

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

The Office of Public Counsel,)	
)	
Complainant,)	
)	
vs.)	<u>Case No. WC-2016-0252</u>
)	
Moore Bend Water Utility, LLC,)	
)	
Respondent.)	

**STAFF’S MOTION FOR DISCOVERY CONFERENCE,
EXPEDITED TREATMENT, AND
WAIVER OF RULE 4 CSR 240-2.090(8)**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Motion for Discovery Conference, Expedited Treatment, and Waiver of Rule 4 CSR 240-2.090(8)*, states:

1. The Office of Public Counsel (“OPC”) filed its *Complaint* against Moore Bend Water Utility, LLC, on March 31, 2016.

2. OPC’s *Complaint* contains allegations concerning the presence of lead in the water at Moore Bend, an allegation surprising both to Staff and to the Public Drinking Water authorities at the Missouri Department of Natural Resources (“MoDNR”).¹

3. Lead, if present, is a dangerous contaminant in public drinking water. For this reason, Staff propounded its Data Requests (“DRs”) to OPC in order to learn the factual basis, if any, of the allegations in OPC’s *Complaint*.

¹ In fact, these allegations are contrary to the results of several years’ worth of water testing carried out at Moore Bend under the auspices of MoDNR.

4. OPC has refused to answer Staff's DRs and has raised objections that are obstructive, inapplicable, and not well-taken. OPC's *Objection Letter* is attached hereto as Exhibit A.

5. Pursuant to Commission Rule 4 CSR 240-2.090, Staff now moves the Commission, or its Regulatory Law Judge, to convene a Discovery Conference for the purpose of determining the sufficiency of OPC's objections to Staff's DRs and, if those objections are found to be insufficient, directing OPC to respond to the same forthwith.

6. If OPC's allegations are true, this is a matter of great public urgency. Furthermore, the Commission, by its Order of April 1, 2016, has directed Staff to investigate the factual basis of OPC's *Complaint* and to file its report herein by June 2, 2016. Staff's DRs are intended to further that investigation and the same will be obstructed if OPC is not required to answer them. Therefore, Staff requests that this matter be treated expeditiously under Commission Rule 4 CSR 240-2.080(14). Staff urges the Commission to convene its Discover Conference on one (1) week's notice, that is, on April 20, 2016. This motion was filed as soon as Staff received OPC's *Objection Letter* and it could not have been filed sooner. The benefit that will accrue from expedited treatment is Staff's determination whether or not a public health emergency actually exists at Moore Bend and, if so, what must be done to protect the public.

7. Staff also requests that the requirements of Commission Rule 4 CSR 240-2.090(8) be waived.

WHEREFORE, Staff prays that the Commission will convene a Discovery Conference in this matter no later than December 20, 2016; that the Regulatory Law

Judge will at that time take up OPC's objections to Staff's DRs and determine the sufficiency thereof; and finding said objections insufficient, will require OPC to answer the same forthwith; that the Commission will waive Commission Rule 4 CSR 240-2.090(8); and that the Commission will grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served, by hand delivery, electronic mail, or First Class United States Mail, postage prepaid, to all parties of record on the Service List maintained for this case by the Data Center of the Missouri Public Service Commission, on this 13th Day of April, 2016.

/s/ Kevin A. Thompson



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April 13, 2016

VIA ELECTRONIC MAIL

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RE: Case No. EC-2016-0252
Missouri Public Service Commission

Dear Mr. Thompson,

This letter should be considered the Office of the Public Counsel's ("OPC") objection to the identified data requests from the Staff of the Public Service Commission ("Staff") in Case No. EC-2016-0252.

1. Data Request No. 6

For every above request for the source of the allegations, and for every factual allegation in Paragraphs 10, 11, 12, 13, 14, and 21 not already requested above, please identify every source (person or document) of information that provides the factual basis for the allegations in the complaint. If the source is a person, provide the person's name, contact information, the date of the contact, and a written detailing of the information provided. If the source is a document, please produce a copy of the document. If the source of information is from a communication with a person, identify the correspondent, and provide a copy of the communication if already in writing, or provide a written document detailing the communicated information.

Objections: OPC objects to the form of this data request and because it is argumentative, overbroad, seeks a legal conclusion, and seeks irrelevant information. Further, this request – in part – seeks material and information protected under the work privilege doctrine.

2. Data Request No. 7

Please provide the name(s) of every employee of the Office of Public Counsel who has gathered, or received information in the past 90 days that provides the factual basis for the allegations in the complaint.

Objections: OPC objects to this data because – in part – seeks material and information protected under the work privilege doctrine.

James M. Owen
Acting Public Counsel