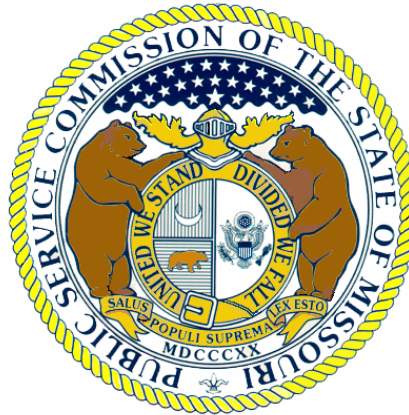


**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**



In the Matter of  
Hickory Hills Water & Sewer Co.'s  
Request for a Small Company  
Rate Increase

) **Case Nos. WR-2006-0250**  
) **and SR-2006-0249, consol.**  
) **Tariff Nos. YW-2006-0449**  
) **and YS-2006-0448**

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**REPORT AND ORDER**

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**Issue Date: June 15, 2006**

**Effective Date: July 1, 2006**

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## OF THE STATE OF MISSOURI

In the Matter of	)	<b><u>Case Nos. WR-2006-0250</u></b>
Hickory Hills Water & Sewer Co.'s	)	<b><u>and SR-2006-0249, consol.</u></b>
Request for a Small Company	)	Tariff Nos. YW-2006-0449
Rate Increase	)	and YS-2006-0448

### **APPEARANCES**

**Kenneth O. McCutcheon, Jr.**, 14329 Highway D, P.O. Box 5, Versailles, Missouri 65084, for Hickory Hills Water & Sewer Co.

**Lewis R. Mills Jr.**, Public Counsel, P.O. Box 2230, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the Public

**Robert S. Berlin**, Associate General Counsel, P.O. Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission

**Richard W. Moore**, Legal Counsel for the Missouri Department of Natural Resources

**REGULATORY LAW JUDGE:**    **Steven C. Reed**

### **REPORT AND ORDER**

#### **Summary**

In this report and order, the Commission finds that Hickory Hills Water & Sewer Co. is entitled to a rate increase sufficient to generate an additional \$2,413 for its sewer operation and that Hickory Hills must reduce its rates for the water operation sufficient to reduce revenues by \$840.

## **FINDINGS OF FACT**

### **Procedural History**

Hickory Hills Water & Sewer Co. (Hickory Hills) is a water and sewer company providing service to approximately 50 customers in two subdivisions near California, Missouri. Randy Clifford is the owner/operator of the company. Mr. Clifford began the rate case process when he filed a letter requesting rate increases for the water and sewer operations on July 21, 2005, under the small company rate case rules found at 4 CSR 240-3.330 and 3.635. Over the ensuing months, leading up to December of 2005, Hickory Hills and the Staff of the Commission followed the procedures set out in those rules and reached an agreement.

On December 12, 2005, Hickory Hills filed revised tariff sheets designed to increase revenues for its water and sewer operations. The tariff sheets reflected an increase of \$2,500 for the sewer system's annual operating revenues and \$2,000 for the water system's annual operating revenues. The effective date of the tariffs was February 1, 2006. On December 15, 2005, the Staff filed a Notice of Agreement Regarding Disposition of Small Company Rate Increase Request in both cases. The Staff alleged that the rate increases sought by Hickory Hills were appropriate and recommended that the proposed tariff sheets be approved. The Missouri Department of Natural Resources (DNR) was added as a party to the case on December 29, 2005. On February 14, 2006, DNR filed a statement with the Commission alleging that Hickory Hills' sewer operation was in significant non-compliance with DNR regulations. No party filed a response to DNR's allegations.

The Commission held a local public hearing in California, Missouri, on January 19, 2006, at the request of the Office of the Public Counsel. The Commission heard comments from Hickory Hills' customers regarding its request for rate increases for water and sewer operations. Several customers of the sewer operation complained about quality of service issues surrounding the backup of the sewer lines into their homes.<sup>1</sup>

The Office of the Public Counsel filed a motion to consolidate these cases and to suspend the tariffs filed by Hickory Hills. The Commission consolidated the cases for hearing with Case No. WR-2006-0250 designated as the lead case. The Commission also suspended the proposed tariffs until June 1, 2006.

The parties prefiled direct and rebuttal testimony and an evidentiary hearing was held on April 19, 2006. On May 18, 2006, the parties sought, and the Commission granted, a further extension of the tariff effective dates until July 1, 2006.

### **The Issues**

The rates that Hickory Hills will be allowed to charge its customers are based on a determination of its revenue requirement, which is calculated by adding its operating expenses, its depreciation on plant in rate base, taxes, and its rate of return multiplied by its rate base. The disagreement in this case arises solely over the amount of operating expenses that should be included in calculating the revenue requirement. The parties agreed upon a test year, the calendar year 2004, and agreed that the issues that follow are those that require Commission determination.

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<sup>1</sup> Transcript, pp. 29, 53, 55 and 57.

