

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

Each of the proposed rules states that a failure of the Public Counsel to timely file a pleading as required by three of the sections of each rule is to be considered the same as Public Counsel's express agreement with the provisions of the utility's tariff revisions and the related disposition agreement. Public Counsel respectfully suggests that each of these sections should be completely removed from the proposed rules for the reason that only Public Counsel should

decide if Public Counsel should or should not file any pleading in any case, and; therefore, no assumptions should be drawn from Public Counsel's decision not to file any certain pleading. (See **ATTACHMENT A**, Sewer Rule and Water Ruler, Section (27); Gas Rule and Steam Rule, Section (26)).

ARBITRATION OR UNANIMOUS AGREEMENT

Public Counsel respectfully submits that a small rate case should either be subject to arbitration of any parties disputed issues or the disposition agreement between all of the parties should be a unanimous agreement in order to give the public meaningful participation into the rate making process. Otherwise, the small rate case procedure should be closed and the utility give the opportunity to commence a regular rate case. (See **ATTACHMENT A**, Sewer Rule and Water Ruler, Section (29 and 37); Gas Rule and Steam Rule, Section (28 and 36)).

SUGGESTED WORDING FOR RULE CHANGES

Public Counsel has included specific suggested wording regarding each of Public Counsel's suggested changes as referenced above in the attached **ATTACHMENT A**, which attachment is incorporated herein by reference. Unless otherwise indicated herein, Public Counsel restates and reaffirms its initial Comments Regarding Proposed Rule filed herein on November 2, 2005.

WHEREFORE, Public Counsel submits the foregoing Supplemental Comments Regarding Proposed Rules for the Commission's consideration in this case.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following
this 19th day of December 2005:

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ATTACHMENT A

PUBLIC COUNSEL’S SUGGESTED CHANGES TO PROPOSED RULES

CASE NO. AX-2005-0363

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PUBLIC COUNSEL'S SUGGESTED CHANGES TO PROPOSED RULE 4 CSR 240-3.240

(SMALL GAS UTILITY RATE CASE PROCEDURE)

NOTE: Suggested additions are shown in Red/Underline font. Suggested deletions are shown in Red/Strikethrough font.

(26) ~~Failure of the public counsel to timely file the pleadings required by sections (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.~~

(28) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small gas utility's annual operating revenues, ~~the written disposition agreement may include provisions whereby the signatories~~all of the parties may collectively agree to request that the commission allow the small gas utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (29) through (34) below. If the utility, the commission staff and the public counsel do not all agree to enter arbitration, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(36) In the event that an agreement regarding the disposition of a requested increase in a small gas utility's annual operating revenues cannot be reached between ~~at least the commission staff and the subject utility~~all of the parties, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

PUBLIC COUNSEL'S SUGGESTED CHANGES TO PROPOSED RULE 4 CSR 240-3.330

(SMALL SEWER UTILITY RATE CASE PROCEDURE)

NOTE: Suggested additions are shown in Red/Underline font. Suggested deletions are shown in Red/Strikethrough font.

(27) ~~Failure of the public counsel to timely file the pleadings required by sections (22), (23) or (26) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small water utility's tariff revisions and the related disposition agreement.~~

(29) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small water utility's annual operating revenues, ~~the written disposition agreement may include provisions whereby the signatories~~all of the parties may collectively agree to request that the commission allow the small water utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (30) through (35) below. If the utility, the commission staff and the public pounsel do not all agree to enter arbitration, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(37) In the event that an agreement regarding the disposition of a requested increase in a small water utility's annual operating revenues cannot be reached between ~~at least the commission staff and the subject utility~~all of the parties, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

PUBLIC COUNSEL'S SUGGESTED CHANGES TO PROPOSED RULE 4 CSR 240-3.440

(SMALL STEAM UTILITY RATE CASE PROCEDURES)

NOTE: Suggested additions are shown in Red/Underline font. Suggested deletions are shown in Red/Strikethrough font.

(28) ~~Failure of the public counsel to timely file the pleadings required by sections (23), (24) or (27) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small steam heating utility's tariff revisions and the related disposition agreement.~~

(30) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small steam heating utility's annual operating revenues, ~~the written disposition agreement may include provisions whereby the signatories~~all of the parties may collectively agree to request that the commission allow the small steam heating utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (31) through (36) below. If the utility, the commission staff and the public pounsel do not all agree to enter arbitration, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(38) In the event that an agreement regarding the disposition of a requested increase in a small steam heating utility's annual operating revenues cannot be reached between ~~at least the commission staff and the subject utility~~all of the parties, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

PUBLIC COUNSEL'S SUGGESTED CHANGES TO PROPOSED RULE 4 CSR 240-3.635

(SMALL WATER UTILITY RATE CASE PROCEDURES)

NOTE: Suggested additions are shown in Red/Underline font. Suggested deletions are shown in Red/Strikethrough font.

(27) ~~Failure of the public counsel to timely file the pleadings required by sections (22), (23) or (26) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small water utility's tariff revisions and the related disposition agreement.~~

(29) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small water utility's annual operating revenues, ~~the written disposition agreement may include provisions whereby the signatories~~all of the parties may collectively agree to request that the commission allow the small water utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (30) through (35) below. If the utility, the commission staff and the public pounsel do not all agree to enter arbitration, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(37) In the event that an agreement regarding the disposition of a requested increase in a small water utility's annual operating revenues cannot be reached between ~~at least the commission staff and the subject utility~~all of the parties, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.