

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

In the Matter of the Joint Application of)	
Missouri-American Water Company and EMC of)	
St. Charles County, LLC for MAWC to Acquire Certain)	<u>Case No. SM-2017-0069</u>
Sewer Assets of EMC and, in Connection Therewith,)	
Certain Other Related Transactions.)	

STAFF RECOMMENDATION TO APPROVE TRANSFER OF ASSETS

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, files this *Staff Report and Recommendation* ("Report") with the Missouri Public Service Commission ("Commission"), and respectfully states:

1. On September 8, 2016, Missouri-American Water Company ("Missouri-American") and EMC of St. Charles County, LLC ("EMC") (jointly, "Applicants") filed a *Joint Application and, If Necessary, Motion for Waiver* ("Joint Application") seeking authorization from the Commission for Missouri-American to acquire a substantial portion of EMC's sewer assets, including EMC's Certificate of Convenience and Necessity ("CCN"). Missouri-American alternatively requested a separate CCN, if needed.

2. On September 13, 2016, the Commission issued its *Order Directing Notice, Setting Deadline For Intervention and Directing Staff To File A Recommendation*, wherein it directed Staff to file a recommendation no later than November 8, 2016. No parties have filed to intervene in this matter.

3. Pursuant to Section 393.190 RSMo, no sewer corporation shall sell or transfer its assets or franchise without having first secured authorization from the Commission.

4. Staff conducted an investigation regarding the Joint Application and found that both companies are in good standing and are up to date on filing all annual reports and assessments.

5. Missouri-American proposes to adopt EMC's current rates, rules and regulations and other tariffs currently on file with and approved by the Commission as EMC's P.S.C. Mo. No. 2 sewer tariff until Missouri-American's next rate case, at which time it should be consolidated with Small Sewer Systems District for ratemaking purposes.

6. Staff notes that due to some remaining unanswered questions regarding rate base, while not determinative of this matter, are necessary components to any subsequent rate case. As a result, Staff has requested the Commission include a condition, stated below in paragraph 8.i. pertaining to the availability of EMC's plant-in-service records and related transaction documentation, as a part of any approval, so that participating parties during a subsequent rate case will have access to necessary information concerning system valuation.

7. Staff further notes that EMC's parent company is American Water Works Co., Inc., the same parent company that wholly owns Missouri-American. American Water Enterprises (a subsidiary of American Water Works, Co. Inc.) acquired Environmental Management Corporation in December 2009. Nothing in the Commission statutes or regulations prohibits the transaction between two related, regulated water

entities; and, at this time, Staff has no reason to believe that the agreement reached is unreasonable or detrimental to the public interest.

8. As explained in the Staff Memorandum, attached hereto as Appendix A, Staff conducted an investigation into the Company's request. Based upon this review, Staff has determined that the proposed sale and transfer of assets from EMC to Missouri-American is not detrimental to the public interest. Staff requests that if the Commission authorizes this transfer of assets, that the Commission impose the following conditions:

- a. Approve the transfer of sewer utility assets, and a transfer of the CCN from EMC to Missouri-American, as requested, to become effective upon EMC and Missouri-American closing on the sewer system assets;

- b. Require EMC or Missouri-American to notify the Commission of closing on the assets within five (5) days after such closing;

- c. Authorize EMC to cease providing sewer service, and Missouri-American to begin providing sewer service immediately after closing on the assets;

- d. Require Missouri-American to file an adoption notice tariff sheet as a 30-day tariff filing within ten (10) days after closing, to adopting the entire tariff currently in effect for EMC and for it to become Missouri-American's EFIS No. 25 sewer tariff applicable to the Jaxson Estates service area;

