

In the matter of New Proposed Small)
Company Rate Increase Procedure Rules) **Case No. AX-2005-0363**

Public Counsel assumes that whenever the proposed rules require the Staff of the Missouri Public Service Commission (**Staff**) to file a motion with the Commission or for Staff to file a document in the subject case file, that Public Counsel will receive a copy of any such motion or document. However, there are three instances in each proposed rule in which communication between the Staff and the subject company may occur without any notification to Public Counsel. Public Counsel would respectively request that it be provided with copies of

any such communications between the Staff and the subject utility. (See **ATTACHMENT A**, Sewer Rule and Water Rule, Sections (9), (11) and (36); Gas Rule and Steam Rule, Sections (8), (10) and (35)). In addition, under the proposed rules if negotiations between the Staff and the subject utility result in an agreement only between the Staff and subject utility, Public Counsel respectfully requests that it receive a copy of the “utility/staff agreement”. (See **ATTACHMENT A**, Sewer Rule and Water Rule, Section (19); Gas Rule and Steam Rule, Section (18)).

PUBLIC COUNSEL AUDIT

Each of the proposed rules requires that, if Public Counsel wishes to conduct an independent investigation and audit of the subject utility, Public Counsel must conduct the investigation and audit within the same time period as Staff. Although a statement of Public Counsel’s right to independently investigate and audit the subject utility should remain part of each rule, Public Counsel respectfully suggests that the time period for its independent investigation and audit should not be limited to the time period set forth for Staff’s investigation and audit. For example, an issue which Public Counsel desires to investigate or audit further may not be recognized until after the Staff has completed its investigation and audit and Public Counsel has had an opportunity to review the Staff’s results. In addition, Public Counsel is bound by the overall time limitations of each rule and, therefore, respectfully suggests that the time for Public Counsel’s independent investigation and audit should not be separately limited. (See **ATTACHMENT A**, Sewer Rule and Water Rule, Section (15); Gas Rule and Steam Rule, Section (14)).

ADEQUATE TIME IN WHICH TO RESPOND

In the event negotiations between the Staff, the utility and Public Counsel as to the disposition of the utility's request result in only an agreement between the Staff and the utility, each of these rules require that a notice be mailed to the customers of the utility within five (5) working days and allows the customers twenty (20) days after the date of the notice in which to comment regarding the "utility/staff disposition agreement". Thereafter, each rule allows Public Counsel thirty (30) days in which to file a pleading or request a local public hearing. If the five (5) working days happen to include a weekend, together with the twenty (20) day customer comment period, Public Counsel could conceivably have only three (3) days in which to file the required pleading or request a local public hearing. In order to have adequate time in which to file the required pleading or request a local public hearing, Public Counsel respectfully requests that the thirty (30) day period be amended to a period of ten (10) working days after expiration of the customer comment period. (See **ATTACHMENT A**, Sewer Rule and Water Rule, Sections (22) and (23); Gas Rule and Steam Rule, Sections (21) and (22)).

PUBLIC COUNSEL APPROVAL OF NOTICE

In the case of the mailing of a notice to customers as discussed in the preceding section or in the case of a notice to be mailed to customers regarding a local public hearing, the proposed rules require only that such notices be approved by the Staff. Since these notices to the customers would be the result of Public Counsel's disagreement with the "utility/staff disposition agreement" or as a result of Public Counsel's request for a local public hearing, Public Counsel respectfully suggests that these notices should also be approved by the Public Counsel along with the Staff. In addition, Public Counsel suggests that the notice which must be mailed to customers due to Public Counsel's disagreement with the "utility/staff disposition agreement",

should contain a statement that Public Counsel has not agreed to the “utility/staff agreement”. (See **ATTACHMENT A**, Sewer Rule and Water Rule, Sections (21) and (24); Gas Rule and Steam Rule, Sections (20) and (23)).

STATEMENT OF PUBLIC COUNSEL’S POSITION

Each of the proposed rules states that a failure of the Public Counsel to timely file a pleading as required by three of the sections of each rule is to be considered the same as Public Counsel’s express agreement with the provisions of the utility’s tariff revisions and the related disposition agreement. Public Counsel respectfully suggests that a failure of Public Counsel to file such pleadings should be considered as an expression of no opinion rather than as an expression of “express agreement”. (See **ATTACHMENT A**, Sewer Rule and Water Ruler, Section (27); Gas Rule and Steam Rule, Section (26)).

SUGGESTED WORDING FOR RULE CHANGES

Public Counsel has included specific suggested wording regarding each of Public Counsel’s suggested changes as referenced above in the attached **ATTACHMENT A**, which attachment is incorporated herein by reference.

