

Comments noted by number:

- 1 = Central States Water Resources
- 2 = The Office of the Public Counsel ("OPC")
- 3 = Dale Johansen (consulting firm)
- 4 = Gascony Water Company
- 5 = Commissioner Coleman/Morris Woodruff
- 6 = Liberty Utilities
- 7 = Missouri-American Water Company

**STAFF ASSISTED RATE CASE**

(1) Definitions. As used in this rule, the following terms mean:

(A) A small utility means a gas utility serving ten thousand (10,000) or fewer customers, a water or sewer utility serving eight thousand (8,000) or fewer customers, or a steam utility serving one hundred (100) or fewer customers.

(B) A disposition agreement is a document that sets forth the signatories' proposed resolution of some or all of the issues pertaining to a small utility rate case.

(2) Notwithstanding the provisions of any other commission rule to the contrary, unless the commission orders otherwise, any rate case involving a small utility shall proceed under this rule.

(A) In addition to the commission's provisions regarding dismissal of a case in 4 CSR 240-2.116, the commission may dismiss a small utility rate case at any time if:

1. The utility is not current on the payment of all of its commission assessments;
2. The utility fails to submit its annual report or annual statement of operating revenue; or
3. The utility is not in good standing with the Missouri Secretary of State, if applicable.

**Comment [A1]:**  
1 – Term usage; 6 = not current practice may tack on additional steps  
2 & 6: "may" instead of "shall"

(3) Commencement. A small utility rate proceeding may be commenced by:

(A) A letter received by the secretary of the commission from a small utility requesting an increase in its overall annual operating revenues;

**Comment [A2]:** 2 = filing made or letter received – case is opened

1. Any such letter shall state the amount of the revenue increase requested but need not be accompanied by any proposed tariff revisions.

2. Upon receipt of the letter, the secretary of the commission shall cause a rate case to be opened and file a copy of the letter in that case.

3. At any time before day 150 of the timeline described in subsection (4) of this rule, the utility may submit to the secretary of the commission a letter withdrawing its previous request for a rate increase. Upon receipt of such a letter, the secretary of the commission shall close the rate case.

(B) A complaint filed by the commission staff or by any eligible entity or entities pursuant to section 386.390.1, RSMo., or section 393.260.1, RSMo.

(C) A proposed tariff stating a new rate or charge filed by a small utility pursuant to section 393.150.1, RSMo.

(4) Staff shall assist a small utility in processing a small utility rate case to every extent possible consistent with Staff's duties to the Commission.

(5) Timeline. Within one (1) week after a small utility rate case is opened, the staff shall file a timeline under which the case will proceed, specifying due dates for the activities required by this rule.

(A) The staff and the utility may agree in writing that the deadlines set out in this timeline be extended for up to thirty (30) days. If an extension is agreed upon, the staff shall file the agreement and an updated timeline reflecting the extension in the case file.

**Comment [A3]:** 1 = appreciate shortened time  
2 = expressed concern with shortened time. What if there is an inability to get information. Should be a corresponding reduction in discovery process.

(6) Local public hearing. The regulatory law judge assigned to the small utility rate case shall schedule a local public hearing, to occur no later than sixty (60) days after the opening of the case, unless all parties have agreed that a local public hearing is not necessary.

**Comment [A4]:** 2 = questioned  
4= go to 120 days / Staff would have summary/position to share;  
1 = agree

**Comment [A5]:** Need to clarify intent / add comma after "agreed"?

(7) Notice of local public hearing. At least ten (10) days prior to the local public

**Comment [A6]:** 5 = what triggers – no complaints/public letters – with agreement of parties, no hearing (who decides?)  
7 = agree-in past, no public input no public attending

hearing, the utility shall mail a written notice to its customers. The notice must be approved by the staff and the public counsel prior to being mailed.

(A) The notice shall include:

1. The time, date, and location of the local public hearing, consistent with the order setting the hearing;

2. A summary of the proposed rates and charges, the effect of the rates on an average residential customer's bill, and any other company requests that will affect customers, if known;

3. An invitation to submit comments about the utility's rates and quality of service within thirty (30) days after the date shown on the notice and instructions as to how comments can be submitted electronically, by telephone, and in writing;

4. Instructions for viewing the publicly available copies of all filings subsequently made in the case via the commission's electronic filing system.

(B) The Staff shall file a copy of the notice in the case file.

(8) Investigation and audit. After a small utility rate case is opened, the staff shall, and the public counsel may, conduct an investigation of the utility's request.

(A) This investigation may include a review of any and all information and materials related to the utility's cost of providing service and its operating revenues, the design of the utility's rates, the utility's service charges or fees, all provisions of the utility's tariffs, and any operational or customer service issues that are discovered during the investigation.

