

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

In the Matter of the Water Rate)	
Increase Request of)	
Hillcrest Utility Operating)	
Company, Inc.)	
)	
Consolidated with,)	Case No. WR-2016-0064
)	
In the Matter of the Sewer Rate)	
Increase Request of)	
Hillcrest Utility Operating)	
Company, Inc.)	

REPLY BRIEF OF THE OFFICE OF THE PUBLIC COUNSEL

The Missouri Office of the Public Counsel ("OPC") offers this reply to the briefs filed by Hillcrest Utility Operating Company, Inc. ("Hillcrest" or "Company") and the Staff of the Missouri Public Service Commission ("Staff") regarding the requested rate changes.

In Staff's Brief, page 5, Staff acknowledges it has offered no evidence in the record as to the percentages to allocate expenses between the customer charge and volumetric rate for water service. Instead, Staff attempts to divert the issue by focusing instead on the customer charge for each class of customer. Even with this diversion, Staff has still failed to provide any evidence as to how it arrived at the numbers it has provided for the customer charge. In essence, Staff is asking the Commission to "trust without verification" on the customer charge without evidence or calculation.¹ OPC is the only party to the case that provided evidence to the Commission of how expenses should be assigned between the fixed customer charge and volumetric rate for water

¹ Hearing Transcript page 145, lines 7-13 and page 146 lines 1-4.

service.² Therefore, the Commission should adopt its methodology for establishing the fixed and volumetric rates in this case.

In its brief, at pages 4 and 5, Staff contradicts the testimony of its own witness, Jarrod Robertson, given during the hearing regarding the number of customer classes to divide Hillcrest for purposes of rate design. In its brief, Staff asserts only two classes of customers are needed for water and sewer service. This ignores Mr. Robertson's on-the-record statement:

OPC: "And your proposal would create a new commercial class and a residential class and an apartment class correct?"

Robertson: "That would be correct."³

As previously stated in OPC's *Initial Brief*, one of the agreements between the parties is that Hillcrest's rates for water and sewer service should be divided into three customer classifications: residential, apartment, and commercial for water and sewer service⁴.

Both Staff and the Company in their briefs argue that the 10.49% allocation factor used by OPC is not the appropriate figure for this Commission to apply. However, both Company and Staff ignore the fact that the 14% figure they both advance is not based on actual, tangible evidence but rather on a number representing **what might be** should the Company continue to add to its portfolio of utilities. OPC strongly questions the use of this standard as it violates the "known and measurable" rule. The Company, in its brief at page 5, points to evidence from another case (Raccoon Creek) to attack OPC witness Keri Roth's calculation of the allocation factor. First this violates the collateral

² Hearing Transcript page 145 lines 7-13, page 146 line 5 to page 147 line 6.

³ Hearing Transcript page 155 lines 10-13.

⁴ James Russo Direct, OPC Exhibit 5, page 6, lines 1-3. Hearing Transcript page 92, lines 5-9.

evidence rule⁵ as it brings in outside matters from another case. This must not be given any weight by this Commission. As a point of substance, Ms. Roth determined her allocation factor from time sheets produced in the current case and audited by her during the current case and had only “vaguely looked at the Raccoon Creek figures.”⁶. The Commission should adopt OPC’s allocation of 10.49% as being the only allocation factor supported by substantial and competent evidence in the record.

Respectfully Submitted,
OFFICE OF THE PUBLIC COUNSEL

By: /s/ Cydney D. Mayfield

Cydney Mayfield
Deputy Counsel
Missouri Bar No. 57569
P. O. Box 2230
Jefferson City MO 65102
(573) 522-6189
(573) 751-5562 FAX
Cydney.mayfield@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 15th day of June, 2016, to all counsel of record.

By: /s/ Cydney D. Mayfield

⁵ Berman, Evidence Restated §617, p. 6-131 (Mo.Bar 2012) citing, *Black v. State*, 151 S.W.3d 49, 55 (Mo. Banc 2004).

⁶ Trial transcript page 199 lines 23-25.