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

The Staff of the Commission claims \$19.00 per hour is reasonable and appropriate. The Office of the Public Counsel proposes that \$13.00 per hour is proper. Neither party offered substantive evidence of a just and reasonable wage for Mr. Clifford. Rather, they offered testimony by accountants who based opinions on hearsay gathered from various sources including newspaper advertisements, information from websites and conversations with unknown persons. Accepting the range of possibilities offered by the parties, the hourly wage should be no lower than \$13.00 and no higher than \$19.00. The Commission finds that Mr. Clifford has operated the water and sewer plant for over 14 years and has developed a measure of expertise and efficiency in running the plant. An entry level hourly wage is clearly not appropriate. The Commission also finds that Hickory Hills has fewer than 50 customers and is a much smaller operation than any of the municipal systems referenced in the parties' testimony. Staff's proposed \$19 per hour is well beyond the hourly wage paid by those systems serving several thousand people. Considering Mr. Clifford's experience, the size of Hickory Hills' operation, the qualifications required to operate the plant, and the number of customers served, the Commission finds that a wage of \$15 per hour is just and reasonable.

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

The Staff's witness recommended that Mr. Clifford was entitled to 675 annualized hours worked, with the total payroll cost allocated 75% to the water system and 25% to the sewer system. The Staff based its computation of the number of hours worked on an hourly log retained by Mr. Clifford, wherein he documents his time.

Public Counsel's witness testified that 539 hours was more appropriate because Mr. Clifford admitted that he "pads" his hours, sometimes logging one full hour when he only works 15 or 30 minutes to do a chlorine test or system check. Public Counsel points to Mr. Clifford's testimony at the local public hearing and Mr. Clifford's testimony at the hearing for this proposition. In that testimony, Mr. Clifford claimed each trip to the water and sewer plant was a service call entitling him to make a minimum service charge for his effort; for every trip he billed at least one hour's wage.<sup>2</sup> Public Counsel calculated that for many entries made by Mr. Clifford, he realistically spent only 15 or 30 minutes at the plant. For each of those entries, Public Counsel argues that the one hour entry should be reduced to 30 minutes.

The Commission agrees that there are many tasks such as fielding phone calls from customers that were never entered into the hourly log. However, the Commission is not inclined to allow any public utility to claim a wage expense for hours not actually worked or documented sufficiently for the Commission to review. Mr. Clifford admits that he claims at least one hour of labor even if he works only 15 or 30 minutes.<sup>3</sup> Notwithstanding the fact that Mr. Clifford may have worked additional time for which he did not make entries into his time log, the Commission will not allow compensation for time not documented in the time log. To do otherwise would invite other public utilities to make similar claims and seek additional expenses in rates that are not supported by documentation. The Commission finds that 539 hours as proposed by OPC is supported by sufficient evidence to allow in rates.

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<sup>2</sup> Transcript, pp. 22 and 77.

<sup>3</sup> Id.

### **3. How many compensated miles traveled should be allowed in rates?**

The Staff proposes that 9,316 miles at 40.5 cents per mile should be allowed in rates, totaling annualized mileage costs of \$3,864. Public Counsel recommends \$1,669, which reflects annualized miles of 4,121. The Commission finds that Mr. Clifford often stops by the plant in California on his way to or from work in Jefferson City, but he still claims mileage expenses for 22 miles traveled.<sup>4</sup> The Commission finds that this practice is improperly shifting travel costs from Mr. Clifford's full-time job to Hickory Hills' ratepayers. The Commission finds that Hickory Hills' customers should not be required to subsidize Mr. Clifford's travel to and from his full-time employment in Jefferson City. The Commission accepts the Public Counsel's argument that Mr. Clifford is entitled to include his mileage to and from the plant only when he makes a trip that he would not otherwise make. Other service calls and travel for company business are appropriate where adequately documented. The Commission finds that annualized mileage costs of \$1,669 are proper to include in rates.

### **4. Should payments to a retirement account be allowed in rates?**

The Commission finds that it is not the usual practice of the Commission to include retirement or other benefits in rates for companies as small as Hickory Hills. The Commission is not inclined to set a policy of including retirement benefits for part-time utility operators serving less than 50 customers. For Mr. Clifford, operating the Hickory Hills plant is a part-time job. He does not work there full-time, nor does the plant require a full-time employee. The Commission finds that a retirement benefit should not be allowed in rates charged to Hickory Hills' customers.

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<sup>4</sup> Transcript, pp. 23 and 24.

The Commission further finds that the operating expenses should be allocated 75 percent to the water company and 25 percent to the sewer company as agreed upon by the parties.

### **CONCLUSIONS OF LAW**

The Missouri Public Service Commission has reached the following conclusions of law.

Hickory Hills Water & Sewer Co. is a public utility as defined by Section 386.020(42), RSMo 2000. Furthermore, Hickory Hills is a sewer corporation and a water corporation, as those terms are defined in Subsections 386.020(48) and (58), RSMo 2000. As such, Hickory Hills is subject to the Commission's jurisdiction pursuant to Chapters 386 and 393, RSMo.

