

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

In the Matter of the Application of Tri-States)
Utility, Inc., for a Certificate of Convenience)
and Necessity Authorizing It to Enlarge and)
Extend Its Service Area and to Construct,)
Install, Own, Operate, Control, Manage and)
Maintain a Water System for the Public)
Located in an Unincorporated Area in Taney)
County, Missouri)

Case No.WA-2006-0241

RESPONSE TO ORDER DIRECTING FILING

COMES NOW the Staff of the Missouri Public Service Commission, (Staff) by and through counsel, and for its Response to Order Directing Filing (Second Response) states the following to the Missouri Public Service Commission (Commission).

1. On March 2, 2006, the Staff submitted its Response to Order Directing Filing (First Response), filed in response to the Commission's **Order Directing Filing** issued on February 22, 2006, in which the Staff reported consumer issues of Tri-States Utility, Inc. (Company) and the Company's compliance with the regulations of the Missouri Department of Natural Resources (DNR).

2. The Staff's First Response provided information pertaining to the Company's lack of compliance with the DNR's regulations regarding Cross Connection Control, or Backflow Prevention, 10 CSR 60 Chapter 11. This regulation requires water utilities and/or customers to prevent water from the customers' premises, when there is a contamination risk, from flowing backward through the Customers' service lines and into the utilities' distribution pipelines. It also specifies types of devices to prevent backflow, and testing requirements. The Staff noted that the Company has provisions for customer requirements necessary for compliance with these

DNR regulations in its tariff. The specific tariff rules are Rule 5 (j) on Sheet No. 14, and Rule 6 (b) on Sheet No. 15.

3. On March 8, 2006, the Commission issued another **Order Directing Filing** (March 8 Order), in which it ordered the Staff to further contact the Company and the DNR, and to report additional details regarding the Company's proposed cross connection control program and its timeline for compliance.

4. The Staff has further discussed the situation of a cross connection control program with the Company and with a contact person at the DNR's Southwest Regional Office in Springfield, and reports the following information, some of which has changed since the Staff's First Response was filed and some of which is information provided verbally by the Company:

- For approximately the past 7 years, the Company has required new customers to install backflow prevention devices where appropriate, such as when fire sprinkler systems and irrigation systems are in place. However, customers existing since before this timeframe have not been pressed to install backflow prevention devices, and the Company has not yet implemented a test tracking program to be sure that customers with backflow prevention devices installed are keeping current with the applicable testing requirements.
- In order to be sure that it undertakes reasonable and effective actions in complying with the DNR's regulations, the Company has scheduled a meeting with the DNR and the Staff for Thursday, March 16, 2006. The purpose of this meeting is to discuss and review the Company's proposed cross connection control program, including policies for identification of affected customers, notification, enforcement of customer compliance with the rules, and a backflow prevention device test tracking system.
- After the March 16th meeting with the DNR and the Staff, and after implementation of suggested changes to the program, if any, the Company will be in a position to notify affected customers of the need to install a backflow prevention device. The Company plans to include, with the end of March bills, a notice informing customers of the forthcoming backflow prevention device requirements. The Company will also

send a second letter to the affected customers as soon as possible but not later than during the month of May 2006.

- The Company has currently identified approximately 200 customers that have either private fire protection systems, lawn irrigation systems, or other contamination risks as described under 10 CSR 60-11.010 (3). These customers will be required to install a backflow prevention device meeting the requirements of 10 CSR 60-11.010 (4). The Company has also instructed its meter readers to observe premises, as best as possible while reading meters, and to report to the Company any situation that appears to have plumbing or activity that requires a backflow prevention device. All customers with backflow prevention devices are required under 10 CSR 60-11.010 (7) to keep current on testing of the devices by a qualified person. The customers will, on a continuous basis, need to periodically test their devices, with a report of the testing provided by the licensed tester to the Company and appropriate governmental authority in accordance with 10 CSR 60-11.010 (6). As part of its records, the Company will keep a record of the test date and will contact customers who have not tested or reported testing.
- The Staff specifically asked our DNR contact person, Mr. Bill Arnold, whether he believed the Company's proposal and its timeline for compliance was reasonable, and the answer was "yes."

5. Bill Nickle of the Staff will be attending the March 16th meeting. He and Jim Merciel of the Staff will be reviewing the Company's cross connection control program, and following up with the Company and the DNR as necessary as the program is implemented and carried out.

6. The Staff will file a supplement to this Second Response after the March 16 meeting with the Company and the DNR, and after comments and suggestions have been provided to the Company.

WHEREFORE, the Staff submits this Second Response for the Commission's information and consideration as directed in the Commission's March 8 Order.

Respectfully Submitted,

/s/ Robert S. Berlin

Robert S. Berlin
Associate General Counsel
Missouri Bar No. 51709

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Missouri Public Service Commission

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Recommendation has been mailed, hand delivered, transmitted by facsimile or electronically transmitted to all counsel and/or parties of record this 14th day of March 2006.

/s/ Robert S. Berlin

AFFIDAVIT OF JAMES A. MERCIEL, JR.

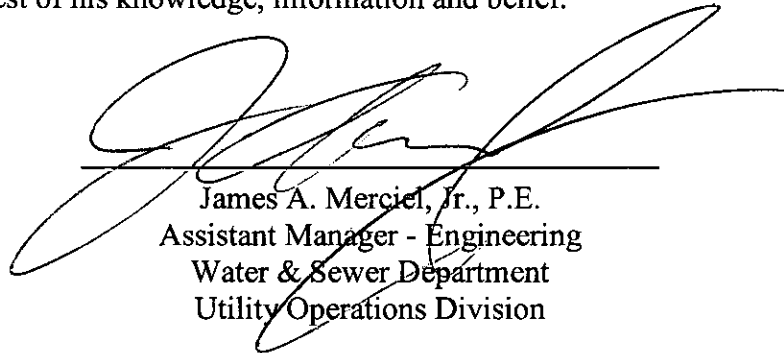
STATE OF MISSOURI)

) ss

Case No. WA-2006-0241


COUNTY OF COLE)

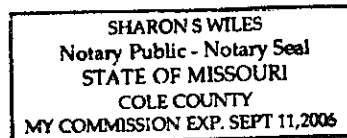
James A. Merciel, Jr., of lawful age, on his oath states: (1) that he is a member of the Staff of the Missouri Public Service Commission; (2) that he participated in the preparation of this RESPONSE TO ORDER DIRECTING FILING ("Response"); (3) that he has knowledge of the matters set forth in this Response; and (4) that the matters set forth in this Response are true and correct to the best of his knowledge, information and belief.


James A. Merciel, Jr., P.E.
Assistant Manager - Engineering
Water & Sewer Department
Utility Operations Division



Subscribed and sworn to before me this 14th day of March 2006.


Notary Public



My Commission Expires: _____