

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

In the Matter of the Application of Peaceful Valley)
Service Company Request for Increase in Sewer) **File No. SR-2014-0153**
Operating Revenues.)

In the Matter of the Application of Peaceful Valley)
Service Company Request for Increase in Water) **File No. WR-2014-0154**
Operating Revenues.)

THE OFFICE OF THE PUBLIC COUNSEL’S RESPONSE TO STAFF’S REPORT

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

1. On July 29, 2014, the Commission issued its *Order Directing Staff to Submit Report* directing the Staff Water and Sewer Department to obtain information from Peaceful Valley and submit a report on Peaceful Valley’s compliance plan. Members of the Commission were interested in exploring rate mechanisms that could provide funding for improvements, but wanted additional information on Missouri Department of Natural Resources (DNR) requirements, how much money Peaceful Valley needed, and the time-frame for the improvements.
2. Staff filed its *Report* and on August 15, 2014. Public Counsel now offers the following response to Staff’s Report.
3. On page 2 of the Report Memorandum, Staff states:

What Projects are Required by DNR?

Although operation of the present lagoon is permitted by DNR under the current operating permit issued by DNR, and the permit expires on December 31, 2018, the permit states the following on page 7:

The facility shall attain compliance with the timeframe set for the permittee to upgrade the facility in effort to improve the receiving stream water quality, as soon as reasonably achievable or no later than 4 years of the effective date of this permit. The upgrade of the facility shall be technology that is capable of meeting the new effluent limits for Ammonia as N.

In other words, the Company is required to build a new treatment facility to meet new limits for ammonia discharge as prescribed and required by DNR.

4. Public Counsel questions Staff's assumption that because of the permit "the Company is required to build a new treatment facility to meet limits for ammonia discharge as prescribed and required by DNR." According to the DNR operating permit, the lagoon must meet ammonia limits by a certain timeframe - how it is to do so is not specifically dictated. If the future ammonia levels are already being met or can be met with modifications to the existing equipment or its operation, the permit requirement would be complied with and no construction would be necessary.

5. Staff does not report what the ammonia levels of the lagoon are now and does not provide verification that the present lagoon does not already meet the new requirements in the permit. Staff's Report also provides limited information on whether minor modifications to the existing equipment or operational changes could allow the lagoon to meet the future ammonia limits. Without such information, the Commission is left to merely assume, perhaps incorrectly, that major construction is necessary to meet the future ammonia limits.

6. Assuming that the current lagoon does not and cannot meet the future ammonia limits, Staff's Report does not provide detailed information on what must be constructed to meet those future limits. All Staff has been provided by Peaceful Valley is a preliminary engineering report which merely gives a recommended approach and a ball-park cost. Staff's Report indicates that not even Peaceful Valley is relying on the preliminary engineering report to dictate its path

forward. Staff notes on pages 2- 3 of the Report Memorandum, that the DNR operating permit date of July 1, 2014, to file a construction permit has not been met because Peaceful Valley is continuing to evaluate its options and to look for funding mechanisms that would allow it to pay for the upgrades. Staff states that Peaceful Valley is keeping DNR updated as to its progress, and that DNR has informally extended the date to file a construction permit by eighteen (18) months. Therefore, no construction permit is required until January 1, 2016. Until actual design work has been completed in preparation for that construction permit filing, Peaceful Valley will have no idea of the true scope of the construction and no realistic estimate of the cost.

7. On page 5 of the Report Memorandum, Staff states that the engineering firm has proposed a solution to the Company with an estimated capital cost of \$1,114,880. However, Staff discusses other feasible options proposed in the preliminary engineering report. Public Counsel fears that some of these options may have been prematurely dismissed. For example, on page 3 of the Report Memorandum, Staff mentions that the first option is to upgrade the existing lagoon, either by following existing treatment with enhanced additional treatment, or by converting the facility to an aerated facility followed by additional treatment. Staff states that this option does not seem to be viable because of the lack of land to expand the lagoon.

8. Oddly, when discussing a second option for land-application, Staff states on page 3 of the Report Memorandum: “An adjacent land owner to the lagoon has told the Company that his land is not for sale.” This seems to indicate the existence of land adjacent to the lagoon which could allow for expansion. Public Counsel would suggest that Peaceful Valley take the initiative to actively determine how adverse the neighbor is to selling or whether there may be a price at which the neighbor would sell. When faced with spending \$1 million or more on a whole new

plant, it would be in the utility and its customers' best interest if extended negotiations with the adjacent landowner would be thoroughly explored before these other options are disregarded.

WHEREFORE, Public Counsel respectfully submits its Response.

Respectfully submitted,

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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 5th day of September 2014:

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