil costs from the customer but to allow the Company to collect via a tariff the costs of attorney's fees, collection fees, lien costs, etc., is unconscionable and needless. A customer who has become a bad debtor may be disconnected, the threat of which is a sufficient means of obtaining payment. The wholesale allowance of

collecting consequential costs may result in discriminatory practices and strong-arm practices. In addition, the incurrence of those costs will result in sewer bills far in excess of service provided and could result in hundreds or even thousands of dollars of collectible fees. As such, the Public Counsel is opposed to a Commission order granting a blanket approval of the Company's requested Rule 3 (J).

Rule 3 (K) states as follows:

(K) If payment is not made within thirty (30) days after said payment shall become due and payable, the company may file a notice of delinquency with the Recorder of Deeds of the applicable county of Missouri which shall state the names of the parties holding legal title to the premises on which the payment is delinquent, the address of said persons, the legal description of the property and the amount due at the date of filing. Upon filing of the above notice of delinquency by the Company, the amount due thereon shall become a first lien upon the property. The amount due shall also include all accrued charges, including all costs of filing and recording, reasonable attorney's fees, and the cost of releasing the lien. In addition to placing a lien upon the property, the company may discontinue service, pursuant to these Rules.

1. Public Counsel opposes (K) in its entirety. The introduction of liens upon property for utility services is beyond the means necessary to collect sewer bills. The blanket approval of placing liens on property of customers by a utility will result in an unconscionable enforcement of service bills. A consumer would then be forced to obtain legal assistance solely to understand the ramifications of the lien.

Additionally, it is doubtful whether a first lien may be obtained if the property is already mortgaged.

WHEREFORE, the Public Counsel is opposed in part to Rule 3, (J) and (K) of the Company's tariffs.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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I hereby certify that copies of the foregoing Statement were mailed this 21st day of August, 1979, to all interested parties.

Daniel S. Ochstein