- e. Authorize Missouri-American to apply EMC's tariff immediately after closing, on an interim basis until the above adoption notice tariff sheet becomes effective;

f. If closing on the sewer system assets does not take place within thirty (30) days following the effective date of the Commission's order approving such, require EMC or Missouri-American to submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until EMC and/or Missouri-American determine that the transfer of the assets will not occur;

g. If EMC and/or Missouri-American determine that a transfer of the assets will not occur, require EMC or Missouri-American to notify the Commission of such no later than the date of the next status report, as addressed above, after such determination is made;

h. Require Missouri-American to provide an example of its actual communication with the Jaxson Estates service area customers regarding its acquisition and operations of the EMC sewer system assets, and how customers may reach Missouri-American, within ten (10) days after closing on the assets;

i. Require EMC provide, prior to closing, all records and documents to Missouri-American, including but not limited to, all plant-in-service original cost documentation, along with depreciation reserve balances as per EMC's approved depreciation schedule, documentation of contribution-in-aid-of construction transactions, and capital recovery transactions;

j. Require Missouri-American to ensure adherence to Commission Rule 4 CSR-13 with respect to Jaxson Estates sewer customers;

k. Require Missouri-American to include the Jaxson Estates sewer customers in its established monthly reporting to the CMAU staff on customer service and billing issues;

l. Require Missouri-American to distribute to EMC's customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its sewer service, consistent with the requirements of Commission Rule 4 CSR 240-13, within ten (10) days of closing on the assets;

m. Require Missouri-American to provide adequate training for the correct application of rates and rules to all customer service representatives prior to the EMC customers receiving their first bill from Missouri-American including sewer charges;

n. Require Missouri-American to provide to the CMAU staff a sample of ten (10) billing statements from the first month's billing that includes the sewer service within thirty (30) days of such billing; and

o. Make no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting or transfer of the CCN to Missouri-American, including expenditures related to the certificated service area, in any later proceeding;

WHEREFORE, Staff recommends that the Commission approve the proposed transfer of assets; and grant such other and further relief as the Commission considers just in the circumstances.

Respectfully submitted,

/s/ Jacob T. Westen

Jacob T. Westen
Deputy Counsel
Missouri Bar No. 65265

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Missouri Public Service Commission
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was either hand delivered or served electronically on this 8th day of November, 2016, to the parties of record.

/s/ Jacob T. Westen

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
File No. SM-2017-0069
EMC of St. Charles County, LLC
Missouri-American Water Company

FROM: James A. Merciel, Jr. – Water and Sewer Department
Kim Bolin – Auditing Department
Jennifer Grisham – Auditing Department
Debbie Bernsen – Consumer and Management Analysis

<u>/s/ James A. Merciel, Jr.</u>	<u>November 8, 2016</u>
Case Coordinator	Date

<u>/s/ Jacob Westen</u>	<u>November 8, 2016</u>
Staff Counsel	Date

SUBJECT: Staff's Recommendation to Approve Transfer of Assets and Certificate of Convenience and Necessity

DATE: November 8, 2016

CASE BACKGROUND

On September 8, 2016, Missouri-American Water Company (MAWC) and EMC of St. Charles County, LLC (EMC) filed a *Joint Application and, if Necessary, Motion for Waiver* (Application) with the Commission, seeking authorization for EMC to sell and MAWC to acquire the sewer utility assets of EMC, to include the Certificate of Convenience and Necessity (CCN) held by EMC, or in the alternative to cancel EMC's CCN and grant MAWC a new CCN to provide sewer service in the area now served by EMC.

On September 13, 2016, the Commission issued its *Order Directing Notice, Setting Deadline For Intervention and Directing Staff To File A Recommendation* (Order), in which it directed that notice be sent to the St. Charles County Commission, the General Counsel for the Missouri Department of Natural Resources, members of the General Assembly representing citizens in St. Charles County, and to the local newspapers serving the area. This Order also prescribed that any person wishing to intervene in this case should submit an application requesting such by October 7, 2016, and for the Staff to submit a recommendation regarding this matter no later than November 8, 2016.

