

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

In the Matter of Hickory Hills Water &)	
Sewer Co.'s Request for a Small)	Case No. WR-2006-0250, consol.
Company Rate Increase)	

STAFF'S POST-HEARING BRIEF

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its Staff's Post-Hearing Brief, states as follows:

1. On April 19, 2006, the Commission held a hearing in the above-captioned case. Hearing transcripts were filed May 16, 2006. On the same date, the Commission issued its *Order Setting Deadline For Post-Hearing Briefs* directing briefs to be filed no later than May 23, 2006. On May 18, 2006, the Staff, with agreement of the Company and Office of Public Counsel, filed a motion seeking additional time until May 31, 2006 to file post-hearing briefs and further suspending the tariffs until July 1, 2006. The Commission issued its *Order Further Suspending Tariffs And Granting Extension Of Time To File Post-Hearing Briefs* on May 23rd granting the parties until May 31, 2006 to file their briefs and suspending tariffs until July 1, 2006.

Introduction

2. As the result of Staff's on-site examination of the books and records of Hickory Hills Water & Sewer Company, a Missouri corporation (hereinafter referred to as Hickory Hills or Company), the Staff determined the Company to be in need of

additional annual operating revenue of \$4,417 for the water system and \$5,912 for the sewer system. However, the Company's annual operating revenue increase is limited to the amounts of \$2,000 for the water system and \$2,500 for sewer system because those are the amounts requested by the Company in its rate increase request letter of July 21, 2005. (Clark Dir, p.3, lns 1-7). Hickory Hills has 47 water customers and 49 sewer customers. (Tr p.38, ln 19).

3. At the April 19th hearing, the Staff, the Office of Public Counsel, and counsel for Hickory Hills, litigated the following issues:

- A. What hourly wage for Randy Clifford should be allowed in rates?
- B. What number of hours worked by Randy Clifford should be allowed in rates?
- C. How many compensated miles traveled should be allowed in rates?
- D. Should payments to a retirement account or accounts be allowed in rates?

Staff's brief addresses each issue separately.

A. What hourly wage for Randy Clifford should be allowed in rates?

3. Using several different criteria, the Staff determined that a wage rate of \$19.00/hour is a reasonable wage rate for Mr. Clifford. This is a reduction from the \$22.50/hour that has been in effect since the last rate case.¹ Public Counsel contends that Mr. Clifford should be paid \$13.00/hour based on what a small water and sewer company would pay to a full-time operating employee, excluding benefits. Staff disagrees. A full-

¹ Hickory Hills is currently operating under rates approved by the Commission in Case No.'s WR-2005-0126 and SR-2005-0125, which examined a test year of 2003.

time employee position, performing only operator duties, does not demand the responsibility, special skills, management, customer contact, and regulatory agency interface required of Mr. Clifford.

4. To arrive at \$19.00/hour, the Staff applied the appropriate CPI index factor² to the hourly operator salary of \$15/hour that was set by the Greene County Circuit Court as part of a receivership action in the Bill Gold Investments Complaint Case (Case No. SC-93-576)³. (Tr p.113, lns 11-25). Applying the CPI factor to an hourly wage of \$15 yields a wage rate of \$18.99/hour. (Clark Dir p.7, ln 7). The Bill Gold case was selected as a benchmark because it served a small number of customers (about 110), even though it did not involve supplying treated water - it did involve operating a mechanical sewer treatment system. (Tr p.114 ln 22 to p.115 ln 2).

5. To determine reasonableness of the \$19/hour rate, the Staff obtained information from the City of Tipton, Missouri, which pays its water and sewer operator an hourly rate of \$18.62, excluding benefits. Adding paid benefits for this position increases the hourly wage by \$13.41 for a total wage rate of \$32.02/hour. (Clark Dir p.7, lns 8-12). The City of Tipton has a small population of about 2,000 residents. (Tr p.104, lns 21-23).

6. Staff considered other key factors in determining the reasonableness of the \$19 hourly wage rate. Randy Clifford, as owner/operator of a small water and sewer company, is on call 24 hours/day, 7 days a week. (Tr p.39, ln 16) As the owner of the Company, the Staff contends that Mr. Clifford shoulders responsibilities that go well

² Consumer Price Index factor is from the U.S. Department of Labor-Bureau of Labor Statistics web-site for Urban wage Earners and Clerical Workers in the Midwest Region for Size Class D that applies to areas with population less than 50,000. (Clark Direct, p. 7, lns 1-4).

