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 Ascertain the Value of the Company's Property Devoted to the Public Service	))))	**Case No. WO-2007-0266**

ORDER DIRECTING FILING

Issue Date: February 26, 2007 Effective Date: February 26, 2007

On January 12, 2007,[1] Middle Fork Water Company ("Middle Fork") filed an application requesting that the Missouri Public Service Commission "institute an investigation to ascertain: 1) the value of the Company's current investment in plant devoted to the public service; 2) the standards and principles that will govern the valuation of future investments that the Company may make in plant betterments, improvements, additions, or extensions; and 3) how these investments will be characterized and treated by the Commission for ratemaking purposes."

Middle Fork's application explained that none of these determinations were made in conjunction with its last general rate case, Case No. WR-2006-0212, because "the parties to that case reached a 'black box' settlement that allowed [Middle Fork] the full amount of the rate increase it sought" but did not specify "any particular ratemaking principle in arriving at the amount of the annual operating revenue specified" therein. For this reason, and because Middle Fork now "needs to make additional investments in its plant and

[1] Unless otherwise specified, all dates refer to the year 2007.

facilities" in order to "maintain and improve service to existing customers" and "effectively participate in planning processes" currently being conducted by the Missouri Department of Natural Resources, Middle Fork averred that it "requires some assurance that these future investments, as well as investments made in the past, will be properly valued and categorized for ratemaking purposes." Middle Fork cited Section 393.230, RSMo 2000, as the statutory basis for filing its application and requesting that the Commission make the three specific determinations contained therein.

On January 19, the Commission ordered its Staff to file, by no later than February 2, an appropriate pleading analyzing Middle Fork's application and setting forth Staff's legal position as to the threshold issue of whether or not the application states a claim upon which relief may be granted. The order also stated that if the Office of the Public Counsel or Middle Fork wished to file a response to Staff's pleading, they were required do so within ten days after it was filed. Staff complied with the January 19 Order Directing Filing on February 2, and OPC filed its response to Staff's analysis on February 9. Middle Fork did not file a response to either pleading.

Both Staff and OPC agree that Item #1 above states a claim upon which relief can be granted, since Section 393.230 gives the Commission authority to make a determination of the value of Middle Fork's current investment in plant devoted to the public service. Staff and OPC also agree that neither Item #2 nor #3 above state a claim upon which relief may be granted by the Commission.

The legal issue presented by the parties' pleadings is now ripe for determination by the Commission. However, in the interest of adjudicative economy, the Commission would like to hear from Middle Fork as to whether, should the Commission dismiss Items #2 and

#3 for failure to state a claim, Middle Fork intends to prosecute the remainder of its application (*i.e.*, Item #1).

IT IS ORDERED THAT:

1. Middle Fork Water Company shall, by no later than March 8, 2007, file an appropriate pleading stating whether, should the Commission dismiss Items #2 and #3 of its January 12, 2007 application for failure to state a claim, Middle Fork Water Company intends to prosecute the remainder of the application (*i.e.*, Item #1).

2. This order shall become effective on February 26, 2007.

BY THE COMMISSION

Colleen M. Dale
Secretary

(S E A L)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 26th day of February, 2007.