(B) The investigation may include the records generated since the previous rate case, the case in which the utility was granted its Certificate of Convenience and Necessity, or the utility's transfer of assets case, whichever is most recent. The investigation shall include an update of the utility's rate base.

(C) In determining the utility's cost of service, the value of normal expense items and plant-in-service and other rate base items, for which adequate documentary support is not available, may be based upon such evidence as is available or may

**Comment [A7]:**

2 = clarify-see redline; practice of sending notice with customer billing;  
3 = upfront notice best;  
2=should be notice when case begins and with resolution of case in addition to LPH notice

**Comment [A8]:**

1 = information sharing between Staff/OPC; use of EFIS prevents delay;  
7 = providing to both Staff/OPC concurrent – avoid 11th hour discovery; need lag time built in for non-EFIS use

**Comment [A9]:** 1 = OPC has same timeframe as Staff to launch investigation – doing concurrent discovery

**Comment [A10]:**

1 = "Adequate" is vague. Suggest change to: for which the documentary support requested is not available;  
5 = based on competent and substantial evidence - a decision would be made;  
2 = agrees

be **estimated** in order to include reasonable levels of those costs. Unusual expense or rate base items or expense or rate base items for which the utility claims unusual levels of cost may require additional support by the utility. Nothing in this section **diminishes** the utility's obligation to adhere to the Commission's rules regarding appropriate record-keeping.

4 = Staff audit – consistency – different auditor – small company perspective – circumstances – MERIC job classifications

(D) Not later than ninety (90) days after a small utility rate case is opened, the staff shall provide a report of its preliminary investigation, audit or **analysis** to all parties. The public counsel, if conducting its own investigation, shall do the same. This report shall include:

1. An evaluation of the utility's record-keeping practices.
2. An itemized list of **unusual** cost of service items for which additional support **was** required.

(9) Settlement proposals.

(A) Staff's confidential settlement proposal. Not later than one hundred twenty (120) days after a small utility rate case is opened, the staff shall provide a confidential settlement proposal to the utility, the public counsel, and any other parties to the case.

1. Staff's settlement proposal shall **include**:
  - A. The utility's annual operating revenues;
  - B. The utility's customer rates;
  - C. The utility's service charges and fees;
  - D. The utility's plant depreciation rates;
  - E. The utility's tariff provisions;
  - F. The operation of the utility's systems; **and**

**Comment [A11]:**

2= Suggests estimated should only be used in certain circumstances. Recommends clarification on when estimates are appropriate.

Examples of items that may require an estimate.

3 = books and records (showing cost-value) are not available – reference USOA unknown;  
4 = no known purchase price - use estimate;  
2 = purchase price = book value;  
6 = property taxes for estimating basis of value;  
7 = recordkeeping all details – reflecting estimates where built in;  
2 = statute referring to appraisal (only if Commission orders)

**Comment [A12]:** 3 = agree – working with companies that have never adhered

**Comment [A13]:**

4 and 3 = Suggest adding a new "B" requirement that Staff's audit will be in accordance with small rate case Staff auditing guidelines that are approved by the Commission.

**Comment [A14]:** 2 = provide workpapers

**Comment [A15]:** 2 = creating same duties as Staff – timeline concerns. May impede statutory duties, add time and expense (8)(D) and (9)(B).

**Comment [A16]:**

4 = clarify (cost not incurred on a regular basis)  
6 = Staff can ask for any (if costs incurred in future then documentation will be needed)

**Comment [A17]:** "is" ?

**Comment [A18]:** 2 = If OPC does proposal

**Comment [A19]:** Change to "address the following subjects"  
3 = go back to language in current rule (...staff's recommended changes to)

**Comment [A20]:**

7 = identify with description;  
2 = water/sewer memo (clarify F & G)

G. The management of the utility's operations.

2. The staff shall also provide the following with its settlement proposal:

- A. Draft revised tariff sheets reflecting the staff's settlement proposal;
- B. A draft disposition agreement reflecting the staff's settlement proposal;
- C. Staff's audit workpapers;
- D. Staff's rate design workpapers; and
- E. Any other documents supporting the staff's settlement proposal.

**Comment [A21]:** 2 = Does this mean workpapers are not included at Day 90? Clarify

3. Any settlement proposal, including any draft disposition agreement, and all supporting documents attached thereto are strictly intended for settlement negotiations only. If the staff and the utility are unable to reach a full or partial settlement via disposition agreement, staff is not bound to any position stated or implied by the settlement proposal, draft disposition agreement, or supporting documents provided.