³ Greene County Circuit Court Case No. 193cc-3058.

beyond that of a plant operator employed by a small utility. He oversees and submits annual reports and financial statements to the Commission, tax reports to the IRS, and a variety of reports to the Department of Natural Resources. These include reports on sewer discharge (monthly), bacteria water testing (monthly), other periodic water test reports on lead content, radon gas, nitrates, inorganic and organic chemicals, as well as an annual consumer confidence report. (Tr p.63, lns 14–21). As corporation president, Mr. Clifford is not only personally answerable to the Commission and the DNR, he must also appear at public hearings and comply with the annual reporting requirements of the Secretary of State and the laws of Missouri.

7. Unlike managers and operators of other small utilities, Mr. Clifford brings a wealth of experience and unique, specialized skills to Hickory Hills that benefit the ratepayer by providing an overall lower cost of operation. For example, Mr. Clifford performs welding and metal fabrication repairs, masonry repair of manholes, the wiring of telephone lines and alarm systems, and computer aided design drafting to properly map the lines of the Company. None of these duties or functions are required of a DS-I operator, which is the level required by the DNR. (Tr p.71 ln 13 to p.72 ln 18). Staff also considered other unique skills that Mr. Clifford brings to the Company. As a Type C certified (Jefferson City license) maintenance electrician, he replaces circuit breaker boxes and electrical switches. He also performs highly skilled pump repair and rebuilding. (Tr p.100 ln 18 to p.101 ln 4). Mr. Clifford's multiple skills directly benefit Company operations by preventing the need to call in higher priced specialists.

8. In many other small water and sewer company operations, these necessary services are provided by skilled contract specialists at a higher cost to the utility. For

example, Aqua Resources charges a rate of \$39.50/week day and \$118.50 per weekend (\$59.25 each day) to conduct the basic system checks and water tests normally performed by Mr. Clifford on a daily basis. (Tr p.85, lns18-25). To put this in perspective, the daily contract rate charged by Aqua Resources - *for only water test work and excluding holidays* - would amount to an annual charge of \$16,432.⁴ In comparison, Staff's *total* labor costs for *all* work performed by Randy Clifford in this case during the test year amounts to \$12,825 (\$19/hour x 675 total logged hours).

B. What number of hours worked by Randy Clifford should be allowed in rates?

9. Based on an on-site examination of Mr. Clifford's work log, plant facilities, and on-site interviews with Mr. and Mrs. Clifford, the Staff determined Mr. Clifford should be paid for 675 hours. Public Counsel reduced that number to 539. (Tr p.225, lns 1-10). Public Counsel made this reduction, however, without ever visiting the Hickory Hills facility or office. (Tr p.139 ln 22 to p.140 ln 7). Even so, Public Counsel denied 119 hours logged by Mr. Clifford as unnecessary "padding". This was done under the premise that he should be able to complete his basic system checks and water chlorine samples in 30 minutes, and not the 1 hour minimum that Mr. Clifford, as a matter of practice, logged on those days. Staff disagrees. Staff's position is that Mr. Clifford spends a minimum of 1 hour each day performing duties for the Company. Moreover, Staff's position is consistent with its belief that customers should not pay for any more hours than were actually worked. (Tr p.136, lns 4-22).

⁴ \$16,432 is derived by taking the sum of 52 weekends/year times the weekend rate of \$118.50 and 5 days/week times 52 weeks/year times the daily rate of \$39.50. This does *not* include any higher rate for holidays.

