

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

In the Matter of the Application of Highway H)
Utilities, Inc. for a Certificate of Convenience)
and Necessity Authorizing it to Construct, Install,)
Own, Operate, Control, Manage and Maintain, a)
Sewer System in Callaway County, Missouri.)

File No. WA-2009-0316

**OFFICE OF THE PUBLIC COUNSEL'S RESPONSE
TO STAFF'S RECOMMENDATION**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response to Staff's Recommendation states as follows:

1. On March 5, 2009, Highway H Utilities, Inc. (HHU or Company) filed an Application with the Missouri Public Service Commission (Commission) for a certificate of convenience and necessity to construct, install, own, operate, control, manage, and maintain water and sewer systems for the public in an unincorporated area of Pulaski County, Missouri. The Application seeks a certificate to provide water and sewer services to an expanded area beyond that for which HHU was granted certificates of authority in File Nos. WA-2004-0588 and SA-2004-0589 on September 12, 2004. The Application was assigned File Numbers WA-2009-0316 and SA-2009-0317. On May 19, 2009, the Commission issued an order consolidating the two File Numbers and designating File Number WA-2009-0316 as the lead case.

2. On May 15, 2009, the Staff of the Public Service Commission (Staff) filed its Recommendation which recommended Commission issue an order that:

- (1) grants Highway H Utilities, Inc., a certificate for the provision of water and sewer service to the expanded portion of the Northern Heights subdivision as requested

in the Application, such a certificate to be effective on the same date as the effective date of the Company's new or revised tariff sheets to be submitted;

(2) approves Highway H Utilities, Inc.'s existing water and sewer rates and service charges to be applicable to the new service area, noting that a rate case is pending in which the Staff expects new rates to be set for the cost of providing service within the existing and expanded services areas;

(3) directs Highway H Utilities, Inc. to submit, within thirty (30) days after the date of the Commission's order granting a certificate, new and/or revised tariff sheets for its existing water and sewer tariff to include a map and written description of the expanded Northern Heights Subdivision service area, with the tariff sheets to bear an effective date that is at least thirty (30) days from the date the tariff sheets are submitted to the Commission;

(4) approves the depreciation accrual rates as shown on Staff's Attachments A and B, to be applicable to all of Highway H Utilities, Inc.'s plant facilities;

(5) requires Highway H Utilities, Inc. to submit to the Manager of the Water and Sewer Department copies of permits and approvals issued by DNR for the construction of wells, tanks, treatment facilities, or other utility plant contemplated by plans approved by DNR, within thirty (30) days after such approval;

(6) requires that in the event any DNR permits necessary by for Highway H Utilities, Inc. are not obtained by the Company by August 1, 2009, and forwarded to the Manager of the Water and Sewer Department, the Company submit status reports to the Commission describing the good faith attempts in obtaining the necessary

permits from DNR, including but not limited to, the preparation and submission of information required by DNR for approval and issuance of such permits;

(7) makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the requested certificate, including future expenditures of Highway H Utilities, Inc., in any later proceeding; and

(8) directs Staff to file a recommendation on the tariff sheets filed by Highway H Utilities, Inc., that will be forthcoming thirty (30) days after the Commission's order granting certificate.

3. Public Counsel now states that, for the purposes of this case, Public Counsel has no opposition to Staff recommendations (1), (3), (4), (5), (7) and (8), as numbered above.

4. Public Counsel states that, for the purposes of this case, while it is not opposed to Staff recommendation (2), as numbered above, that the Commission approve Highway H Utilities, Inc.'s existing water and sewer rates and service charges to be applicable to the expanded portion of the Northern Heights subdivision service area, Public Counsel believes that these rates should be interim subject to customer refund or credit. As Staff states in its Recommendation, a rate case is pending in which the Staff expects new rates to be set for the cost of providing service within the existing and expanded services areas. The Staff Recommendation also attached a Memorandum in which Staff made the following statement regarding the current rates charged by HHU:

“The Staff's position with regard to rates and feasibility is based on a review of information in HHU's feasibility and engineering reports submitted in these cases, the Company's filed annual reports, and the Staff's own estimates. ***However, the Staff believes that the financial and capital information is not sufficiently reliable without conducting a detailed audit of the Company's operation.*** At the Staff's request, HHU filed a “Small Company Rate Increase” request on April 30,

2009, docketed as WR-2009-0393 and SR-2009-0392. The Staff therefore recommends that HHU needs to complete its rate case, or the Staff will need to undertake a rate review.” [Emphasis added.]

As the possibility exists that the current financial and capital information “is not sufficiently reliable,” Public Counsel believes that it would be prudent to protect the ratepayers in the expanded portion of the Northern Heights subdivision service area from possible overpayment due to the use of existing water and sewer rates. Therefore, Public Counsel would suggest adding the requirement that the application of the existing water and sewer rates to the expanded portion of the Northern Heights subdivision service area be interim subject to customer refund or credit based on the rates established the pending rate cases.

5. Public Counsel also states that, for the purposes of this case, while it is not opposed to Staff recommendation (6), as numbered above, which asks the Commission to require that the Company submit status reports to the Commission in the event any DNR permits necessary by for Highway H Utilities, Inc. are not obtained by the Company by August 1, 2009, Public Counsel notes that there are no set timeframes for when the status reports are to begin, how often the status reports are to be submitted, or how long the status reports are to be submitted. Therefore, Public Counsel would suggest that the Commission add timeframes for when these status reports are to begin, how often the status reports are to be submitted, and how long the status reports are to be submitted. Public Counsel would suggest that these status reports be submitted beginning on August 1, 2009 and continue to be submitted on a monthly basis until the required DNR permits are obtained by the Company, but Public Counsel would be agreeable to any such timeframes as the Commission deems appropriate.

WHEREFORE, Public Counsel respectfully submits its Response to Staff’s Recommendation.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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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 May 2009:

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