

Exhibit No.: _____

Issue(s): Tariff Sheet No. 31, Rule No. 16

Witness // Type of Exhibit: Bolin/Surrebuttal

Sponsoring Party: Public Counsel

Case No.: WA-2002-65

SURREBUTTAL TESTIMONY

OF

KIMBERLY K. BOLIN

Submitted on Behalf of the Office of the Public Counsel

ENVIRONMENTAL UTILITIES, LLC

Case No. WA-2002-65

December 5 2001

FILED³

DEC 5 2001

Missouri Public
Service Commission

SURREBUTTAL TESTIMONY

OF

KIMBERLY K. BOLIN

ENVIRONMENTAL UTILITIES, LLC

CASE NO. WA-2002-65

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 A. Kimberly K. Bolin, P.O. Box 7800, Jefferson City, Missouri 65102.

3 **Q. ARE YOU THE SAME KIMBERLY K. BOLIN WHO FILED REBUTTAL**
4 **TESTIMONY IN THIS CASE?**

5 A. Yes.

6 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

7 A. The purpose of my surrebuttal testimony is to respond to Missouri Public Service Commission Staff
8 (Staff) witness James A. Merceil, Jr. concerning proposed Tariff Sheet No. 31, Rule 16.

9 **Q. WHAT IS THE ISSUE?**

10 A. Environmental Utilities, LLC (Environmental or Company) has proposed Tariff Sheet No. 31, Rule
11 16, which is titled Service Requests Requiring Commission Approval. This tariff will place all of
12 the costs and risks associated with obtaining a certificate of convenience and necessity upon a
13 person, outside of the Company's service territory, who wants to receive service from the Company.

14 **Q. WHAT POSITION HAS STAFF TAKEN WITH REGARD TO REQUIRING**
15 **PROSPECTIVE RATE PAYERS TO PREPAY THE ORGANIZATIONAL COSTS OF**
16 **A UTILITY BEFORE THEY EVEN RECEIVE SERVICE?**

1 A. Staff witness Merciel states in his rebuttal testimony; "Sheet 31 Rule 16, the basic concept may be
2 ok, but language may need to include a provision for company participation for cases where an
3 expanded service area encompasses more than what a developer is requesting. Also address how to
4 handle this if requested new area is for multiple developers, and then one bows out after expenses
5 are incurred."

6 **Q. DOES PUBLIC COUNSEL OPPOSE COMPANY'S REQUEST AND STAFF'S**
7 **SUPPORT THEREOF?**

8 A. Yes. The Office of the Public Counsel (Public Counsel) believes this tariff sheet and/or rule should
9 not be allowed to be included in the Company's tariffs filed with the Missouri Public Service
10 Commission (Commission).

11 **Q. DOES THE PROPOSED TARIFF LIST THE TYPES OF COSTS THE PERSON**
12 **REQUESTING SERVICE WILL PAY?**

13 A. Yes. Paragraph (b) states, "...the Applicant Requesting service for a property outside the
14 Company's service area shall also tender, in advance, a sum representing the Company's estimate of
15 the cost, including a reasonable attorney's fee and the Company's administrative expenses and
16 engineering fees, of obtaining the approval of the Missouri Public Service commission of a
17 certificate of convenience and necessity to provide the service requested to an area including the
18 property for which service is requested."

19 **Q. DOES THE TARIFF LISTS ANY ESTIMATED COST AMOUNTS?**

20 A. No.

1 Q. DOES THE TARIFF DEFINE HOW THSES COSTS WILL BE DETERMINED?

2 A. No.

3 Q. DOES THE TARIFF PROVIDE FOR COMMISSION REVIEW OF THE COSTS?

4 A. No.

5 Q. DOES THE TARIFF PROVIDE FOR A REFUND TO THE EXTENT THE
6 ESTIMATE EXCEEDS ACTUAL COST?

7 A. No.

8 Q. WHAT WAS THE LEGAL EXPENSE FOR THE LAST APPLICATION CASES FOR
9 OSAGE WATER COMPANY?

10 A. The legal expense for SA-99-268 and WA-99-427 combined was \$33,150. These two cases were
11 applications to construct, install, own, operate, control, manage and maintain a sewer system in
12 Golden Glade Subdivision (SA-99-268) and a water system in Eagle Woods subdivision (WA-99-
13 437).

14 Q. WHO WAS THE ATTORNEY HIRED BY OSAGE WATER COMPANY IN THESE
15 APPLICATION CASES?

16 A. Mr. Williams, who is also a co-owner of Environmental Utilities, LLC and Osage Water Company.
17 Mr. Williams is the attorney for Environmental Utilities in this certificate case as well.

1 **Q. WHAT WAS INCLUDED IN LEGAL EXPENSE?**

2 A. The information provided only states that Mr. Williams billed Osage Water Company for 219.5
3 hours of legal work and \$225 of expenses, but is not broken down further (See Schedule KKB-6).