10. Staff has identified time Mr. Clifford should have entered into his log, but did not. For example, Mr. Clifford did not log his daily trips to the post office to pick up business mail or to review and sort the mail at his home office. (Tr p.125, lns 10 – 15; p.126, lns 16-20; p.134 lns 1-8). Many times, he did not log answering or returning phone calls from customers, outside organizations, or vendors. Some calls could last anywhere from 5 to 15 minutes. (Tr p.126, ln 25 – p.127 lns 1-2; p.134, lns 12-16). Nor did Mr. Clifford log time he spent planning or coordinating his daily activities related to operating the plant. (Tr p.134, lns 17-23). Staff believes these activities are necessary and reasonable for daily operations and that the time associated with doing them reasonably fit within the 1 hour minimum that Mr. Clifford enters in his log. Indeed, it would not be practical for him to enter small amounts of time each time he performs such frequent, disparate activities throughout the course of a day – activities that do not rise to the level of a major logged entry.

Public Counsel's denial of 119 work hours is improper and unreasonable because its reduction is based on its unsupported notion of a "best case" operating standard and fails to include necessary work activities.

11. Public Counsel's basis for cutting the time logged by Mr. Clifford is not only flawed, but is also just plain wrong. Public Counsel believes the 1 hour minimum logged by Mr. Clifford to be unnecessary "padding" – or time claimed for work not done. Public Counsel's theory of allowing Mr. Clifford only 30 minutes to perform system checks and both chlorine tests is based on what Public Counsel figures is the *quickest* time he can get in and out of the plant – the easiest day – to do the bare minimum. By allowing only 15 minutes – the fastest time it takes to run both chlorine tests and system checks on a "good day" - Public Counsel allows only another 15 minutes to test the

chlorine chemical feed pump, make any necessary adjustments to the pump, and to re-check the feed pump to ensure it is injecting chlorine into the water supply within the range set by the DNR. (Tr p.155 ln 17 to p.156 ln 11; p.167 lns 1-6).

12. Public Counsel expects Mr. Clifford to perform the chlorine mix function within the 15 minute time span they have designated for “other tests”. Such “other tests” must be done along with the daily required chlorine tests and system checks inside the 30 minute window allowed by Public Counsel. At hearing, Mr. Clifford contradicted Public Counsel’s assertion when he testified the chlorine mix function alone takes a minimum of 5 to 10 minutes for the pump to cycle and an additional 7 to 8 minutes to mix the chlorine. The mix function takes a total time of 18 minutes, allowing the maximum pump cycle time and assuming nothing goes wrong in the process. This is done every 3 to 4 days to every 5 to 6 days, depending on consumption. (Tr p.87 ln 25 to p.88 ln 13). Alone, this 18 minute test exceeds the additional 15 minutes that Public Counsel theorizes should be sufficient for Mr. Clifford to perform all the duties required of him. Yet, as exemplified on day 55, Public Counsel allowed only 30 minutes for performing chlorine tests, checking system, and mixing chlorine. (Tr p.175, lns 5-10).

13. On days Mr. Clifford logged charging the water tanks, Public Counsel disallowed, without even knowing how long it takes to charge these tanks, any time he logged that is more than Public Counsel’s 30 minute standard. (Tr p.176, lns 1-11). Hickory Hills has 9 pressurized water tanks. (Tr p.99, lns 1-3).

14. On days Mr. Clifford logged conducting bacteria sample tests, Public Counsel disallowed any time he logged that is more than Public Counsel’s 30 minute standard. (Tr p.176 ln 23 to p 168 ln 10). Mr. Clifford is required by the DNR to submit

monthly bacteria water sampling reports. (Tr p.63 lns 8-16) These samples are taken from 1 of 5 locations in the Hickory Hills' water distribution system. (Tr p.221 lns 13-14) Public Counsel does not consider Mr. Clifford's log of this DNR required activity to be a "material" activity. (Tr p.221 lns 17-21). This position begs the question - how can Public Counsel unilaterally disallow Mr. Clifford's logged bacteria sampling time when Public Counsel doesn't even know the locations of the 5 test points? (Tr p 167 lns 11-17).

C. How many compensated miles traveled should be allowed in rates?

15. The Staff supports a total mileage allowance of \$3,864 (9,721 total miles x \$.405/mile). (Exh 4, Clark Acct Sched, p.8-1 and p.9-1).⁵ Public Counsel recommends a total annualized mileage cost of \$1,669 (4,121 total miles x \$.405/mile). (Robertson Reb p.27, lns 6-11). Public Counsel asserts that Mr. Clifford "inappropriately inflated (i.e. padded)" his mileage log by 5,421 miles and recommends this "padding" be disallowed. (Robertson Reb p.28, lns 1-2). Staff disagrees. Mr. Clifford keeps a mileage log and he enters 22 miles each day he visits the plant. He does not record mileage on days that he did not visit the plant. (Tr p.90, lns 1-10).