BACKGROUND OF THE INVOLVED UTILITY COMPANIES, AND SEWER SYSTEM

EMC obtained a CCN from the Commission in Case No. SA-2007-0373, in which the Commission authorized it to provide sewer service in a described area in St. Charles County. The service area is generally a subdivision known as Jaxson Estates but also includes some as-yet undeveloped area that was originally proposed for commercial development. For purposes of this memorandum, Staff will refer to current EMC customers, and this service area, as MAWC's Jaxson Estates service area.

MAWC is an existing regulated water and sewer utility currently providing water service to more than 450,000 customers and sewer service to more than 11,000 customers in several service areas

throughout Missouri. In recent years, MAWC has acquired several small existing water and sewer systems. MAWC is a subsidiary of American Water Works Company, Inc., and is affiliated with other companies that undertake some of the tasks associated with utility service.

Notably, MAWC presently has a CCN to provide water service in a service area that is identical to EMC's sewer service area, and is presently providing water service to all of EMC's sewer customers.

The sewer system consists of gravity sewers, and a dual membrane bioreactor treatment facility with a daily flow capacity of 150,000 gallons per day. This treatment facility has a design capacity to serve a population equivalent of 1,500 persons, which is approximately equal to between 400 and 500 residential customers. EMC states in the Application that it currently serves approximately 74 residential customers. However, this treatment facility has never been in operation, because with so few customers the plant would operate with a very light organic load, and EMC's operations personnel in the past did not believe it would perform adequately. Since EMC began providing sewer service to customers, EMC has been "pumping and hauling" sewage, meaning sewage is transferred to a tank truck and transported to a nearby municipal sewer system owned by the City of Moscow Mills for disposal and treatment.

STAFF'S INVESTIGATION

Tariff and Rate Impact

Staff reviewed the Application and attachments including an Asset Purchase Agreement. In EMC's CCN case, the Commission approved a flat monthly rate of \$30 per month which became effective on April 4, 2008. MAWC states in the Application that it intends to adopt the existing EMC approved tariff including the existing approved rates. Staff agrees this is reasonable, and recommends MAWC file an adoption notice tariff sheet as a 30-day tariff filing after closing on the sewer system assets. MAWC also states that in its next rate case before the Commission it intends to seek to include rates for Jaxson Estates in its "Small Sewer Systems District for ratemaking purposes." Staff does not take issue with this intent for planning purposes, but Staff will reserve any specific recommendation regarding action related to rate and/or tariff rules consolidation in the context of such a rate case.

Rate Base

Staff is not providing an estimate of the current value of rate base being to be transferred to MAWC because there is currently too much uncertainty regarding the past valuation of rate base assets. Staff notes that EMC's plant records as reflected in its prior filed annual reports do not appear complete. Specifically, the account for treatment and disposal equipment had an entry in one of EMC's early annual reports, but that value was omitted from subsequent reports. Additionally, there are plant accounts that apparently should have values but do not, most notably the account for gravity collecting sewers. There should also be values for depreciation reserve and for contribution-in-aid-of-construction in the annual reports, but there are not. Once plant values are determined in an audit during the next rate case, Staff will also determine the associated accumulated depreciation reserve amounts reflecting the plant constructed in 2008 that has accumulated depreciation expense since that time. Staff will take a position regarding valuation of rate base after conducting an audit in MAWC's next rate case. Staff also recommends specifically that EMC provide all plant records to MAWC before the time this transaction closes, including any and all transactions and transfers

between it and the subdivision developer or its vendors, in order to document original plant costs, depreciation, contributions, and capital recovery paid to the developer or other parties.

Operating Expenses

MAWC indicates to Staff that it intends to start the sewage treatment facility in the near future, thereby operating this system as it was designed by treating sewage on-site, rather than undertaking pumping and hauling. Since the sewage treatment facility has no operational history, neither MAWC nor Staff has a good way to analyze operating expenses except to estimate costs. Since MAWC proposes to adopt EMC's existing monthly rates in this case, Staff prefers to forego detailed analysis of expenses until MAWC files a rate case.

