

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Noel Water Company,)
Inc. for a General Increase in Water Revenues through) **File No. WR-2009-0395**
the Informal Rate Proceedings for Small Companies as)
Provided for in Rule 4 CSR 240-3.365 [4 CSR 240-3.050])

ORDER SETTING PROCEDURAL SCHEDULE, CORRECTING CASE CAPTION AND DIRECTING FILINGS

Issue Date: May 13, 2009

Effective Date: May 13, 2009

On May 6, 2009,¹ Noel Water Company ("NWC") initiated a small company rate increase proceeding pursuant to Commission Rule 4 CSR 240-3.365. As an initial matter, the Commission observes that it proposed the rescission of 4 CSR 240-3.365 on May 1,² and while the rule has technically not been rescinded at this time, Commission Rule 4 CSR 240-3.050 now supersedes the former rule for small water utility rate increase requests, and the Commission shall follow the time-line for this proceeding that is directed pursuant to that rule, which became effective on May 30, 2008. Because rescission is pending on 4 CSR 240-3.365, and the Commission now follows 4 CSR 240-3.050, the Commission shall direct the correction of the case caption.

On May 12, the Commission's Staff filed a detailed timeline for this proceeding pursuant to the schedule outlined in 4 CSR 240-3.050. The Commission finds this schedule to accurately reflect the procedural requirements for this matter and the Commission shall adopt this timeline as the procedural schedule. The final pathway, of the

¹ All dates throughout this order refer to the year 2009 unless otherwise noted.

² See Missouri Register, Volume 34, No. 9, page 843 (May 1, 2009).

alternatives that are depicted, is dependent upon the Office of Public Counsel's position.

The procedural schedule sets a deadline of October 5 as the calendar due date (approximately 150 days post-case initiation)³ for the filing of Staff's and NWC's disposition agreement. The schedule generously affords Public Counsel thirty-five days following the filing of that agreement to file a position statement and to file a request for a local public hearing (up to day 185 post-case initiation).⁴ As is contemplated by the timeline, the Commission **shall not** entertain any requests for a local public hearing prior to October 5. Nor shall it entertain any such requests after November 9. Should a local public hearing be granted, it shall be set for date that is as close as is possible to the date contemplated in timeline, i.e. December 7, 2009.⁵

The purpose of waiting for the prescribed time interval to run is recognition that any local public hearing, which is granted at the discretion of the Commission, shall be scheduled at a time after the filing of the initial disposition agreement; allowing, of course, for additional time to provide the public with appropriate notice. The company's rate increase request may have changed substantially at this point in the proceeding. Holding a public hearing prior to the filing of company's modified rate increase request (which follows Staff's audit and negotiations with the company) will merely confuse the public because a premature hearing will be soliciting comments on a proposal that may no longer exist. Indeed, the parties' positions following the filing of the disposition agreement may have

³ One-hundred and fifty days post case initiation falls on October 3, 2009; a Saturday. Consequently, the Commission's rule on computation of time, 4 CSR 240-2.050, allows filing on the following Monday, or on October 5, 2009.

⁴ One-hundred and eighty-five days post case initiation falls on November 7, 2009; a Saturday. Consequently, the Commission's rule on computation of time, 4 CSR 240-2.050, allows filing on the following Monday, or on November 9, 2009.

⁵ The actual date of any local public hearing is dependent upon securing a facility for the hearing that meets all appropriate criteria for public attendance.

changed substantially, and a local public hearing may no longer be desired by the parties. Additionally, holding a hearing prior to the filing of the initial disposition agreement may unnecessarily result in the need for an additional hearing, which is not an economical or efficient use of any of the parties' resources.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall correct the caption of this matter to read as follows:

In the Matter of the Application of Noel Water Company,)
Inc. for a General Increase in Water Revenues through) **File No. WR-2009-0395**
the Informal Rate Proceedings for Small Companies as)
Provided for in Rule 4 CSR 240-3.050)

2. All pleadings filed in this matter shall bear the caption as described in ordered paragraph number 1.

3. The timeline submitted by the Staff of the Missouri Public Service Commission on May 12, 2009 is adopted as the procedural schedule in this matter.

4. Any request for a Local Public Hearing shall be filed no sooner than October 5, 2009 and no later than November 9, 2009.

5. Should the Office of the Public Counsel not join in the disposition agreement with the Commission's Staff and Noel Water Company, scheduled to be filed on October 5, 2009, then Public Counsel shall file, no later than November 9, 2009, a position statement. The position statement shall state, with particularity, any objections to the disposition agreement filed by the Commission's Staff and Noel Water Company and the reasons and legal theories, in detail, supporting those objections.

6. This order shall be effective immediately upon issuance.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Harold Stearley, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 13th day of May, 2009.