

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

In the Matter of S.K. & M. Water and)
Sewer Company's Request For)
Increases in Annual Water and)
Sewer System Operating Revenues)

Case No. SR-2019-0157

Case No. WR-2019-0158

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and for its *Recommendation* regarding S.K. & M. Water and Sewer Company's *Request for Approval of Interim/Emergency Rates*, and corresponding tariff sheets, respectfully states as follows:

Background

1. On November 27, 2018, S.K. & M. Water and Sewer Company ("SK&M" or "Company") filed a letter with the Missouri Public Service Commission ("Commission") requesting an increase in annual operating revenues, in addition to the implementation of emergency/interim rates.

2. On November 29, 2018, SK&M filed a letter requesting approval of tariff sheets designed to implement interim emergency rates. The Company submitted P.S.C. MO No. 2 3rd Revised Sheet No. 6, canceling 2nd Revised Sheet No. 6, and P.S.C. MO No. 3 1st Revised Sheet No. 5, canceling Original Sheet No. 5; each with an effective date of December 30, 2018. The letter and the tariff sheets were submitted after meeting with and soliciting feedback from Staff and the Office of the Public Counsel ("OPC").

3. Also on November 29, 2018, the Commission issued its *Order Directing Expedited Staff Recommendation*, which directed Staff to file a recommendation regarding SK&M's request for interim/emergency rates no later than December 3, 2018.

**SK&M is in a State of Financial Emergency Placing its Ability
to Provide Safe and Adequate Service at Risk**

4. The current owners of SK&M purchased both the water and sewer systems in July of 2018, through a stock transfer. Upon taking over the Company, the new owners state they discovered previously undisclosed repair and maintenance needs. SK&M held meetings with the Department of Natural Resources, which revealed additional short term and long term capital improvement needs. Water line breaks, sewer line collapses, replacement of inoperable meters, and several other operational concerns also currently plague the systems. Because rates have not been adjusted since 2010, current revenues do not support the operational costs, ongoing repairs, and future improvements necessary.

5. Prior to initiating the rate proceeding, SK&M met with both Staff and OPC to discuss its current financial condition. After a brief review of SK&M's general ledger, Staff has concluded that due to the deteriorated nature of the system, the financial condition of the Company is such that its ability to continue to provide safe and adequate service is at risk, and no other alternative exists to alleviate this risk but emergency rate relief.

6. Prior to the Company's November 29, 2018, tariff filing, Staff and the OPC worked with SK&M to calculate emergency rates that would cover a significant portion of the gap between current revenue and the Company's ability to meet monthly expenses. Staff and OPC believe that SK&M's request is a conservative estimate of necessary relief to meet its immediate financial needs. While additional information regarding SK&M's total revenue requirement will become available during Staff's audit

in the course of the full rate case, it is currently anticipated that Staff's recommended cost of service will be greater than that used to develop the emergency rates.

Legal Standard for Commission Authorization of Emergency Interim Rate Relief

7. The Commission's authority to grant an emergency interim rate increase is well established. While there is no express statutory provision providing for the Commission's power to order an emergency interim rate increase, the Western District Court of Appeals has held that the Commission has power in a proper case to grant emergency interim rate increases within the broad discretion implied from Sections 393.140 and 393.150, RSMo, the "file and suspend" statutes, and from the practical requirements of utility regulation.¹ Its "authority to grant an interim rate increase is necessarily implied from the statutory authority granted to enable it to deal with a company in which immediate rate relief is required to maintain the economic life of the company so that it might continue to serve the public."² This implied authority was clearly emphasized by the General Assembly in the Public Service Commission Law that created the agency: "[a] 'Public Service Commission' is hereby created and established, which said public service commission shall be vested with and possessed of the powers and duties in this chapter specified, **and also all powers necessary or proper to enable it to carry out fully and effectually all the purposes of this chapter**" (emphasis added).³ Further, the Missouri Supreme Court has also indicated

¹ *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n of Missouri*, 535 S.W.2d 561, 566 (Mo. Ct. App. 1976).