Capacity Adjustment

The sewage treatment facility, with the existing 74 customers, would be currently operating at 18.5% capacity if it was actually in use based on design flow from the equivalent of 400 residential customers¹. Since MAWC does not request, and Staff does not recommend, that the Commission set different rates in this case than those that have been in effect since 2008, Staff does not take a position on the need for a potential capacity adjustment at this time. However, Staff states that it will review overall usage of the treatment plant and other plant facilities in the next rate case, and may make a recommendation regarding a capacity adjustment at that time.

Customer Notice/Customer Service

As of the date of this recommendation, neither EMC nor MAWC has provided notice to customers regarding this potential transfer. This transfer of assets, if approved, would be largely invisible to customers. Instead of receiving bills for service from EMC, customers will see the same charge for sewer service on their existing bills for water service from MAWC. MAWC also indicates to Staff that information will be provided to customers through an informational brochure, as it has done for customers affected by other recent CCN or transfer of assets cases.

In previous CCN or transfer cases where MAWC acquired systems and additional customers, Staff recommended that MAWC undertake actions and submit reports to the Consumer & Management Analysis Unit (CMAU) Staff that address a variety of customer service and billing issues. These actions and reports were stipulated or recommended in Case Nos. WM-2001-0309, WR-2003-0500, WR-2007-0216, WA-2015-0019 and SA-2015-0150. Information regarding the service being received by customers MAWC is acquiring from EMC should be included within these reports.

MAWC utilizes a nationwide billing system and nationwide call centers through its affiliates. In order to incorporate the Jaxson Estates sewer customers into its billing and customer service systems, it will be necessary for MAWC to properly enter the Jaxson Estates sewer customer information into its systems and apply the appropriate Commission ordered rate. MAWC will also need to provide training to its call center personnel regarding rates and rules applicable to Jaxson Estates sewer customers so that customer service matters regarding the sewer service are handled accurately and in a timely manner.

¹ There is potential for commercial development in EMC's service area. Some commercial customers have daily water use and sewage discharge volume, and/or strength of sewage discharge that is substantially greater than that of a typical residential customer. If so, then even though only one customer, such a customer would load the sewage treatment facility by a multiple of the load imposed by a residential customer.

OTHER ISSUES

EMC is a limited liability company that is in “active” status with the Missouri Secretary of State. MAWC is a corporation that is in “good standing” status with the Missouri Secretary of State.

EMC and MAWC are both current with annual report filings with the Commission through calendar year 2015, as documented on the Commission’s Electronic Filing and Information System (EFIS).

EMC has paid its annual assessments through the fiscal year 2017. MAWC is current on its annual assessment quarterly payments through the second quarter of fiscal year 2017.

EMC has no other pending cases before the Commission. MAWC has other pending cases before the Commission, as follows:

WO-2017-0012	Investigation case (matters from WR-2015-0301)
WR-2015-0301	Rate case (on appeal)
WO-2015-0211	ISRS case (on appeal)
WF-2015-0207	Finance case (no further action by the Commission is anticipated)

These above-noted pending cases will have no impact upon this proposed case requesting authority to transfer sewer utility assets, nor will approval of the transfer of sewer utility assets impact the above-noted pending cases before the Commission.

STAFF’S RECOMMENDATIONS AND CONCLUSIONS

Staff, based on its review as described herein, takes the position that the proposed sale and transfer of assets from EMC to MAWC is not detrimental to the public interest, and therefore recommends approval with the conditions and actions as outlined herein.

