

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

In the Matter of the Application of)	
Middle Fork Water Company for an)	
Order Initiating an Investigation to)	Case No. WO-2007-0266
Ascertain the Value of the Company's)	
Property Devoted to the Public Service)	

**THE OFFICE OF THE PUBLIC COUNSEL'S SUPPORT FOR STAFF NOTICE
REGARDING THE ABSENCE OF LEGAL AUTHORITY TO INCLUDE
CONTRIBUTIONS IN AID OF CONSTRUCTION IN RATE BASE**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Support for Staff Notice Regarding the Absence of Legal Authority to Include Contributions in Aid of Construction in Rate Base, states as follows:

1. The Missouri Supreme Court decision in *State ex rel. Martigney Creek v. Public Service Commission*¹ makes it very clear that the Missouri Public Service Commission (Commission) lacks the authority to include in rate base property that has been donated or already paid for by the rate payers.²

2. Therefore, Public Counsel agrees with the Staff of the Missouri Public Service Commission (Staff) statement that Missouri law does not permit plant that has been donated or paid for by the rate payers as Contributions in Aid of Construction (CIAC) to be included in rate base.

3. Public Counsel also supports Staff's request that the Commission take notice of the cases cited in Staff's Notice and states that it has no objection to the scheduling of an oral argument to address this specific legal issue, if the Commission deems it appropriate.

¹ 537 S.W.2d 388 (Mo. 1976).

² *Martigney Creek, supra*, at 396.

WHEREFORE, Public Counsel respectfully submits its Support for Staff Notice Regarding the Absence of Legal Authority to Include Contributions in Aid of Construction in Rate Base.

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 21st day of March 2008:

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