

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

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

MOTION TO SUSPEND PROCEDURAL SCHEDULE
AND MOTION TO ENFORCE PARTIAL DISPOSITION AGREEMENT

COMES NOW Central Rivers Wastewater Utility, Inc. (Central Rivers or Company), and, for its Motion to Suspend Procedural Schedule and Motion to Enforce Partial Disposition Agreement, states as follows to the Missouri Public Service Commission (Commission):

SUMMARY

Without notice to the Company of any sort, the Staff of the Commission has, through its direct testimony, walked away from and completely abandoned its Partial Disposition Agreement with the Company. Staff's direct testimony is contrary to the informal list of issues discussed by the parties at the prehearing conferences and contrary to the local public hearing notice agreed to by the parties. Given the complete change in character of this case at the direct testimony stage - from a case with specified and defined issues to a rate case where every aspect is at issue -- the procedural schedule proposed by the parties, to include two days of evidentiary hearing, is no longer reasonable or appropriate.

Additionally, Central Rivers moves the Commission to enforce the Partial Disposition Agreement and direct its Staff to file testimony consistent with that Agreement. No provision in the Commission's rules allows Staff to abandon a Partial Disposition Agreement under the circumstances present in this case.

MOTION TO SUSPEND PROCEDURAL SCHEDULE

1. On October 7, 2014, the Staff filed its Notice of Company/Staff Agreement Regarding Partial Disposition of Small Company Rate Increase Request. The referenced Partial Disposition Agreement filed with the Commission identified numerous agreements between the Staff and the Company. Importantly, these agreements included an agreed-to increase in the Company's operating revenues and a new sewer rate. Further, attached to the Partial Disposition Agreement was a "Ratemaking Income Statement" showing the development of the agreed-upon increase in the Company's operating revenues and an "EMS Run" that included accounting schedules supporting the agreed-upon increase in the Company's operating revenues. The Notice also identified four specific issues left for hearing between the parties, only one of which would obviously affect the agreed-upon increase in the Company's operating revenues.

2. On October 10, 2014, the Office of the Public Counsel (OPC) filed its Objection and Evidentiary Hearing Request and Request for Local Hearing. That pleading set out certain specific issues.

3. On October 22, 2014, a prehearing hearing conference was held for the purpose of developing a procedural schedule. At that prehearing conference, an informal list of issues to be tried was circulated by the parties (**Appendix A**). At the prehearing conference, Counsel for Central Rivers specifically asked Staff counsel whether Staff intended to file direct testimony supporting the Partial Disposition Agreement. He was told that Staff did so intend to support the Partial Disposition Agreement. Based upon the list of issues and the representations of Staff, the parties filed a Joint Motion to Set Test Year and to Establish Procedural Schedule on October 24, 2014.

4. After receiving feedback from the regulatory law judge (RLJ), a meeting with the RLJ was held on October 28, 2014, to further discuss the schedule. At that point, the previous list of issues discussed by the parties was still assumed to be accurate.

5. On November 5, 2014, counsel for Central Rivers circulated a proposed local public hearing notice to counsel for Staff and OPC. That proposed notice included the following provisions:

The Company has previously entered into a partial agreement with the Commission Staff to implement new rates for its sewer service. Set out at the end of this notice is a table that summarizes the *currently* proposed revision to the Company's rate.

<u>Current Monthly Sewer Rate</u>	<u>Proposed Monthly Sewer Rate</u>
\$32.00	\$43.92

6. Counsel for OPC agreed to the notice with some modification to other paragraphs on November 5, 2014. Counsel for Staff agreed to the Notice on November 6, 2014.

7. On November 14, 2014, Staff and Central Rivers filed direct testimony. As can be seen from Central Rivers' direct testimony, the Company still anticipated that Staff would file testimony in support of the Partial Disposition Agreement (Geisinger Dir., p. 3-4). The Staff, instead, has completely abandoned the Partial Disposition Agreement.

8. No notice of this change in Staff position was provided to Counsel for Central Rivers. Counsel found out about this change of position only after reading Staff's direct testimony.

9. The procedural schedule that has been set in this matter is completely dependent upon the hearing of the limited issues previously discussed by the parties. Central Rivers is

unable to provide the type of testimony that is necessary to try a full rate case in the time allotted for rebuttal testimony.

10. Given that this situation has resulted from Staff's unannounced change of position, Central Rivers requests that the Commission suspend the previously established procedural schedule in this matter until such time as Central Rivers can assess the time that will be necessary to develop and file testimony that will address all rate case issues, rather than those discussed previously by the parties. At such time, the Commission should reconvene a prehearing conference for the purpose of setting a new procedural schedule that is appropriate for the current circumstances.

MOTION TO ENFORCE PARTIAL DISPOSITION AGREEMENT

11. As stated above, on October 7, 2014, the Staff filed a pleading providing notice of its Partial Disposition Agreement with Company. The Public Counsel later asked for a evidentiary hearing as to certain issues, and essentially objected, at least in part to the Partial Disposition Agreement.

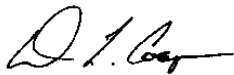
12. No provision in either the Partial Disposition Agreement or in the Commission Small Company Rate Case Rule (4 CSR 240-3.050) allows Staff to take a different position in this circumstance.

13. The Commission rule on "Stipulations and Agreements" provides some justification for such conduct where a "Nonunanimous Stipulation and Agreement" has been objected to in that it provides that an objected to "nonunanimous stipulation and agreement" "shall be considered to be merely a position of the signatory parties to the stipulated position, except that no party shall be bound by it." (4 CSR 240-2.115(2)(D)) That rule, however, is not applicable to the situation at hand. A "partial disposition agreement" is specifically and

expressly a product of the Small Company Rate Case Rule. It is not a “nonunanimous stipulation and agreement” within the meaning of Rule 4 CSR 240-2.115. The Small Company Rate Case Rule has no language allowing for Staff’s abandonment or stating that “no party shall be bound” by a “partial disposition agreement.” Accordingly, this Commission should enforce the Partial Disposition Agreement and direct its Staff to file testimony consistent with its terms.

WHEREFORE, Central Rivers respectfully requests that the Commission issue its order suspending the procedural schedule in this matter, enforcing the Partial Disposition Agreement entered into by its Staff, and making such further orders as it shall believe to be reasonable and just under the circumstances.

Respectfully submitted,



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**ATTORNEYS FOR CENTRAL RIVERS
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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 November 19, 2014, to the following:

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