

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

In the Matter of the Joint Application of Missouri-)
American Water Company and Emerald Pointe)
Utility Company for Missouri-American Water)
Company to Acquire Certain Water and Sewer)
Assets of the Emerald Pointe Utility Company in)
Connection Therewith, Certain Other Related)
Transactions.)

File No. WO-2014-0113

In the Matter of the Joint Application of Missouri-)
American Water Company and Emerald Pointe)
Utility Company for Missouri-American Water)
Company to Acquire Certain Water and Sewer)
Assets of the Emerald Pointe Utility Company in)
Connection Therewith, Certain Other Related)
Transactions.)

File No. SO-2014-0116

**THE OFFICE OF THE PUBLIC COUNSEL'S RESPONSE TO STAFF'S
RECOMMENDATION**

COMES NOW the Office of the Public Counsel (Public Counsel), and for its Response to Staff's Recommendations states as follows:

1. On October 25, 2013, Missouri-American Water Company (MAWC) and Emerald Pointe Utility Company (Emerald Pointe) filed a Joint Application before the Missouri Public Service Commission (Commission) seeking authority for Emerald Pointe to sell substantially all its assets to MAWC.
2. On January 24, 2014, the Staff of the Missouri Public Service Commission (Staff) filed its Recommendation which recommended that the Commission approve the Joint Application of MAWC and Emerald Pointe, but recommended that any order approving the sale and transfer of

assets include such requirements as detailed in Staff's *Memorandum*, attached to the Recommendation as Appendix A.

3. Public Counsel has reviewed the Joint Application by MAWC and Emerald Pointe as well as Staff's Recommendation and now states that while it does have some concerns regarding the Joint Application as well as Staff's Recommendation, it has no opposition to Staff's recommendation that the Commission approve the Joint Application subject to the requirements detailed in Staff's *Memorandum*.

4. Public Counsel shares Staff's concern regarding the request that Contribution in Aid of Construction (CIAC) charges be established for new water and sewer connections as a result of this case. Public Counsel shares Staff's belief that it is not justifiable to create such charges by utility request and Commission approval because charges such as these are intended for developer recovery of capital expenses rather than utility recovery. Public Counsel also has grave concerns that the proposed application of these charges to all new connections is not strictly limited to lots where Emerald Pointe has an interest. Therefore, Public Counsel believes that the requested CIAC charges are unreasonable and, like Staff, opposes the approval or inclusion of such charges in MAWC's water or sewer tariffs.

5. Public Counsel also has concerns regarding Staff's recommendation that the Commission authorize MAWC to adopt Emerald Pointe's current water system depreciation rates while recommending that the Commission authorize MAWC to apply MAWC's own existing sewer system depreciation rate schedules. Public Counsel believes that as Emerald Pointe's water and sewer depreciation schedules were recently approved by the Commission, they more accurately reflect the situation at Emerald Pointe. However from its review, Public Counsel notes that in this case the difference between Emerald Pointe's existing sewer depreciation rates and

MAWC's existing sewer depreciation rates are minimal. Therefore, Public Counsel will not oppose Staff's recommendation that the Commission authorize MAWC to adopt Emerald Pointe's current water system depreciation rates but authorize MAWC to apply MAWC's own existing sewer system depreciate rate schedules.

6. Public Counsel shares Staff's concern regarding Emerald Pointe's continuing to charge \$400 to customers receiving a new meter installation instead of charging the actual cost of the installation per its August 23, 2013 tariff. Public Counsel also expects that all over/under collected amounts will be addressed by either Emerald Pointe or MAWC, and Public Counsel will review those items as part of any future rate case involving these customers.

7. Additionally, Public Counsel wishes to state that it does not share Staff's approach of not recognizing either acquisition premiums or discounts in merger and acquisition cases. Public Counsel believes it is just and reasonable for the Commission to recognize any statements of the purchasing company that acquisition premiums will not be reflected in rates future rates.

8. Therefore, while Public Counsel does have some concerns regarding the Joint Application as well as Staff's Recommendation, it has no opposition to Staff's recommendation that the Commission approve the Joint Application subject to the requirements detailed in Staff's *Memorandum*.

WHEREFORE, Public Counsel submits its Response.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 6th day of February 2014:

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