Section 393.140(11), RSMo 2000, gives the Commission the authority to regulate the rates that Hickory Hills may charge its customers for water and sewer services. When Hickory Hills filed its tariffs designed to increase its rates, the Commission exercised its authority under Section 393.150, RSMo 2000, to suspend the effective date of the tariffs for 120 days beyond the effective date of the tariffs. The Commission further suspended the tariffs for an additional 30 days under Section 393.150.2, RSMo 2000.

Commission rules 4 CSR 240-3.330 and 3.635 provide the framework for small water and sewer companies to seek a rate increase. If the parties cannot reach an agreement, the company may initiate a standard rate case.

In determining the rates that Hickory Hills may charge its customers, the Commission is to determine that the proposed rate is just and reasonable.<sup>5</sup> Hickory Hills

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<sup>5</sup> Section 393.150.2, RSMo 2000.



has the burden of proving that its proposed increases are just and reasonable.<sup>6</sup> A just and reasonable rate is no more than is sufficient to “keep public utility plants in proper repair for effective public service and insure the investors a reasonable return upon funds invested.”<sup>7</sup>

Section 393.130.1 requires every water and sewer company to provide safe and adequate service. Section 393.140(2) charges the Commission with the responsibility to investigate the condition of water and sewer companies under its jurisdiction and empowers the Commission to order reasonable improvements “as will best promote the public interest, preserve the public health and protect those using such...system[s].”

### **DECISION**

Hickory Hills’ rate of return on its investment is not an issue in this case. The only issues for Commission determination are the operating expenses identified by the parties. Through the proceedings in this rate case, the Commission is aware that the Hickory Hills water and sewer systems are in need of improvements and repair in order to comply with DNR regulations. Because of the manner in which the issues were framed by the parties, ostensibly to provide compensation and reimbursement to Mr. Clifford, the Commission is concerned that this report and order may be construed to authorize Mr. Clifford to compensate himself without regard for needed improvements. The Commission does not intend by this report and order to authorize Mr. Clifford to receive additional compensation or reimbursement. Rather, the Commission intends by this report and order to allow Hickory Hills additional revenues to be used to maintain the plant in proper repair for effective water and sewer service in compliance with DNR and Commission rules. With a

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<sup>6</sup> Id.

<sup>7</sup> *State ex rel. Washington University v. Public Service Commission*, 272 S.W. 971, 973 (Mo. Banc 1925).

view toward determining just and reasonable rates sufficient to keep Hickory Hills water and sewer systems in proper repair for effective public service, the Commission concludes that Hickory Hills is entitled to include the following amounts in calculating the rates it may charge customers:

Number of Hours	539
Hourly Wage	\$ 15
Annualized Salary	\$8,085
FICA (7.65%)	\$ 619
Total	\$8,704
Mileage expenses (4121 @ \$.405)	\$1,669
Retirement Benefits	\$ 0

Total Contested

Operating Expenses allowed in rate base	\$10,373
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Apportionment of expenses between the systems: 75% to water, 25% to sewer

Total Contested Operating Expenses for each system:

Water – \$7,780	Sewer – \$2,593
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Rate Making Income Statement for Water

Current Tariffed Rate Revenues	\$16,217
Total Cost of Service before contested issues	\$ 7,597
Total of contested items	\$ 7,780
Total Cost of Service	\$15,377
Revenue change required	\$ (840)

Rate Making Income Statement for Sewer

Current Tariffed Rate Revenues	\$ 6,965
Cost of Service before contested issues	\$ 6,785
Total of contested items	\$ 2,593
Total Cost of Service	\$ 9,378
Revenue change required	\$ 2,413

The Commission will also direct its Staff to file reports regarding Hickory Hills' efforts to comply with DNR regulations and provide safe and adequate service. The Commission will direct its Staff to file a complaint if it finds that Hickory Hills is not using its operational funds to improve the system, come into compliance with DNR regulations, or provide safe and adequate service to its customers.

**IT IS ORDERED THAT:**

1. The tariff sheets filed by Hickory Hills Water & Sewer Co. on December 12, 2005, and assigned tariff numbers YW-2006-0449 and YS-2006-0448 are rejected.
2. Hickory Hills Water & Sewer Co. shall file a revised tariff for the water operation that will decrease annual revenues by \$840.
3. Hickory Hills Water & Sewer Co. is authorized to file tariffs sufficient to recover additional annual revenue of \$2,413 for the sewer operation.
4. Any pending motions that the Commission has not specifically ruled on are denied.
5. The Staff of the Commission shall file status reports by November 1, 2006, and March 15, 2007, regarding Hickory Hills Water & Sewer Co.'s progress toward complying with regulations of the Missouri Department of Natural Resources.

6. The Staff of the Commission shall file a complaint if it finds that the operational funds of Hickory Hills are not being used to fund needed improvements to comply with regulations of the Missouri Department of Natural Resources or to provide safe and adequate service.

7. This report and order shall become effective on July 1, 2006.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Gaw and Clayton, CC., concur;  
Murray, C., dissents, dissenting opinion to follow;  
Appling, C., dissents;  
and certify compliance with the provisions  
of Section 536.080, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 15th day of June, 2006.