16. Mr. Clifford is required by DNR regulations to make daily visits from his place of business (i.e. his home office) to the plant facilities to take water samples and to record the results. The distance between his place of business and the well house is 11 miles, or 22 miles roundtrip. (Clark Dir, p.8, lns 5-14).

17. Public Counsel's allegations that Mr. Clifford "padded" his mileage log are just plain false. Public Counsel witness Ted Robertson testified at hearing that 22 miles is the correct roundtrip distance from his place of business to the water plant. (Tr

⁵ Note that there are two schedules 8-1 and two schedules 9-1 broken out by water and sewer. Staff has combined the amounts for simplicity sake.

p.191, lns 15-18). Ted Robertson further testified that Mr. Clifford must visit the plant “every day”. (Tr p.194, lns 21-25). So why is Public Counsel disallowing mileage that even its witness testified is proper?

18. Public Counsel has disallowed 22 logged miles on every weekday when, after completing his utility-related duties, Mr. Clifford goes on to Jefferson City to his full-time job. (Tr p.194, lns 7-17). On the misguided theory that “He’s going that way already”, the Public Counsel reasons “...we think [to allow mileage] would be subsidization of his mileage cost to his full-time job in Jeff City.” (Tr p.196, lns 6-12).

19. Each day that Mr. Clifford visits the plant, he carries with him the necessary tools and outerwear needed to respond at any time to water and sewer system problems, whether he proceeds from the plant to his full time job or not. By doing so, he is prevented from joining any carpool or rideshare agreements with other commuters to Jefferson City. (Tr p.90, lns 14-20).

20. Public Counsel’s mileage disallowance not only strips payment for required and reasonable travel related to operation of the water and sewer systems, it makes Mr. Clifford pay from his own pocket the whole cost of his utility-related travel – merely because, and fortunately for the ratepayers under Public Counsel’s approach, he has a full time job that supplies him the private cash to fund the utility. Public Counsel’s 100% disallowance of mileage on days that Mr. Clifford goes on to his full-time job, because “it is on the way”, is intractable and weakens the financial stability of the utility.

D. Should payments to a retirement account or accounts be allowed in rates?

21. The Staff supports, as a normal and reasonable business practice, a retirement benefit for Randy and Kay Clifford of 9% of total salaries. (Clark Dir p.7 ln 22- p.8 ln 3). This amounts to a total expense of \$1,155. (Ex. 4, Sched. 8-1 ln 6 and Sched. 8-1 ln 5). Staff points out that the \$1,155 is a maximum “theoretical” expense because the actual benefit paid is based on the actual amounts that Mr. and Mrs. Clifford are able to take out in salaries. Staff determined the reasonableness of its recommendation based on an observed practice of Missouri paying some benefits, including a retirement benefit, to certain part-time employees. (Tr p.122 lns 4-11). This is the only employee benefit sponsored by the Staff.

Conclusion

22. This small company rate increase case is about whether the Company’s requested \$4,500 increase in its annual operating revenues is reasonable and necessary. From its on-site review of the Company’s records and operations, the Staff determined that a total increase in the Company’s operating revenues of \$10,329 would be reasonable. For the reasons stated above, Staff believes that its recommended wage rate, number of hours worked, total number of business miles, and the retirement benefit, are more than amply supported in the record. Public Counsel’s proposed reductions, which are based on misguided ideas of excess, go beyond cutting to the bone. Their cuts remove the bone. Mr. Clifford testified, but for rate case expense and insurance, the Company could meet its expenses without this increase – if he worked for free. (Tr p.91 lns 17-25). To run this company on a shoe string creates unnecessary financial risks and is not sound regulatory policy.

WHEREFORE, the Staff submits its Post-Hearing Brief as directed by Commission Order, and, for the reasons stated herein, respectfully requests that the Commission issue an order approving Hickory Hills' pending revised tariff sheets.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mail to all counsel of record this 31st day of May, 2006.

/s/ Robert S. Berlin