

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

In the Matter of the Small Company Rate)
Increase Request of Raytown Water) Case No. WR-2009-0098
Company.)

**OFFICE OF THE PUBLIC COUNSEL’S MOTION TO REJECT TARIFF, OR IN THE
ALTERNATIVE, MOTION TO SUSPEND TARIFF**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Motion to Reject Tariff, or in the alternative, Motion to Suspend Tariff states as follows:

Background

1. On September 12, 2008, Raytown Water Company (Raytown or Company) initiated a small company revenue increase request pursuant to the Missouri Public Service Commission (Commission) Rule 4 CSR 240-3.050.
2. On February 9, 2009, the Staff of the Missouri Public Service Commission (Staff) filed a Notice of Company/Staff Agreement Regarding Disposition of Small Sewer Company Rate Increase Request (Staff/Company Disposition) indicating an agreement between Staff and Raytown for a water rate increase of \$317,990 annually (approximately 11.67%). Public Counsel did not join in the agreement.
3. On February 17, 2009, Raytown filed proposed tariff sheets which listed an issue date of February 2, 2009 and an effective date of April 2, 2009.
4. On March 16, 2009, Public Counsel filed a Notice to the Commission stating its belief that a Unanimous Disposition Agreement between Staff, Raytown and Public Counsel will be

filed with the Commission shortly but, out an abundance of caution, requested a local public hearing in this matter in case a Unanimous Agreement was not timely filed.

5. On March 18, 2009, the Commission issued its Order Setting Local Public Hearing, stating that a local public hearing would be held on April 16, 2009.

Motion to Reject Tariff

6. 4 CSR 240-3.050 (14) states: “If the disposition agreement filed by the staff provides for a full resolution of the utility’s request but is executed by only the utility and the staff, the utility shall file 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.” (emphasis added)

7. Since the proposed tariff was filed by Raytown on February 17, 2009, the tariff sheets were required to bear an effective date no fewer than 45 days later, or April 3, 2009.

8. The effective date on the proposed tariff sheets is April 2, 2009. Therefore, the proposed tariff is in violation of the requirements of 4 CSR 240-3.050(14) and should be rejected.

Alternative Motion to Suspend Tariff

9. Public Counsel objects to the proposed tariff having an effective date before the scheduled local public hearing on April 16, 2009.

10. The Commission has a duty to set public utility rates that are just and reasonable.

11. By holding a local public hearing after the proposed tariff has already gone into effect, the Commission is unjustly refusing to consider testimony from the very customers whom they are tasked to protect through the setting of just and reasonable rates.

12. Therefore, if the Commission does not reject the proposed tariffs, it should at the very least, suspend the proposed tariffs to prevent them from becoming effective before the local public hearing.

13. Section 393.150 RSMo 2000 provides that the Commission may suspend tariff sheets for a maximum period of 120 days plus six months. In order to allow for adequate time for the Commission to hold the local public hearing and afterwards determine whether the proposed rate increase is just and reasonable, the Commission should suspend the proposed tariff for the maximum period.

Conclusion

14. Because the proposed tariff sheets violate the requirements of 4 CSR 240-3.050(14), the Commission should reject the proposed tariff and order Raytown to file proposed tariff sheets in accordance with the Rule.

15. At the very least, because Public Counsel objects to the proposed tariffs and because the Commission has issued an order setting the local public hearing on April 16, 2009 after the effective date of the proposed tariff, the Commission should suspend the proposed tariff.

WHEREFORE, Public Counsel respectfully submits its Motion to Reject Tariff, or in the alternative, Motion to Suspend Tariff.

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, emailed or hand-delivered to the following this 18th day of March 2009:

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