

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

Office of the Public Counsel,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. WC-2002-155
	)	
Warren County Water and Sewer	)	
Company and Gary L. Smith,	)	
	)	
Respondents.	)	

**STAFF’S RESPONSE TO PUBLIC COUNSEL’S  
MOTION TO REOPEN CASE  
FOR THE TAKING OF ADDITIONAL EVIDENCE**

COMES NOW the Staff of the Missouri Public Service Commission and, for its Response to Public Counsel’s Motion to Reopen Case for the Taking of Additional Evidence, states to the Missouri Public Service Commission as follows:

1. On June 7, 2002, the Office of the Public Counsel filed its Motion to Reopen Case for the Taking of Additional Evidence. By this motion, Public Counsel proposes to file an exhibit, which consists of: a letter, dated May 31, 2002, from Mohamad Alhalabi, Regional Director of the Missouri Department of Natural Resources, to Gary Smith, a Respondent herein; a Report of Inspections, which was prepared by Paul E. Mueller and Kurt Riebeling of the MDNR and is also dated May 31, 2002; and a Notice of Violation that the MDNR issued to Respondent Warren County Water & Sewer on the same date.

2. The procedure for reopening a case for the taking of additional evidence is governed by 4 CSR 240-2.110 (8). That rule provides that a party may request that the Commission reopen a case for the taking of additional evidence, if the request is made after the hearing has

been concluded, but before briefs have been filed. That rule also provides that the petition shall specify the facts which allegedly constitute grounds in justification, including material changes of fact or law alleged to have occurred since the conclusion of the hearing.

3. The Public Counsel's motion complies in every respect with the requirements of Rule 4 CSR 240-2.110 (8).

4. The information contained in the Public Counsel's proposed exhibit was not available to Public Counsel or to any of the other parties to this case until after the conclusion of the hearing; it constitutes a material change in the facts of this case; and it bears directly upon the central issue in this case, specifically upon the Company's ability to provide safe and adequate service to the customers of Warren County Water and Sewer Company.

5. Public Counsel proffered the proposed exhibit as soon as possible, on the same day that it learned that the MDNR had recommended that the Warren County Building Department cease issuing building permits in Incline Village, and within one week after the conclusion of the hearing in this case. No party will be harmed by the late admission of this exhibit.

**WHEREFORE,** the Staff supports Public Counsel's motion that the Commission reopen the case for the taking of additional evidence concerning the MDNR's recommendation to the Warren County Building Department.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

**/s/ Keith R. Krueger**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 11<sup>th</sup> day of June 2002.

**/s/ Keith R. Krueger**

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