

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

In the Matter of New Proposed Small Company)
Rate Increase Procedure Rules) Case No. AX-2005-0363

COMMENTS REGARDING PROPOSED RULES

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and for its Comments Regarding Proposed Rules states the following to the Missouri Public Service Commission (Commission).

1. On October 3, 2005, the following proposed rules were published in the *Missouri Register*: 4 CSR 240-3.240; 4 CSR 240-3.330; 4 CSR 240-3.440; and 4 CSR 240-3.635. The subject rules are the Commission's rules pertaining to the submission and processing of rate increase requests by "small" regulated gas utilities, sewer utilities, steam heating utilities and water utilities, respectively. These proposed rules were initially developed by the Staff in cooperation with several other parties, including the Commission.

2. In developing the case activities timeline referenced in the subject proposed rules (for example see 4 CSR 240-3.240(11)), the Staff has discovered that the provisions of the rules regarding the timing of the filing of the case activities timeline need to be changed, such that the timeline will be filed after a rate case is established rather than being filed with the Staff's motion requesting that a rate case be established. The reason for this needed change is that the dates set forth in the timeline are calculated from the date the order establishing a rate case is issued.

3. After further discussing the provisions of the proposed rules regarding the initial submission of small company rate increase requests, the Staff is now of the opinion that the rules should provide for the requests to be submitted to the attention of the Secretary of the Commission, as is now done, rather than the requests being submitted to the attention of the

appropriate department manager, as stated in the proposed rule. As a result, the rules also need to continue to contain provisions requiring that a copy of the requests be sent to the appropriate department manager. Additionally, the Staff believes it would be helpful for the rules to specify the mailing address that qualifying utilities are to use to submit their requests in an effort to minimize problems regarding the delivery of the requests upon receipt at the Commission.

4. In addition to the proposed changes discussed in Paragraphs 2 and 3 above, the Staff has also discovered some changes that need to be made to the proposed rules to correct drafting errors discovered during the review of the proposed rules.

5. Included in the document that is attached hereto and identified as Appendix A is the Staff's specific suggested language regarding each of the suggested changes to the subject proposed rules discussed above.

WHEREFORE, the Staff respectfully submits its Comments Regarding Proposed Rules for the Commission's consideration in this case.

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

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Missouri Public Service Commission

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 2nd day of November 2005.

/s/ Keith R. Krueger _____

APPENDIX A

STAFF'S SUGGESTED CHANGES TO PROPOSED RULES

CASE NO. AX-2005-0363

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Suggested Changes to 4 CSR 240-3.330

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Suggested Changes to 4 CSR 240-3.635

Staff's Suggested Changes to Proposed Rule 4 CSR 240-3.240

Suggested deletions are shown in bold/red/strikethrough font and suggested additions are shown in bold/blue/underline font.

(2) A small gas utility may initiate a small utility rate case by submitting a letter directed to the ~~manager of the commission's energy department~~secretary of the commission, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (5) of this rule. A small gas utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted ~~in hard copy to the manager of the energy department or may be submitted~~ via the commission's electronic filing and information system or may be submitted in hard copy to the following address: Secretary of the Commission; Missouri Public Service Commission; Attn: Data Center; P.O. Box 360; Jefferson City, MO 65102. ~~If a letter initiating a small utility rate case is submitted in hard copy to the manager of the energy department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.~~

(3) At the time that a small gas utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the office of the public counsel (public counsel) and to the manager of the commission's energy department.

(11) ~~At the time that the commission staff files a motion requesting that the commission establish a case~~ After a case is established for consideration of a small gas utility's request for an increase in its annual operating revenues, the commission staff shall, ~~include with that motion~~ not later than three (3) working days after the case is established, submit to the subject case file a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of section (27) or (38) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of section (27) or (38), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(26) Failure of the public counsel to timely file the pleadings required by ~~sections~~section (21), (22) or (25) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small gas utility's tariff revisions and the related disposition agreement.

Staff's Suggested Changes to Proposed Rule 4 CSR 240-3.330

Suggested deletions are shown in bold/red/strikethrough font and suggested additions are shown in bold/blue/underline font.

(2) A small sewer utility may initiate a small utility rate case by submitting a letter directed to the ~~manager of the commission's water and sewer department~~secretary of the commission, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (6) of this rule. A small sewer utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted ~~in hard copy to the manager of the water and sewer department or may be submitted~~ via the commission's electronic filing and information system or may be submitted in hard copy to the following address: Secretary of the Commission; Missouri Public Service Commission; Attn: Data Center; P.O. Box 360; Jefferson City, MO 65102. ~~If a letter initiating a small utility rate case is submitted in hard copy to the manager of the water and sewer department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.~~

(3) At the time that a small sewer utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the office of the public counsel (public counsel) and to the manager of the commission's water and sewer department.