**Comment [A22]:**  
2 = Should be kept confidential

(B) Not later than ten (10) days after the staff provides its settlement proposal, public counsel, the utility, and any other parties to the case shall notify staff whether they agree with the proposal or, if not, provide any suggested changes and the reasoning for those changes. Public counsel shall provide to staff, the utility, and all other parties to the case any audit workpapers, rate design workpapers, or other documents in its possession that support its recommendations.

(10) At any time prior to the filing of the disposition agreement, any party may request the assigned regulatory law judge meet with the participants and mediate discussions to assist them in reaching at least a partial agreement.

**Comment [A23]:** 4 = works, while not used often

(11) Disposition agreement.

**Comment [A24]:**  
3 = concerns about deletion of arbitration

(A) Not later than one hundred fifty (150) days after a small utility rate case is opened, the staff shall file one of the following:

- 1. A disposition agreement between at least the staff and the utility providing for a full resolution of the small utility rate case;
- 2. A disposition agreement between at least the staff and the utility providing for a partial resolution of the small utility rate case and a motion asking

that the case proceed to an evidentiary hearing; or

3. A motion stating that agreements cannot be reached on any of the issues related to the small utility rate case and asking that the case proceed to an evidentiary hearing.

(B) If the disposition agreement filed by the staff provides for a full resolution of the small utility rate case and is executed by all parties, the utility shall submit to the commission, within five business days of the staff's filing, new and/or revised tariff sheets bearing an effective date of not fewer than thirty (30) days later, to implement the agreement.

**Comment [A25]:**

2 = executed or not opposed by any NON-signatory party (Commission Order could state)

(C) If the disposition agreement filed by the staff provides for a full resolution of the small utility rate case but is not executed by all parties, the utility shall submit to the commission concurrent with the staff's filing new and/or revised tariff sheets, bearing an effective date that is not fewer than forty-five (45) days after they are filed, to implement the agreement.

**Comment [A26]:**

Clarify  
4 = if DNR-AG are not in agreement or are, do they submit letter or sign

(D) No later than five (5) working days after the filing of a full or partial disposition agreement that is not executed by all parties, each non-signatory party shall file a pleading stating its position regarding the disposition agreement and the related tariff revisions and providing the reasons for its position. If the non-signatory party intends to ask that the case be resolved by evidentiary hearing, it must do so in this pleading.

**Comment [A27]:** Change to "business"

1 = non-signatory parties provide list of issues

(E) If any party requests an evidentiary hearing where the disposition agreement filed by the staff provides for a full resolution of the small utility rate case and is executed by at least the utility and the staff, either the utility or staff shall bear the burden of proving the disposition agreement is reasonable.

**Comment [A28]:**

3 = change to "Signatories"  
2 = as long as not contrary to statute

1. If the utility elects to not participate as a party in an evidentiary hearing, representatives of the utility may still be called as witnesses by other parties.

**Comment [A29]:**

6 = situation Staff/OPC issue only

**Comment [A30]:**

1 = "reasonableness"

**Comment [A31]:**

4 = change  
2 = what circumstance would – make witnesses available  
7 = DNR a party but then back away yet wanted on stand

(12) Evidentiary hearing procedures.

(A) Any party may file a request for an evidentiary hearing.

**Comment [A32]:** 4 = effort to save small company attorney fees;

(B) Once such a request is filed, the regulatory law judge shall issue a procedural schedule designed to resolve the case in the time remaining in the

**Comment [A33]:** 1 = Should provide net benefit to customers if not going to participate

small utility rate case process, consistent with the requirements of due process and fairness to the parties and the utility's customers.

(C) A request for an evidentiary hearing shall include a specified list of issues that the requesting party believes should be the subject of the hearing.

(D) The utility's pending tariff revisions, if any, shall be suspended pending completion of the hearing.

(13) **Submission to the commission.** The small utility rate case must be submitted to the commission for decision not later than eight (8) **months** after the small utility rate case is opened, and the commission's report and order regarding the case shall be issued and effective not later than nine (9) **months** after the small utility rate case is opened.

(14) The commission **shall** set just and reasonable rates, which may result in a revenue increase more or less than the increase originally sought by the utility, or which may result in a revenue decrease.

(15) Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause shown.

[3 = procedural question – comments submitted as Public Comments need to be moved into the Docket](#)

[Track change version of Rule is provided to SOS](#)  
[OPC filed Comment document reflects matrix of changes](#)

**Comment [A34]:** Clarify this means everything is provided (hearing, briefs, etc.)

**Comment [A35]:** 5 = change to calendar "Days"

**Comment [A36]:** 5 = change to calendar "Days"

**Comment [A37]:**  
1 = Including all extensions;  
2 = "submitted" means there has been an evidentiary hearing;  
3 = This gives the company incentive to place more effort upfront  
5 = As considering any adjustments to time, need to remember order issued with 10 day effective date.

**Comment [A38]:** Change to "must"