4 **Q. DOES THE UNIFORM SYSTEM OF ACCOUNTS HAVE AN ACCOUNT TO WHICH**
5 **A UTILITY CAN RECORD THE COSTS OF OBTAINING A CERTIFICATE IN?**

6 A. Yes. Account 301, Organization.

7 **Q. PLEASE PROVIDE THE DEFINITION OF THIS ACCOUNT.**

8 A. This account shall include all fees paid to federal or state governments for
9 the privilege of incorporation and expenditures incident to organizing the
10 corporation, partnership or other enterprises and putting it into readiness to
11 do business.

12 Items

- 13 1. Cost of obtaining certificates authorizing an enterprise to engage
14 in the public utility business.
- 15 2. Fees and expenses for incorporation.
- 16 3. Fees and expenses for mergers or consolidations
- 17 4. Office expenses incident to organizing the utility.
- 18 5. Stock and minute books and corporate seal.

19 **Q. DOES PROPOSED RULE 16 GIVE THE COMPANY INCENTIVE TO BE**
20 **PRUDENT IN INCURRING COSTS ASSOCIATED WITH APPLICATION CASES?**

21 A. No. This rule does not provide the Company with any incentive to prudently incur expenses when
22 applying for new service territories. If the Commission does not approve the application, the person
23 requesting service customer will still have to pay for legal fees, etc. The person requesting service

1 incurs the costs, but the person will not receive water service and the Company will not incur any
2 costs. If the Commission approves the application, the Company has one year to reimburse the
3 customer who paid for the application costs. The Company is not bearing any of the risk or upfront
4 costs.

5 **Q. WHY DOES PUBLIC COUNSEL BELIEVE THAT THE COMPANY SHOULD BEAR**
6 **THE RISK AND COSTS FOR A CERTIFICATE CASE?**

7 A. Public Counsel believes that the Company should bear the risk and costs for a certificate case
8 because the Company will receive a return on this money and will receive revenue from this
9 investment. The risk associated with new investment or business expansion is a normal business
10 risk and it is not appropriate to shift this risk to prospective customers.

11 **Q. IS PROPOSED RULE 16 SIMILAR TO THE COMPANY'S PROPOSED RULE**
12 **14, EXTENSION OF WATER MAINS AND RULE 15, SERVICE REQUESTS**
13 **REQUIRING ADDITIONAL CAPACITY?**

14 A. No. The difference between proposed rule 16 and proposed rules 14 and 15 is that rule 16 applies to
15 prospective customers **outside** of the Company's service territory. While rules 14 and 15 apply to
16 customers **within** the service territory. Also rules 14 and 15 do not require Commission approval
17 every time a new customer requests service, while rule 16 requires Commission approval each time
18 a new customer outside of the service territory requests water service.

1 **Q. PLEASE SUMMARIZE PUBLIC COUNSEL'S POSITION REGARDING THE**
2 **PROPOSED RULE 16.**

3 A. Public Counsel does not believe the Commission should approve proposed tariff sheet no.31, rule
4 no. 16 because this rule does not encourage the Company to prudently incur expenses for an
5 application to serve. This rule is not necessary because the rule only applies to persons outside of
6 the service territory. Although the Company is seeking to include tariff language that would require
7 potential customers to pay expenses, no provision in the tariff defines "reasonable fees or
8 expenses."

9 **Q. DOES PUBLIC COUNSEL RECOMMEND APPROVING ENVIRONMENTAL'S**
10 **APPLICATION TO SERVE THE GOLDEN GLADE SUBDIVISION?**

11 A. Yes, but with caution and conditions. In my rebuttal testimony I recommended a number of
12 precertificate conditions the Company should meet before receiving the certificate and I also
13 recommended operating conditions that the Company should comply with after the certificate is
14 granted. I am still recommending these conditions be imposed on the Company to help alleviate
15 concerns the Public Counsel has with the Company's possible detrimental business practices. The
16 primary reason Public Counsel is recommending that the Commission grant Environmental Utilities
17 the certificate to serve Golden Glade subdivision is out of concern for the customers if the certificate
18 is not granted. Based upon the current governing structure of the Golden Glade landowners
19 association, Greg and Debra Williams constitute 2 of the 3 board members and will remain on the
20 board until 100% of the lots are sold. It is possible, under the current homeowners association
21 structure, that the owners of Environmental Utilities (Greg and Debra Williams) could operate the

1 water system as an unregulated entity through the homeowners association. Public Counsel
2 feels the property owners in this subdivision would be better served by a regulated utility than an
3 unregulated utility.

4 **Q. IS IT POSSIBLE THE HOMEOWNERS IN GOLDEN GLADE SUBDIVISION**
5 **COULD SUFFER FROM CONFUSION DUE TO MR. WILLIAMS' OTHER**
6 **UTILITY COMPANY (OSAGE WATER COMPANY) PROVIDING SEWER SERVICE**
7 **TO THE SAME CUSTOMERS IN THIS SUBDIVISION IF THE UNREGULATED**
8 **HOMEOWNERS ASSOCIATION OPERATED THE WATER SYSTEM?**

9 A. Yes. The customers will call the same number and interact with the same people as they do for the
10 regulated sewer service that is provided to Golden Glade subdivision through Osage Water
11 Company which is owned by Mr. Williams. This may cause confusion to the customers as to what
12 the Commission is regulates and what the Commission does not regulate and why.