WHEREFORE, Public Counsel submits the foregoing Comments Regarding Proposed Rules for the Commission’s consideration in this case.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following
this 2nd day of November 2005:

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ATTACHMENT A

PUBLIC COUNSEL’S SUGGESTED CHANGES TO PROPOSED RULES

CASE NO. AX-2005-0363

Table of Contents

Suggested Changes to 4 CSR 240-3.240. Page 1
(Small Gas Utility Rate Procedure Case)

Suggested Changes to 4 CSR 240-3.330. Page 4
(Small Sewer Utility Rate Procedure Case)

Suggested Changes to 4 CSR 240-3.440. Page 7
(Small Steam Utility Rate Procedure Case)

Suggested Changes to 4 CSR 240-3.635. Page 10
(Small Water Utility Rate Procedure Case)

PUBLIC COUNSEL'S SUGGESTED CHANGES TO PROPOSED RULE 4 CSR 240-3.240

(SMALL GAS UTILITY RATE CASE PROCEDURE)

NOTE: Suggested additions are shown in Red/Underline font. Suggested deletions are shown in Red/Strikethrough font.

(8) If the commission staff determines that a small gas utility's request for an increase in its annual operating revenues does not include the information required by section (5) of this rule, or that any of the statements required by subsections (5)(G)-(J) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies and provide a copy of the written explanation to public counsel. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(10) For a situation such as that described in section (8) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small gas utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice, with a copy of the written notice provided to public counsel, to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(14) After a case is established for consideration of a small gas utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it may~~must~~ do so. ~~within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.~~

(18) If negotiations between the commission staff, the small gas utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small gas utility rate case" for signature by representatives of the utility and the staff and shall provide a copy of the utility/staff agreement to public counsel. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges

that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(20) For a situation such as that described in section (18) of this rule, the small gas utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions, the impact of those rates on an average residential customer's bill and a statement that public counsel has not agreed to the utility/staff agreement, to each of its customers. The notice, which must be approved by the commission staff and public counsel prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(21) For a situation such as that described in section (18) of this rule, the public counsel shall, within ten (10) working days after expiration of the customer comment period provided under section (21)~~thirty (30) days after the date that the small gas utility submits its tariff revisions to the commission~~, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (22) of this rule.

(22) If the public counsel desires the commission to hold a local public hearing, it shall, within ten (10) working days after expiration of the customer comment period provided under section (21)~~thirty (30) days after the date that the small gas utility submits its tariff revisions to the commission~~, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(23) If the commission orders that a local public hearing is to be held, the small gas utility shall mail written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the commission staff and

public counsel before it is mailed. At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(26) Failure of the public counsel to timely file the pleadings required by sections (21), (22) or (25) of this rule will be considered the same as the public counsel's expression of no opinion~~express agreement~~ with the provisions of the small gas utility's tariff revisions and the related disposition agreement.

(35) In the event that the small gas utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff and public counsel that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

PUBLIC COUNSEL'S SUGGESTED CHANGES TO PROPOSED RULE 4 CSR 240-3.330

(SMALL SEWER UTILITY RATE CASE PROCEDURE)

NOTE: Suggested additions are shown in Red/Underline font. Suggested deletions are shown in Red/Strikethrough font.

(9) If the commission staff determines that a small sewer utility's request for an increase in its annual operating revenues does not include the information required by section (6) of this rule, or that any of the statements required by subsections (6)(G)-(K) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies and provide a copy of the written explanation to public counsel. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(11) For a situation such as that described in section (9) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small sewer utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice, with a copy of the written notice provided to public counsel, to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(15) After a case is established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it ~~may~~must do so. ~~within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.~~

(19) If negotiations between the commission staff, the small sewer utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small sewer utility rate case" for signature by representatives of the utility and the staff and shall provide a copy of the utility/staff agreement to public counsel. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility

acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(21) For a situation such as that described in section (19) of this rule, the small sewer utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions, the impact of those rates on an average residential customer's bill and a statement that public counsel has not agreed to the utility/staff agreement, to each of its customers. The notice, which must be approved by the commission staff and public counsel prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(22) For a situation such as that described in section (19) of this rule, the public counsel shall, within ten (10) working days after expiration of the customer comment period provided under section (21)~~thirty (30) days after the date that the small sewer utility submits its tariff revisions to the commission~~, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (23) of this rule.

(23) If the public counsel desires the commission to hold a local public hearing, it shall, within ten (10) working days after expiration of the customer comment period provided under section (21)~~thirty (30) days after the date that the small sewer utility submits its tariff revisions to the commission~~, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(24) If the commission orders that a local public hearing is to be held, the small sewer utility shall mail written notice of that hearing to its customers, with the notice to be

consistent with the commission's order and to be approved by the commission staff and public counsel before it is mailed. At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(27) Failure of the public counsel to timely file the pleadings required by sections (22), (23) or (26) of this rule will be considered the same as the public counsel's expression of no opinion~~express agreement~~ with the provisions of the small sewer utility's tariff revisions and the related disposition agreement.