STAFF’S RECOMMENDATIONS

Based upon the above, Staff recommends that the Commission:

1. Approve the transfer of sewer utility assets, and a transfer of the CCN from EMC to MAWC, as requested, to become effective upon EMC and MAWC closing on the sewer system assets;
2. Require EMC or MAWC to notify the Commission of closing on the assets within five (5) days after such closing;
3. Authorize EMC to cease providing sewer service, and MAWC to begin providing sewer service, immediately after closing on the assets;
4. Require MAWC to file an adoption notice tariff sheet as a 30-day tariff filing within ten (10) days after closing, to adopting the entire tariff currently in effect for EMC and for it to become MAWC’s EFIS No. 25 sewer tariff applicable to the Jaxson Estates service area;
5. Authorize MAWC to apply EMC’s tariff immediately after closing, on an interim basis until the above adoption notice tariff sheet becomes effective;
6. If closing on the sewer system assets does not take place within thirty (30) days following the

effective date of the Commission's order approving such, require EMC or MAWC to submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until EMC and/or MAWC determine that the transfer of the assets will not occur;

7. If EMC and/or MAWC determine that a transfer of the assets will not occur, require EMC or MAWC to notify the Commission of such no later than the date of the next status report, as addressed above, after such determination is made;
8. Require MAWC to provide an example of its actual communication with the Jaxson Estates service area customers regarding its acquisition and operations of the EMC sewer system assets, and how customers may reach MAWC, within ten (10) days after closing on the assets;
9. Require EMC provide, prior to closing, all records and documents to MAWC, including but not limited to all plant-in-service original cost documentation, along with depreciation reserve balances as per EMC's approved depreciation schedule, documentation of contribution-in-aid-of construction transactions, and capital recovery transactions;
10. Make no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting or transfer of the CCN to MAWC, including expenditures related to the certificated service area, in any later proceeding;
11. Require MAWC to ensure adherence to Commission Rule 4 CSR-13 with respect to Jaxson Estates sewer customers;
12. Require MAWC to include the Jaxson Estates sewer customers in its established monthly reporting to the CMAU staff on customer service and billing issues;
13. Require MAWC to distribute to the Jaxson Estates sewer customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its sewer service, consistent with the requirements of Commission Rule 4 CSR 240-13, within ten (10) days of closing on the assets;
14. Require MAWC to provide adequate training for the correct application of rates and rules to all customer service representatives prior to the Jaxson Estates sewer customers receiving their first bill from MAWC including sewer charges; and,
15. Require MAWC to provide to the CMAU staff a sample of ten (10) billing statements from the first month's billing that includes the sewer service within thirty (30) days of such billing.

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OF THE STATE OF MISSOURI**

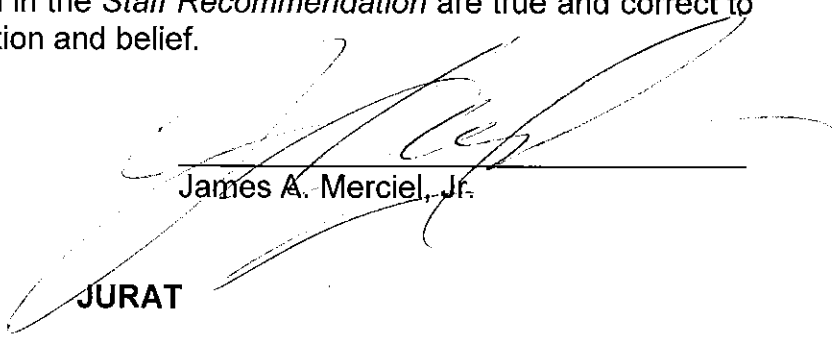
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State of Missouri)
) ss.
County of Cole)

AFFIDAVIT OF JAMES A. MERCIEL, JR.

