

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

In the Matter of Oakbrier Estates Small)
Company Rate Increase.) **File No. WR-2009-0229**

**THE OFFICE OF THE PUBLIC COUNSEL’S REQUEST
FOR EVIDENTIARY HEARING**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Request for Evidentiary Hearing states as follows:

1. On November 26, 2008, Oakbrier Water Company, Inc. (Oakbrier) initiated a small company rate increase proceeding with the Missouri Public Service Commission (Commission) requesting an increase in its annual water system operating revenues of \$5,472.
2. On April 27, 2009, the Staff of the Missouri Public Service Commission (Staff) filed a Notice of Company/Staff Agreement Regarding Disposition of Small Water Company Revenue Increase Request (Company/Staff Disposition) indicating an agreement between Staff and Oakbrier for an annualized water operating revenue increase of \$2,530 annually (approximately 22.17%). Public Counsel did not join in the agreement because it believes that the Company/Staff Disposition overstates the revenue requirement of Oakbrier.
3. On April 30, 2009, Oakbrier filed proposed revised tariff sheets related to the Company/Staff Disposition. The proposed revised tariff sheets bore an effective date of June 15, 2009. In the Commission’s June 4, 2009 Order Granting Request for a Local Public Hearing and Suspending Tariff, these proposed revised tariff sheets were suspended for 60 days, or until August 14, 2009, or until otherwise ordered by the Commission.

4. On July 1, 2009, a local public hearing was held to allow customers to comment on the proposed sewer rate increase.

5. 4 CSR 240-3.050 (19) requires Public Counsel to file, no later than ten (10) working days after the local public hearing, a pleading stating its position regarding the Company/Staff Disposition and the related tariff revisions, or requesting that the Commission hold an evidentiary hearing, and providing the reasons for its position or request. 4 CSR 240-3.050 (20) states that if Public Counsel requests an evidentiary hearing, the request shall include a specified list of issues that the Public Counsel believes should be the subject of the hearing.

6. Public Counsel, Staff and Oakbrier have been in active discussion regarding a resolution of this matter, and Public Counsel now states that it believes a resolution to its issues has been achieved and that a unanimous agreement will be filed with the Commission shortly. However, Public Counsel does not wish to waive its right to an evidentiary hearing should a unanimous agreement not come to fruition.

7. Therefore, pursuant to the requirements in 4 CSR 240-3.050 (19), Public Counsel now states that, out of an abundance of caution, it wishes to request an evidentiary hearing. Public Counsel also states that, should a unanimous agreement be filed with the Commission, Public Counsel will withdraw its evidentiary hearing request.

8. Pursuant to 4 CSR 240-3.050 (19) and (20), Public Counsel states that its specified list of issues and the reasons for its request are as follows:

- a) Administration and Billing Expense: The Company/Staff Disposition contains an annualized salary expense for Ms. LaDawn Owens for her administrative and billing activities. As no timesheets were available in response to Public Counsel's data request, Public Counsel compared similar costs from a recent Staff audit of Port Perry Water and

Sewer Company, a utility which is approximately the same size as the total regulated operations of Mr. Rodger Owens. From this comparison, Public Counsel believes that the annualized salary expense for Ms. LaDawn Owens is excessive.

b) Telephone/Internet Expense: The Company/Staff Disposition contains an annualized expense for telephone/internet which is based on Staff's audit amount allocated based on customer numbers for each utility owned by Mr. Rodger Owens. Public Counsel believes the telephone/internet expense should be allocated based on an even split between the utilities. Based on an even split allocation, a larger portion of the telephone/internet expense would be allocated to Oakbrier.

c) Vehicle Expense (Fuel Cost/Insurance): The Company/Staff Disposition contains an annualized expense for vehicle fuel cost/insurance which is based on Staff's audit amount allocated based on customer numbers for each utility owned by Mr. Rodger Owens. Public Counsel believes the vehicle fuel cost/insurance expense should be allocated based on an actual percentage of use for each utility, not customer numbers. Based on an actual percentage of use allocation, a larger portion of the vehicle fuel cost/insurance expense would be allocated to Oakbrier.

d) Medical Insurance (Health Insurance): The Company/Staff Disposition contains an annualized expense for medical insurance (health insurance) for Ms. LaDawn Owens. Public Counsel believes that the medical insurance expense for Ms. LaDawn Owens should be eliminated as she is only a part-time employee.

e) Rent: The Company/Staff Disposition contains rent expense which includes an annualized expense for office use allocated based on customer numbers for each utility owned by Mr. Rodger Owens. Public Counsel believes the annualized rent expense

should include office use and a Public Counsel imputed cost for a storage unit, allocated based on an even split between the utilities. (The Company/Staff Disposition did not include an imputed storage unit rent because it included a storage building as plant investment, as discussed below.) Based on an even split allocation, larger portions of the annualized expense for office use and the imputed cost for a storage unit would be allocated to Oakbrier.

f) Real Estate and Personal Property Taxes: The Company/Staff Disposition contains real estate taxes and personal property taxes which include amounts associated with office use and a Dodge truck, both of which are allocated based on customer numbers for each utility owned by Mr. Rodger Owens. Public Counsel believes the annualized real estate tax expense for the office use should be allocated based on an even split between the utilities. Based on an even split allocation, larger portions of the annualized real estate tax expense for the office use would be allocated to Oakbrier. Public Counsel also believes the personal property tax expense for the Dodge truck should be allocated according to an actual percentage of use for each utility, not on customer numbers. Based on an actual percentage of use allocation, larger portions of the annualized personal property tax expense for the Dodge truck use would be allocated to Oakbrier.

g) Payroll Taxes: The Company/Staff Disposition contains payroll taxes which are based on the annualized salary expense for Ms. LaDawn Owens for her administrative and billing activities. As stated above, Public Counsel believes that the annualized salary expense reflected in the Company/Staff Disposition for Ms. LaDawn Owens is excessive.

Consequently, Public Counsel believes the associated payroll taxes on the annualized salary expense for Ms. LaDawn Owens are also excessive.

h) Depreciation: The Company/Staff Disposition contains depreciation expense for over-depreciated plant, and a storage building where no costs have been incurred by Oakbrier. Public Counsel believes depreciation expense for the over-depreciated plant should not be included as its inclusion would not be just and reasonable for the customers. Public Counsel also believes that, as no costs have been incurred by Oakbrier, depreciation expense for the storage building should be excluded.

i) Return and Tax (Storage Building): The Company/Staff Disposition contains return and tax costs for a storage building which is a calculated amount based on Oakbrier's capital structure and rate base. No costs have been incurred by Oakbrier for the storage building. Public Counsel believes that, as no costs have been incurred by Oakbrier, the storage building should be excluded. Additionally, Public Counsel believes the debt costs associated with the storage building should be excluded from the capital structure.

9. 4 CSR 240-3.050 (20) also states that, upon an evidentiary hearing request, the utility's pending tariff revisions shall then be suspended by the Commission to allow time to conduct an evidentiary hearing, complete any post-hearing procedure, and allow time for a Commission decision within the timeframe of the small company rate case. As the completion of these activities could easily extend past the current suspension date of August 14, 2009, Public Counsel requests that the tariffs be suspended for a sufficient timeframe beyond August 14, 2009 so as to allow adequate time for the evidentiary hearing and subsequent case disposition.

WHEREFORE, Public Counsel respectfully requests that the Commission schedule an evidentiary hearing in this matter.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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By:_____

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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 16th day of July 2009:

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