

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

Office of the Public Counsel,	)	
	)	
Complainant,	)	
	)	
v.	)	
	)	Case No. WC-2002-155
Warren County Water and Sewer	)	
Company and Gary L. Smith,	)	
	)	
Respondents.	)	

**STAFF'S STATEMENT OF POSITIONS**

COMES NOW the Staff of the Missouri Public Service Commission and, for its Statement of Positions, states to the Missouri Public Service Commission as follows:

**ISSUE NO. 1: Has Warren County Water and Sewer Company failed to provide safe and adequate sewer service to its customers?**

Staff's Position: Yes. The water pressure is often below acceptable minimums, because of inadequate storage, there have been problems with the water quality, service outages have occurred as a result of improper operation and maintenance, and there have been safety problems.

**ISSUE NO. 2: Has Warren County Water and Sewer Company failed to provide safe and adequate sewer service to its customers?**

Staff's Position: Yes. The two treatment plants often do not have standby capability, equipment is broken and poorly operated, sludge has been discharged to the nearby lake, and there have been safety problems. It is very unusual for all four lift stations to be fully operational at the same time, because they are inadequately maintained, and there have been safety

problems. The operator, Gary Smith, was found guilty of a federal offense and placed on probation, because lift stations overflowed, discharging inadequately treated sewage to public waters.

**ISSUE NO. 3: Has the management of Warren County Water and Sewer Company failed to operate the company in a reasonable and prudent manner, such as by keeping accurate books and records and preventing commingling of regulated and unregulated business matters?**

Staff's Position: Yes. The Company has failed to read meters as required, without justification, the Company responds slowly to customer complaints, and the owner of the Company does not regard problems seriously and has poor relations with his customers, because he is discourteous, vulgar and abusive to them. In addition, the Company has overcharged customers for service connections, and has made it difficult for customers to distinguish between the Company and Mr. Smith's other companies. The Company has failed, without cause, to obtain necessary additional financing. The Company has been delinquent in paying its taxes, Commission assessments and other bills, does not keep books and records in accordance with Commission rules, commingles revenues, and has made unauthorized transfers of its assets to affiliated companies.

**ISSUE NO. 4: Should the Commission seek the appointment of a receiver for the Company, pursuant to Section 393.145, RSMo (2000)?**

Staff's Position: The Commission should consider seeking the appointment of a receiver, but as a temporary solution only, because a receiver would not be in a good position to make the needed improvements to the Company's systems. The best long-term solution would be to

arrange the transfer of all of the Company's stock or assets to another regulated or unregulated utility, to the homeowners association, or to some other individuals.

**ISSUE NO. 5: If the Commission seeks appointment of a receiver, should the Commission also seek a determination, pursuant to Sec. 393.145.5 RSMo, that "control and responsibility for the utility should not, in the best interests of its customers, be returned to the owners," and an order from the circuit court directing "the receiver [to] proceed to liquidate the assets of the utility in the manner provided by law"?**

Staff's Position: No. Liquidation of the assets would result in an interruption of service to the customers in the Company's service area, and would not be in their best interest. The Commission should instead seek or encourage the transfer of all Company assets to an entity that can capably operate the entire water system and sewer system.

**WHEREFORE,** the Staff submits its Statement of Positions for the Commission's consideration in this case.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

**/s/ Keith R. Krueger**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record this 15th day of May 2002.

**/s/ Keith R. Krueger**

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Keith R. Krueger