(4) A small sewer utility that also operates a water system may submit a request for an increase in only its sewer service annual operating revenues; provided, however, that the commission staff and the public counsel are authorized to also review the earnings status of the subject utility's water system operations in making their determination of whether an increase in the utility's sewer service annual operating revenues is warranted.

(12) ~~At the time that the commission staff files a motion requesting that the commission establish a case~~ After a case is established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the commission staff shall, ~~include with that motion~~ not later than three (3) working days after the case is established, submit to the subject case file a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of section (28) or (39) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of section (28) or (39), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(32) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one ~~(1)~~ of the parties based upon the evidence and commission precedent.

Staff's Suggested Changes to Proposed Rule 4 CSR 240-3.440

Suggested deletions are shown in bold/red/strikethrough font and suggested additions are shown in bold/blue/underline font.

(2) A small steam heating utility may initiate a small utility rate case by submitting a letter directed to ~~the manager of the commission's energy department~~secretary of the commission, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (5) of this rule. A small steam heating utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted ~~in hard copy to the manager of the energy department or may be submitted~~ via the commission's electronic filing and information system or may be submitted in hard copy to the following address: Secretary of the Commission; Missouri Public Service Commission; Attn: Data Center; P.O. Box 360; Jefferson City, MO 65102. ~~If a letter initiating a small utility rate case is submitted in hard copy to the manager of the energy department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.~~

(3) At the time that a small steam heating utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the office of the public counsel (public counsel) and to the manager of the commission's energy department.

(11) ~~At the time that the commission staff files a motion requesting that the commission establish a case~~ After a case is established for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the commission staff shall, ~~include with that motion~~ not later than three (3) working days after the case is established, submit to the subject case file a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of section (29) or (40) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of section (29) or (40), the commission staff shall file an updated version of the timeline reflecting the modifications made.

Staff's Suggested Changes to Proposed Rule 4 CSR 240-3.635

Suggested deletions are shown in bold/red/strikethrough font and suggested additions are shown in bold/blue/underline font.

(2) A small water utility may initiate a small utility rate case by submitting a letter directed to the ~~manager of the commission's water and sewer department~~secretary of the commission, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (6) of this rule. A small water utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted ~~in hard copy to the manager of the water and sewer department or may be submitted~~ via the commission's electronic filing and information system ~~or may be submitted in hard copy to the following address: Secretary of the Commission; Missouri Public Service Commission; Attn: Data Center; P.O. Box 360; Jefferson City, MO 65102. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the water and sewer department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.~~

(3) At the time that a small water utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the office of the public counsel (public counsel) and to the manager of the commission's water and sewer department.

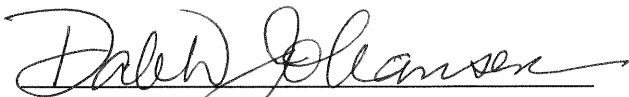
(4) A small water utility that also operates a watersewer system may submit a request for an increase in only its water service annual operating revenues; provided, however, that the commission staff and the public counsel are authorized to also review the earnings status of the subject utility's watersewer system operations in making their determination of whether an increase in the utility's water service annual operating revenues is warranted.

(12) ~~At the time that the commission staff files a motion requesting that the commission establish a case~~ After a case is established for consideration of a small water utility's request for an increase in its annual operating revenues, the commission staff shall, ~~include with that motion~~ not later than three (3) working days after the case is established, submit to the subject case file a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of ~~sections~~section (28) or (39) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of ~~sections~~section (28) or (39), the commission staff shall file an updated version of the timeline reflecting the modifications made.

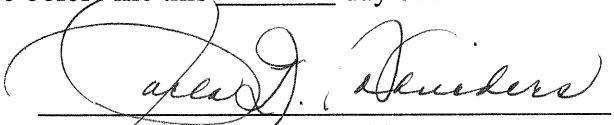
AFFIDAVIT OF DALE W. JOHANSEN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Dale W. Johansen, 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 development of the proposed rules that are the subject of this case; (3) that he participated in the preparation of the foregoing Comments Regarding Proposed Rules (Comments) and the related suggested changes to the proposed rules included in Appendix A to the Comments; (4) that he has knowledge of the matters set forth in the foregoing Comments and the related suggested changes to the proposed rules included in Appendix A to the Comments; and (5) that the matters set forth in the foregoing Comments and the related suggested changes to the proposed rules included in Appendix A to the Comments are true and correct to the best of his knowledge and belief.


Dale W. Johansen – Manager
Water & Sewer Department
Utility Operations Division

Subscribed and sworn to before me this 1st day of November 2005.


Notary Public

My Commission Expires: June 7, 2008

