

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

In the Matter of the tariff filing of)	
Algonquin Water Resources of Missouri,)	
LLC to implement a general rate increase)	Cases Nos. WR-2006-0425
for water and sewer service provided)	SR-2006-0426
to customers in its Missouri service areas.)	

**ALGONQUIN’S RESPONSE TO ORDER DIRECTING FILING
CONCERNING IRRIGATION RATE**

Comes now Algonquin Water Resources of Missouri, LLC (Algonquin or Company),
and, in response to the Missouri Public Service Commission’s (Commission) Order Directing
Filing, issued March 1, 2007, states as follows:

1. On March 1, 2007, the Commission issued its Order Directing Filing wherein it directed the parties “to state their position on what legal authority, if any, the Commission has to order Algonquin to file emergency tariffs to permit it to immediately charge for the water it supplies to Holiday Hills golf course for irrigation.” The Commission further directed parties to “state what objection, if any, they have to such an emergency tariff.” Algonquin interprets this inquiry to refer to the possibility of an interim rate tariff that would be applicable to golf course irrigation until such time as permanent rates were set as a result of this case.

2. This Commission has stated that:

The standards for interim rate relief have been previously determined by the Commission. [*In re Missouri Public Service Company*, Case No. 18,502, 20 Mo. P.S.C. (N.S.) 244 (1975).] According to the *Missouri Public Service* case, to be eligible for interim rate relief a utility company must show that: (1) it needs the additional funds immediately, (2) that the need cannot be postponed, and (3) that no other alternatives exist to meet the need but rate relief. The Commission has, however, granted interim rate relief on a nonemergency basis. [*In re Missouri Power & Light Company*, Case Nos. GR-81-355 and ER-81-356 (1981).] The Western District Court of Appeals has also held that it is possible to grant interim

rate relief on a nonemergency basis. [*State ex rel. Laclede Gas Co. v. Public Serv. Comm'n*, 535 S.W.2d 561 (Mo. App. 1976).]

In the Matter of the Application of Citizens Electric Corporation, Order Approving Stipulation and Agreement, Case No. ER-2002-217 (December 20, 2001).

3. *State ex rel. Laclede Gas Co. v. Public Serv. Comm'n*, 535 S.W.2d 561 (Mo. App. 1976) stands for the proposition that the Commission has broad discretion to authorize interim relief and no standards are specified to control the exercise of that discretion. This was based primarily on a review of the “file and suspend” method of ratemaking provided by the statutes, which the Court indicated “lead inexorably to the conclusion that the Commission does have discretionary power to allow new rates to go into effect immediately or on a date sooner than that required for a full hearing as to what will constitute a fair and reasonable permanent rate. . . .” *Id.* at p. 566.

4. Some limitation was placed on the file and suspend method by the Supreme Court in a later case. The Court stated that “[e]ven under the file and suspend method, by which a utility's rates may be increased without *requirement* of a public hearing, the commission must of course consider all relevant factors including all operating expenses and the utility's rate of return, in determining that no hearing is required and that the filed rate should not be suspended.” *State ex rel. Utility Consumers Council of Missouri, Inc., et al. v. Public Service Commission of Missouri, et al.*, 585 S.W.2d 41, 49 (Mo. 1979).

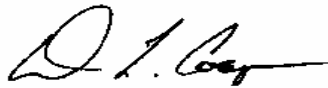
5. Because of the current posture of this case, Algonquin believes that it is within the Commission’s authority to order that a tariff be filed setting an interim rate for golf course irrigation at the Holiday Hills resort. At this point, the case has been tried and briefed. Thus, presumably the Commission has clearly had the opportunity to assess all relevant factors.

Moreover, this is not a situation where an existing rate is being adjusted. This is a situation where there is no rate in place. Establishing an initial rate is something the Commission does quite often when a new public utility is created. It should also be able to do this when a new service is initiated. Lastly, because this case is nearing its operation of law date (April 2, 2007), whatever interim rate is established for this service would be in place for only a very short period of time.

6. Algonquin would not object to a Commission order directing it to file a tariff sheet to allow it to charge for water it supplies to Holiday Hills golf course for irrigation and to allow such tariff to go into effect on less than thirty (30) days notice.

WHEREFORE, the Company respectfully requests that the Commission consider this Response to comply with the Commission's Order Directing Filing issued March 1, 2007.

Respectfully submitted,



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ATTORNEYS FOR ALGONQUIN WATER
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 5th day of March, 2007, to:

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