² *State ex rel. Fischer v. Pub. Serv. Comm'n of Missouri*, 670 S.W.2d 24, 26 (Mo. App. 1984).

³ Section 386.040, RSMo.

its approval of this Commission authority, stating “an interim rate increase may be requested where an emergency need exists[.]”⁴

Recommendation

8. Staff recommends that an emergency need currently exists, and that the Commission should approve SK&M’s request for emergency rate relief. If approved, the emergency rates will remain in effect until new tariffs are approved at the conclusion of SK&M’s currently pending rate cases. The emergency rates will appear as a separate line item on customer bills. In the event that the Commission ultimately approves a lower cost of service than that used to develop the emergency rates, the over-collected revenues are subject to refund as credits on customer bills.

9. Further, Staff believes SK&M’s present operational and financial condition constitutes good cause for the subject tariff sheets to take effect on less than 30 days’ notice. Because of this, Staff recommends approval of these tariffs sheets as soon as possible.

10. Finally, OPC has authorized Staff to indicate on its behalf, that it does not oppose Commission approval of SK&M’s request for emergency rate relief.

WHEREFORE, Staff prays that the Commission will accept this *Staff Recommendation* and issue an order approving SK&M’s request for emergency rate relief; and grant such other and further relief as the Commission considers just in the circumstances.

⁴ *State ex rel. Utility Consumers Council of Missouri v. Public Service Commission of Missouri*, 585 S.W.2d 41, 48 (Mo. banc 1979).

Respectfully submitted,

/s/ Mark Johnson

Mark Johnson

Deputy Counsel

Missouri Bar No. 64940

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Attorney for the Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and or counsel of record on this 3rd day of December, 2018.

/s/ Mark Johnson

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Case No. SR-2019-0157

Case No. WR-2019-0158


State of Missouri)
) ss.
County of Cole)

AFFIDAVIT OF JAMES A. BUSCH

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

COMES NOW, James A. Busch, and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached *Staff Recommendation* in Memorandum form; and that the same is true and correct according to his best knowledge and belief.

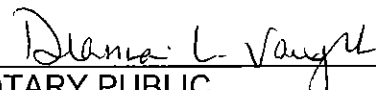
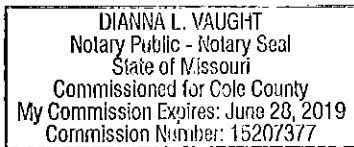
Further the Affiant sayeth not.



James A. Busch

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 3rd day of December, 2018.



NOTARY PUBLIC

My commission expires: June 28, 2019

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State of Missouri)
) ss.
County of Cole)

AFFIDAVIT OF CURT B. GATELEY

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

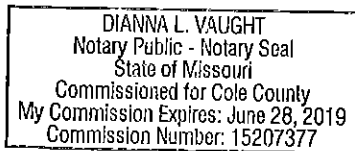
COMES NOW, Curt B. Gateley, and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached *Staff Recommendation* in Memorandum form; and that the same is true and correct according to his best knowledge and belief.

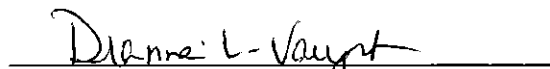
Further the Affiant sayeth not.


Curt B. Gateley

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 3rd day of December, 2018.




NOTARY PUBLIC

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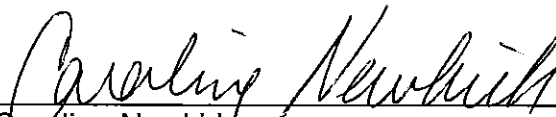
State of Missouri)
) ss.
County of Cole)

AFFIDAVIT OF CAROLINE NEWKIRK

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

COMES NOW, Caroline Newkirk, and on her oath declares that she is of sound mind and lawful age; that she contributed to the attached *Staff Recommendation* in Memorandum form; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

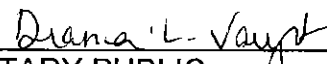


Caroline Newkirk

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 3rd day of December, 2018.

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| DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: June 28, 2019 Commission Number: 15207377 |
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NOTARY PUBLIC

My commission expires: June 28, 2019.