

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 25th day of March, 2009.

In the Matter of a Small Company Rate ) **Case No. WR-2009-0098**  
Increase by Raytown Water Company ) **Tariff No. YW-2009-0587**

**ORDER DENYING THE OFFICE OF THE PUBLIC COUNSEL'S MOTION  
TO REJECT OR SUSPEND TARIFF**

Issue Date: March 25, 2009

Effective Date: March 25, 2009

On September 12, 2008, Raytown Water Company ("RWC") initiated a small water sewer company rate increase action pursuant to Commission Rule 4 CSR 240-3.050. RWC requested an increase of \$405,402 in operating revenues. RWC serves approximately 6,216 residential customers and 390 commercial customers in Raytown and Independence, Missouri.<sup>1</sup>

After discussions with the Commission's Staff ("Staff"), RWC and Staff agreed that RWC's annualized operating revenue increase should be reduced to \$317,990 and on February 9, 2009,<sup>2</sup> Staff and RWC filed a Disposition Agreement ("Agreement"). On February 17, RWC filed tariff sheets, bearing an effective date of April 2; those sheets reflect the reduction from their originally requested rates and contain all other provisions

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<sup>1</sup> The Company's growth is limited because a large percentage of the land in its service territory has already been developed and its service territory is bounded on all sides by a public water district and a municipal water system. The Company's 20 square-mile service territory is generally bounded by 50th Street to the north, Woodson Road to the east, 350 Highway to the south and Blue Ridge Cutoff to the west.

<sup>2</sup> All dates from this point forward refer to the year 2009 unless otherwise noted.

necessary to implement the terms of the Agreement. Also on February 17, Staff filed a recommendation that the Commission:

- (a) approve the revised tariff sheets that the Company submitted to the Commission on February 17, 2009 to be effective for service rendered on and after April 2, 2009;
- (b) approve the Agreement submitted by Staff and RWC;
- (c) direct the Company to comply with the terms of the Agreement; and,
- (d) prescribe the schedule of depreciation rates included as Attachment F to the Agreement as the schedule of depreciation rates authorized for RWC's use.

The Office of the Public Counsel ("Public Counsel") did not join in the Agreement. Instead, on March 16, Public Counsel filed a notice stating that it believed that resolution of the issues has been achieved and that a Unanimous Disposition Agreement may be forthcoming. However, Public Counsel also stated that it wished to reserve its right to have a local public hearing in case resolution is not achieved. Consequently, Public Counsel requested the Commission schedule a public hearing.

On March 18, the Commission granted Public Counsel's request for a local public hearing and set a date, location and time for the hearing. Notice of the hearing was directed to be issued on March 31, and the hearing was set for April 16.<sup>3</sup>

After the Commission issued its order granting Public Counsel's request for a local public hearing, Public Counsel filed a motion to reject or suspend RWC's tariff. Public

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<sup>3</sup> Commission Rule 4 CSR 240-3.050 dictates timelines for RWC to issue sufficient notice to its customers so they may attend the local public hearing. Additionally, Commission Rule 4 CSR 240-2.110(1) requires the Commission to set the time and place for hearings and serve notice as required by law, and Sections 536.067(4) and 386.390.5, RSMo 2000, require at least ten days notice be given prior to a hearing. Complying with the required timelines, and factoring in the time necessary for RWC to draft and issue notice to its customers, necessitated holding the local public hearing no earlier than April 10, 2009.

Counsel observes that Commission Rule 4 CSR 240-3.050(14) requires RWC to have filed a tariff with an effective date no fewer than 45 days following the date of issuance. RWC's tariff, having been filed on February 17, allowed for only 44 days before becoming effective, and as such violates the Commission's Rule. Additionally, Public Counsel objects to the Commission allowing the tariff to become effective prior to holding a local public hearing. Public Counsel alleges that should the Commission allow this to happen, the Commission will essentially be unjustly refusing to consider testimony from RWC's customers prior to making a decision about RWC's rate increase request. Public Counsel requests the Commission to either reject the tariff as being in violation of the Commission's rules, or to suspend it to allow adequate time to conduct the local public hearing prior to determining if the proposed rates should be allowed to go into effect.

On March 20, RWC responded to Public Counsel's motion by filing a substitute tariff bearing an effective date of May 4. The May 4 effective date satisfies the requirements of Commission Rule 4 CSR 240-3.050(14), and allows the Commission sufficient time to conduct the local public hearing prior to the tariff's effective date. Consequently, the grounds supporting Public Counsel's motion no longer exist and its alternative motions shall be denied.

**THE COMMISSION ORDERS THAT:**

1. "The Office of the Public Counsel's Motion to Reject Tariff, or in the Alternative, Motion to Suspend Tariff," filed on March 18, 2009, is denied.
2. That this order shall become effective immediately upon issuance.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale  
Secretary

( S E A L )

Clayton, Chm., Murray, Davis, Jarrett,  
and Gunn, CC., concur.

Harold Stearley, Senior Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 25th day of March, 2009.