

**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 RESONSE TO
OFFICE OF PUBLIC COUNSEL'S MOTION FOR RECONSIDERATION AND
MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its *Response to Office of Public Counsel's Motion For Reconsideration And Motion For Expedited Treatment* (Motion), states as follows:

1. On April 12,, 2006, the Office of Public Counsel (OPC) filed its Motion asking the Commission to issue an order denying Staff any opportunity at hearing to put on a surrebuttal witness. Public Counsel argues that its due process rights are impinged should the Commission allow Staff to put on a surrebuttal witness for which Public Counsel argues that it has had no time to prepare.

2. The Staff, in its *Motion To Modify Procedural Schedule*, made a due process argument that the Staff and Company should be permitted a chance to rebut the testimony of Public Counsel's witness. When Staff filed its *Proposed Procedural Schedule*, the Staff did so after having had discussions with company counsel and the Public Counsel. Staff filed its *Proposed Procedural Schedule* on the behalf of the parties as directed by the Commission's February 24, 2006 *Order Directing Staff of the Commission to File A Proposed Procedural*

Schedule (Order). The Commission's Order (1) noted that a prehearing conference was held on February 9, 2006, where the parties discussed establishing a procedural schedule and (2) directed the Staff "...to file a proposed procedural schedule after consultation with the parties to this case." Staff was given the understanding by Public Counsel at the prehearing conference, attended by Public Counsel Michael Dandino, and on further discussions with Public Counsel, that all parties would file Direct Testimony. Had Staff understood it was Public Counsel's intention to not file Direct Testimony, thus denying Staff any chance of rebuttal, the Staff would have proposed surrebuttal testimony to preserve its chance to rebut Public Counsel's rebuttal testimony.

3. The Staff has identified three possible surrebuttal witnesses: Jerry Scheible, James Russo, and Dale Johansen. Mr. Scheible is an engineer and has performed an engineering evaluation of the water and sewer system. Mr. Russo is case coordinator and Mr. Johansen is the Staff's water and sewer department manager. The decision of whether to request permission to offer surrebuttal testimony has not yet been made, and cannot be made until the Staff has completed its cross-examination of OPC's witness.

WHEREFORE, the Staff submits its response to Public Counsel's Motion and asks that the Commission, in the interest of fairness to the Staff and Company, deny Public Counsel's Motion so that the Commission may preserve an opportunity for the Staff to put on a surrebuttal witness at hearing.

Respectfully submitted,

/s/ Robert S. Berlin

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 13th day of April 2006.

/s/ Robert S. Berlin