

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

In the Matter of Central Rivers Wastewater)
Utility, Inc.'s Small Company Rate) File No. SR-2014-0247
Increase Request.)

JOINT REQUEST FOR PRE-HEARING DETERMINATION

COMES NOW Central Rivers Wastewater Utility, Inc. (Central Rivers), the Staff of the Missouri Public Service Commission (Staff) and the Office of the Public Counsel (Public Counsel), (collectively the Parties), and for their Joint Request for Pre-Hearing Determination states as follows:

1. On December 16, 2014, Staff filed a List of Issues, List and Order of Witnesses, Order of Opening Statements, and Order of Cross-Examination. The same day, the Parties filed their individual statements of positions on the issues.

2. Two of the issues presented are:

PREVIOUS STEP INSTALLATIONS --

Does the Commission have the authority to address in this case and to order a refund of previously received STEP installation fees?

CUSTOMER DEPOSITS --

Does the Commission have the authority to address in this case and to order a refund of previously received customer deposits?

3. Both of these issues also generally include the following sub-issues:

If so, what amount should be refunded, should this amount include interest, over what time period should the refund be made and if interest should be included, what is a reasonable interest rate?

Is there an effect on rate base, cost of service and revenue requirement that needs to be accounted for?

4. Central Rivers has taken the following position in regard to this matter:

In *In the Matter of Emerald Pointe Utility Company*, the Commission stated as follows in regard to the inclusion of such allegations in a rate case:

These issues concern allegations that Emerald Pointe has overcharged its customers in the past. Thus, they are in the nature of a complaint that could have been brought as a separate action by the complaining parties. By agreement of the parties, the Commission heard evidence regarding the complaint along with evidence regarding the rate case issues.

In the Matter of Emerald Pointe Utility Company, Revised Report and Order, 2013 Mo.PSC LEXIS 877, 37* (MoPSC 2013). Central Rivers does not agree to the hearing of the security deposit and past STEP installation refund issues in this case.

Further, the Commission may only authorize its General Counsel to pursue an action in circuit court as the Commission “cannot order any monetary or pecuniary award, refund or reparation.” *See LaHoma Paige v. Kansas City Power & Light Company*, Case No. EC-84-274, 27 Mo.P.S.C. (N.S.) 363 (1985), *citing B.G. DeMaranville v. Fee Fee Trunk Sewer, Inc.*, 573 S.W.2d 674 (Mo.App. 1978). *See also, State ex rel. Laundry, Inc. v. Public Service Com.*, 34 S.W.2d 37, (Mo. 1931) (“The Public Service Commission is an administrative body only, and not a court, and hence the Commission has no power to exercise or perform a judicial function, or to promulgate an order requiring a pecuniary reparation or refund.”); *State ex rel. City of Joplin v. PSC of Mo.*, 186 S.W.3d 290 (Mo.App. 2005) (“The Commission also argues, and we agree, that it lacks the authority to refund money”).

5. Public Counsel has taken the following position:

It is Public Counsel’s position that the Commission has the authority to address in this case and to order a refund of the customer deposits and the previously received STEP installation fees in excess of those listed in a Commission approved tariff.

Public Counsel believes it is just and reasonable for the Commission to address the customer deposit and previous STEP installations issues in this case to avoid additional, unnecessary costs for Central Rivers and its customers. If Central Rivers wishes to take up these issues in a separate complaint case and the Commission agrees, it is Public Counsel’s position that any expenses, including time spent by CSM personnel working on the complaint case on behalf of the Company, legal fees and consultant fees, be borne strictly by Central Rivers and not the customers.

6. Staff has taken the following position:

This issue is properly the subject of a complaint case but may be taken up in the rate case as a matter of economy of resources if the Company consents to that treatment. If the Company does not consent, Staff will file a complaint and will seek penalties.

7. The Parties believe it is not in the best interest of Central Rivers, the customers, or the Commission to expend the time and money necessary to bring the Previous STEP Installation issue or the Customer Deposit issue before the Commission at the evidentiary hearing if the Commission ultimately determines that a complaint case is better suited for these issues.

8. Therefore, the Parties request a pre-hearing determination from the Commission as to whether the Previous STEP Installation issue and the Customer Deposit issue will ultimately be decided by the Commission in this case.

WHEREFORE, the Parties respectfully submit their Request.

Respectfully submitted,

 _____ Dean L. Cooper, MBE #36592 BRYDON, SWEARENGEN & ENGLAND P.C. 312 E. Capitol Avenue P.O. Box 456 Jefferson City, MO 65012 (573) 635-7166 telephone (573) 635-3847 facsimile dcooper@brydonlaw.com ATTORNEYS FOR CENTRAL RIVERS WASTEWATER UTILITY, INC.	_____ <u>//S// by dlc</u> Christina L. Baker (#58303) P O Box 2230 Jefferson City, MO 65102 (573) 751-5565 (573) 751-5562 FAX christina.baker@ded.mo.gov ATTORNEY FOR OFFICE OF THE PUBLIC COUNSEL
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail on December 18, 2014, to the following:

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