13 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

14 A. Yes.

Surrebuttal Testimony of
Kimberly K. Bolin
Case No. WA-2002-65

No. 1054

**OSAGE WATER COMPANY
PUBLIC COUNSEL DATA REQUEST
CASE NOS. WR-2000-557 & SR-2000-556**

REQUESTED FROM: Gregory D. Williams

DATE REQUESTED: January 12, 2001

INFORMATION REQUESTED: Please provide a detailed estimate of how Osage Water Company arrived at the cost of a certificate case referred to in local public hearing exhibit #1 and exhibit #2.

REQUESTED BY: Kimberly Bolin

INFORMATION PROVIDED: See attached summary of legal expenses for SA-99-268 & WA-99-937 (Golden Eagle Woods) which reflects part of the cost of a contested certificate case. The City of Osage Beach has stated its intent to contest any certificate requests within 5 miles of its limits, which would include Churn View.

The information provided to the Office of the Public Counsel in response to the above information request is accurate and complete, and contains no material misrepresentations or omissions based upon present facts known to the undersigned. The undersigned agrees to immediately inform the Office of the Public Counsel if any matters are discovered which would materially affect the accuracy or completeness of the information provided in response to the above information.

DATE

RECEIVED: _____

SIGNED BY: Gregory D. WilliamsTITLE: attorney

TOTAL P.06

Schedule KKB-6.1

Surrebuttal Testimony of
Kimberly K. Bolin
Case No. WA-2002-65

1/12/01
4:15 PM

Gregory D. Williams
Slip Summary Listing

Page 1

Selection Criteria

Slip Classification Open
Client (hand select) Include: OWC.
Reference (hand sel) Include: KK Water and Sewer System

Title	Amount	% Total	Time	% Total
OWC.				
Fees: Slip Value	32925.00	100.00%	219.50	100.00%
Fees: Billable	32925.00	100.00%	219.50	100.00%
Fees: Unbillable	0.00	0.00%	0.00	0.00%
Fees: Billed Slip Value	32925.00			
Fees: Profitability	0.00	0.00%		
Fees: % Gain	0.00%			
Fees: Overhead	0.00			
Fees: % Overhead	0.00%			
Fees: Estimated			0.00	
Fees: Variance			0.00	
Fees: % Variance			0.00%	
Costs: Slip Value	225.00	100.00%		
Costs: Billable	225.00	100.00%		
Costs: Unbillable	0.00	0.00%		
Costs: Billed Slip Value	225.00			
Costs: Profitability	0.00	0.00%		
Costs: % Gain	0.00%			
Total: Slip Value	33150.00	100.00%	219.50	100.00%
Total: Billable	33150.00	100.00%	219.50	100.00%
Total: Unbillable	0.00	0.00%	0.00	0.00%
Total: Billed Slip Value	33150.00			
Total: Profitability	0.00	0.00%		
Total: % Gain	0.00%			
Total: Overhead	0.00			
Total: % Overhead	0.00%			
Total: Estimated			0.00	
Total: Variance			0.00	
Total: % Variance			0.00%	

Grand Total

Fees: Slip Value	32925.00	100.00%	219.50	100.00%
Fees: Billable	32925.00	100.00%	219.50	100.00%
Fees: Unbillable	0.00	0.00%	0.00	0.00%
Fees: Billed Slip Value	32925.00			
Fees: Profitability	0.00	0.00%		
Fees: % Gain	0.00%			
Fees: Overhead	0.00			
Fees: % Overhead	0.00%			
Fees: Estimated			0.00	
Fees: Variance			0.00	
Fees: % Variance			0.00%	
Costs: Slip Value	225.00	100.00%		

Surrebuttal Testimony of
Kimberly K. Bolin
Case No. WA-2002-65

1/12/01
4:15 PM

Gregory D. Williams
Slip Summary Listing

Page 2

Title	Amount	% Total	Time	% Total
Costs: Billable	225.00	100.00%		
Costs: Unbillable	0.00	0.00%		
Costs: Billed Slip Value	225.00			
Costs: Profitability	0.00	0.00%		
Costs: % Gain	0.00%			
Total: Slip Value	33150.00	100.00%	219.50	100.00%
Total: Billable	33150.00	100.00%	219.50	100.00%
Total: Unbillable	0.00	0.00%	0.00	0.00%
Total: Billed Slip Value	33150.00			
Total: Profitability	0.00	0.00%		
Total: % Gain	0.00%			
Total: Overhead	0.00			
Total: % Overhead	0.00%			
Total: Estimated			0.00	
Total: Variance			0.00	
Total: % Variance			0.00%	

Schedule KKB-6.3