(36) In the event that the small sewer utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff and public counsel that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

PUBLIC COUNSEL'S SUGGESTED CHANGES TO PROPOSED RULE 4 CSR 240-3.440

(SMALL STEAM UTILITY RATE CASE PROCEDURES)

NOTE: Suggested additions are shown in Red/Underline font. Suggested deletions are shown in Red/Strikethrough font.

(8) If the commission staff determines that a small steam heating utility's request for an increase in its annual operating revenues does not include the information required by section (5) of this rule, or that any of the statements required by subsections (5)(G)-(J) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies and provide a copy of the written explanation to public counsel. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(10) For a situation such as that described in section (8) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small steam heating utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice, with a copy of the written notice provided to public counsel, to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(15) After a case is established for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it ~~may~~must do so. ~~within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.~~

(20) If negotiations between the commission staff, the small steam heating utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small steam heating utility rate case" for signature by representatives of the utility and the staff and shall provide a copy of the utility/staff agreement to public counsel. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a

situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(22) For a situation such as that described in section (20) of this rule, the small steam heating utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions, ~~and~~ the impact of those rates on typical commercial and industrial customers' bills, and a statement that public counsel has not agreed to the utility/staff agreement, to each of its customers and to each provider of gas service or electric service in the area of the request. The notice, which must be approved by the commission staff and public counsel prior to being mailed, and which is to be mailed to the customers and the gas and electric service providers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' and gas and electric service providers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers and the gas and electric service providers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(23) For a situation such as that described in section (20) of this rule, the public counsel shall, within ten (10) working days after expiration of the customer comment period provided under section (21)~~thirty (30) days after the date that the small steam heating utility submits its tariff revisions to the commission~~, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (24) of this rule.

(24) If the public counsel desires the commission to hold a local public hearing, it shall, within
ten (10) working days after expiration of the customer comment period provided under section (21)~~thirty (30) days after the date that the small steam heating utility submits its tariff revisions to the commission~~, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The

commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(25) If the commission orders that a local public hearing is to be held, the small steam heating utility shall mail written notice of that hearing to each of its customers and to each provider of gas service or electric service in the area of the request, with the notice to be consistent with the commission's order and to be approved by the commission staff and public counsel before it is mailed. At the same time that the subject utility mails the approved notice to its customers and the gas and electric service providers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(28) Failure of the public counsel to timely file the pleadings required by sections (23), (24) or (27) of this rule will be considered the same as the public counsel's expression of no opinion~~express agreement~~ with the provisions of the small steam heating utility's tariff revisions and the related disposition agreement.

(37) In the event that the small steam heating utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff and public counsel that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

PUBLIC COUNSEL'S SUGGESTED CHANGES TO PROPOSED RULE 4 CSR 240-3.635

(SMALL WATER UTILITY RATE CASE PROCEDURES)

NOTE: Suggested additions are shown in Red/Underline font. Suggested deletions are shown in Red/Strikethrough font.

(9) If the commission staff determines that a small water utility's request for an increase in its annual operating revenues does not include the information required by section (6) of this rule, or that any of the statements required by subsections (6)(G)-(K) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies and provide a copy of the written explanation to public counsel. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(11) For a situation such as that described in section (9) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small water utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice, with a copy of the written notice provided to public counsel, to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(15) After a case is established for consideration of a small water utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it may~~must~~ do so. ~~Within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.~~

(19) If negotiations between the commission staff, the small water utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small water utility rate case" for signature by representatives of the utility and the staff and shall provide a copy of the utility/staff agreement to public counsel. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility

acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(21) For a situation such as that described in section (19) of this rule, the small water utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions, ~~and~~ the impact of those rates on an average residential customer's bill and a statement that public counsel has not agreed to the utility/staff agreement, to each of its customers. The notice, which must be approved by the commission staff and public counsel prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(22) For a situation such as that described in section (19) of this rule, the public counsel shall, within ten (10) working days after expiration of the customer comment period provided under section (21)~~thirty (30) days after the date that the small water utility submits its tariff revisions to the commission~~, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (23) of this rule.

(23) If the public counsel desires the commission to hold a local public hearing, it shall, within ten (10) working days after expiration of the customer comment period provided under section (21)~~thirty (3) days after the date that the small water utility submits its tariff revisions to the commission~~, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(24) If the commission orders that a local public hearing is to be held, the small water utility shall mail written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the commission staff and

public counsel before it is mailed. At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(27) Failure of the public counsel to timely file the pleadings required by sections (22), (23) or (26) of this rule will be considered the same as the public counsel's expression of no opinion~~express agreement~~ with the provisions of the small water utility's tariff revisions and the related disposition agreement.

(36) In the event that the small water utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff and public counsel that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.