BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Hickory Hills Water & Sewer Co.'s Request for a Small Company Rate Increase	)))	**Case Nos. WR-2006-0250 and SR-2006-0249, consol.** Tariff Nos. YW-2006-0449 And YS-2006-0448

DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY

The June 15, 2006 Report and Order demonstrates some of the inherent problems with the regulatory methodologies employed in this state for establishing rates for water and sewer companies. Additionally, the Commission's decision exacerbates the effects of those inherent problems by making significant reductions in expense allowances agreed to by the company and staff. The decision does nothing to ensure or even encourage improvement of service quality and compliance with Department of Natural Resources regulations.

Typically the regulatory mechanisms employed here for small water and sewer companies play out something like this. A subdivision developer puts in the infrastructure for the system and gets repaid for the expenditure by charges added to the lots as they are sold. The homeowners, therefore, pay for the cost of the utility infrastructure. In Missouri, we call this contributed property and do not allow the utility to earn a return on any contributed infrastructure. Therefore, there is generally nothing in rate base, leaving ongoing expense and maintenance as the only thing recoverable in rates.

The developer is often the owner-operator of the new system and frequently obtains certification from this Commission, along with a Commission approved rate.

The developer has the advantage of advertising to the public that water and sewer are state regulated. The rates are initially very low, because there is no rate base upon which to charge ratepayers a return. The developer benefits again because low rates are another marketing advantage. The developer often operates the system at a loss. Later the developer sells the system and the new owner pays something for the infrastructure. The Commission considers this an acquisition premium and does not allow the new owner to earn a return on the investment. Once again, there is no rate base and the new owner can recover in rates only an allowance for expenses.

In the case at bar, the owner-operator testified that approximately fourteen years ago he paid $25,000 for the system. He stated that he believes there should be some return on that investment in rates. TR:78:3-5. He further testified that he understood this case did not involve the cost of needed improvements but clarified that "it sets precedents as to how the company should proceed. If the company cannot obtain rate increases to meet current operating costs, it has no real expectation that it will be able to receive rate increases to . . . meet additional costs for – for improvements." TR:8:10-25.

The Report and Order awards inadequate recovery of ongoing expenses and certainly provides no direction and no expectation for recovery of needed capital improvements. The expenses were calculated on a test year of 2004. Expenses rarely decrease over time. To the contrary, rates based on an historical test year almost always recover less than the actual expenses for the time period during which the rates are in effect.

In the instant case, the problem was compounded because the allowed recovery was significantly reduced even beyond the evidence of expenses in the year 2004. Staff and the company had agreed upon a reasonable hourly rate for the operator of $19. The Commission arbitrarily reduced the hourly rate to $15. Furthermore, the Commission unreasonably disallowed mileage recovery because the owner-operator happens to drive past the plant on his way to and from another job – a fact that I find irrelevant. The Commission denied 119 work hours based upon an Office of Public Counsel recommendation which Staff characterizes as "improper and unreasonable because its reduction is based on its unsupported notion of a 'best case' operating standard and fails to include necessary work activities." (Staff's Post-Hearing Brief, p. 6)

The Commission further opines that "the Commission intends by this Report and Order to allow Hickory Hills additional revenues to be used to maintain the plant in proper repair for effective water and sewer service in compliance with DNR and Commission rules." (Report and Order at p. 8) The Commission seems to believe that the owner-operator can magically cover all ongoing expenses and make all necessary improvements to provide safe and adequate service in compliance with all rules by recovering in rates an amount that would have been inadequate to simply cover ongoing expenses in 2004.

The regulatory methodologies that this Commission employs to establish rates for small water and sewer companies are severely inadequate. Rather than look for a way to improve upon our rate-making methodologies in order to improve the company's ability to provide safe and adequate service, this Commission has, by its Report and Order, taken steps to do the opposite.

For all of the foregoing reasons, I respectfully dissent.

Respectfully submitted,

Connie Murray, Commissioner

Dated at Jefferson City, Missouri
on this 16th day of June, 2006.