

**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**

In the Matter of the Request for an                    )  
Increase in Water Operating Revenues of        )  
Emerald Pointe Utility Company.                )        **File No. WR-2013-0017**

**THE OFFICE OF THE PUBLIC COUNSEL’S OBJECTION TO MOTION  
FOR EXPEDITED TREATMENT OF TARIFF SHEETS FILED IN  
COMPLIANCE WITH COMMISSION REPORT AND ORDER**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Objection to Motion for Expedited Treatment of Tariff Sheets Filed in Compliance with Commission Order states as follows:

1. On July 24, 2013, Emerald Pointe Utility Company (Emerald Pointe) filed revised tariff sheets with the Missouri Public Service Commission (Commission) designed to effectuate the decisions made by the Commission in the Report and Order for the above stated cases. The revised tariff sheets bear an issue date of July 24, 2013, and an effective date thirty days thereafter (August 23, 2013).
2. Also on July 24, 2013, Emerald Pointe filed a Motion for Expedited Treatment of Tariff Sheets Filed in Compliance with Commission Report and Order. Emerald Pointe requests that grant the motion for expedited treatment in regard to the compliance tariff sheets that were filed by the Company on July 24, 2013, for service rendered on and after August 1, 2013.
3. Emerald Pointe requests that the Commission approve the tariff changes to be effective a mere eight days after they were filed. Emerald Pointe does not state that all parties concur with

its motion for expedited treatment, and does not even state that it contacted other parties concerning that motion. Public Counsel does not concur in the analysis and legal conclusions contained in Emerald Pointe's motion and so oppose the motion.

4. The Commission is not required by Section 393.150 to act on the revised tariffs within a matter of days in order to make them effective for service rendered on or after August 1, 2013. The Commission is allowed by law – indeed required by law – to take the time it needs to determine that the new tariffs are just and reasonable and that they comply with the Report and Order, including allowing reasonable time to afford the parties due process to provide input on whether the new tariffs are just and reasonable and that they comply with the Report and Order.

5. However, Section 393.140(11) specifically provides that, for good cause shown, the Commission may allow tariff changes without requiring thirty days' notice. Public Counsel disagrees that Emerald Pointe has provided evidence of good cause which would make changing the tariffs on less than thirty days' notice necessary and prudent.

6. The amount of time for consideration of its proposed rate increases is not good cause to limit the amount of time Public Counsel has to review the revised tariffs to ensure they comply with the Report and Order in these cases. At least four separate requests to extend the timeframes in these cases, including a waiver of the timeline by Emerald Pointe, were filed<sup>1</sup> – adding over ninety days to the time for consideration of the proposed rate increase requests. Most, if not all, of the delay in this case was due to delays in the construction and connection of a new sewer line from the City of Hollister to Emerald Pointe and conversion of the old wastewater treatment facility to a lift station which Emerald Pointe wanted addressed in these

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<sup>1</sup> *Motion to Extend Filing of Company/Staff Disposition Agreement and Request for Local Public Hearing*, October 11, 2012; *Staff's Request for Extension*, February 11, 2013; *Motion for Waiver and Extension*, February 11, 2013; *Motion for One Day Extension*, March 13, 2013.

cases.<sup>2</sup> It is not good cause for Emerald Pointe to want to hurry up the process now and limit the amount of time Public Counsel and the Commission has for review to make up for time Emerald Pointe itself added to the case purely for its own benefit.

7. The fact that the tariff sheets, with the exception of the rates, were agreed to in the Disposition Agreements previously filed in the referenced cases is certainly not good cause to limit the most important issue in the Report and Order – the rates. Additionally, Public Counsel was not a party to, and objected to, many of the Disposition Agreements filed in these cases. So it cannot be assumed that Public Counsel has previously agreed to the tariff sheet contents.

8. Emerald Pointe's work with the Staff of the Missouri Public Service Commission (Staff) to create the tariff sheets is also not good cause to grant expedited treatment. Public Counsel is a separate State agency and as a party to these cases must be allowed a reasonable amount of time for review of any document filed in these cases. The fact that Staff and Emerald Pointe worked on the tariff sheets has no bearing on Public Counsel's position on the revised tariff sheets.

9. The Company's belief that there will not be any prejudice is certainly not good cause to grant expedited treatment – especially since that belief is unfounded. Moving the effective date to a mere eight days after the tariffs were filed is most certainly prejudicial to Public Counsel. In fact, Public Counsel is extremely prejudiced by Emerald Pointe's filing. Public Counsel is not only being asked to give up its normal ten day reply time to the motion for expedited treatment, but would be denied the ability to file a timely motion for rehearing on the Commission's decision. Public Counsel is also being asked to review and comment on two separate tariff filings based on a Report and Order that Public Counsel is still reviewing for its upcoming Request for Reconsideration. In fact, Public Counsel has yet to receive all the work papers from Staff and Emerald Pointe that went into the development of the costs to be included in rates.

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<sup>2</sup> *Motion for Waiver and Extension*, February 11, 2013.

Therefore, prejudice definitely exists in addressing these tariff sheets on an expedited basis as Emerald Pointe requests.

10. Emerald Pointe also points to its meter reading schedule as a reason for its request for expedited treatment. This request is purely for the benefit of Emerald Pointe not the customers. Emerald Pointe, like any other utility faced with a thirty-day effective date for a revised tariff, has many choices on how best to implement the rate changes within the timeframe allowed by statute. It is not good cause for Emerald Pointe to want to hurry up the process now and limit the statutory amount of time Public Counsel and the Commission has for review.

11. Emerald Pointe's request for expedited treatment also does not comply with 4 CSR 240-2.080(14), the Commission's rule on requests for expedited treatment. Emerald Pointe attempts to comply with one of the requirements of 4 CSR-240-2.080(14) by including the statement: "...the granting of this motion will not have a negative effect on Emerald Pointe's customers or the public in general." The statement is required by the Commission's rule, but in this case it is patently false. If the Commission grants Emerald Pointe's motion and approves the proposed tariffs for service rendered on and after August 1, 2013, rather than for service on and after August 23, 2013, (which is the effective date of the tariffs), Emerald Pointe's sewer customers will be paying over 300% higher rates sooner than if the motion is not granted. This is a negative effect on Emerald Pointe's sewer customers, although clearly a benefit to Emerald Pointe.

**WHEREFORE**, Public Counsel respectfully requests that the Commission deny Emerald Pointe's Motion for Expedited Treatment of Tariff Sheets Filed in Compliance with Commission Report and Order.

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 25<sup>th</sup> day of July 2013:

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**/s/ Christina L. Baker**

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