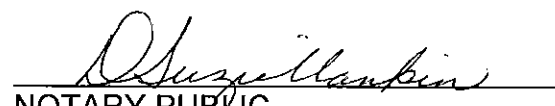
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

James A. Merciel, Jr., of lawful age, on his oath states: (1) that he is the Utility Regulatory Engineering Supervisor in the Water and Sewer Department of the Missouri Public Service Commission; (2) that he participated in the preparation of the foregoing *Staff Recommendation*; (3) that information in this *Staff Recommendation* was provided by him; (4) that he has knowledge of matters set forth in the *Staff Recommendation*; and (5) that such matters set forth in the *Staff Recommendation* are true and correct to the best of his knowledge, information and belief.

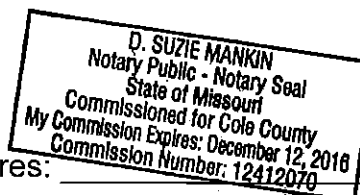

James A. Merciel, Jr.

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 8th day of November, 2016.


NOTARY PUBLIC

My commission expires: _____



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

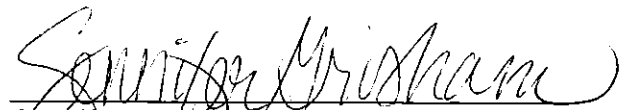
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State of Missouri)
County of Cole) ss.

AFFIDAVIT OF JENNIFER GRISHAM

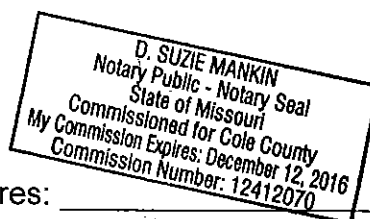
STATE OF MISSOURI)
COUNTY OF COLE) ss

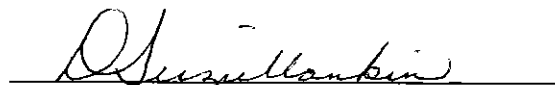
Jennifer Grisham, of lawful age, on her oath states: (1) that she is a Utility Regulatory Auditor I in the Auditing Department of the Missouri Public Service Commission; (2) that she participated in the preparation of the foregoing *Staff Recommendation*; (3) that information in this *Staff Recommendation* was provided by her; (4) that she has knowledge of matters set forth in the *Staff Recommendation*; and (5) that such matters set forth in the *Staff Recommendation* are true and correct to the best of her knowledge, information and belief.


Jennifer Grisham

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 8th day of November, 2016.




NOTARY PUBLIC

My commission expires: _____

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

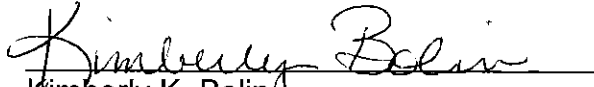
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State of Missouri)
) ss.
County of Cole)

AFFIDAVIT OF KIMBERLY K. BOLIN

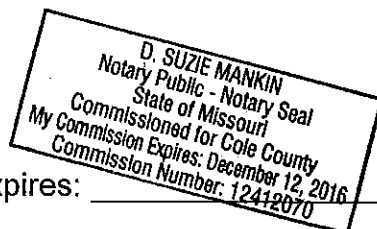
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

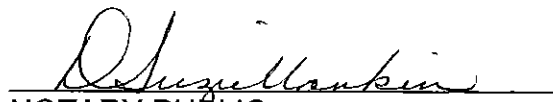
Kimberly K. Bolin, of lawful age, on her oath states: (1) that she is a Utility Regulatory Auditor V in the Auditing Department of the Missouri Public Service Commission; (2) that she participated in the preparation of the foregoing *Staff Recommendation*; (3) that information in this *Staff Recommendation* was provided by her; (4) that she has knowledge of matters set forth in the *Staff Recommendation*; and (5) that such matters set forth in the *Staff Recommendation* are true and correct to the best of her knowledge, information and belief.


Kimberly K. Bolin

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 8th day of November, 2016.




NOTARY PUBLIC

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State of Missouri)
) ss.
County of Cole)

AFFIDAVIT OF DEBORAH ANN BERNSEN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

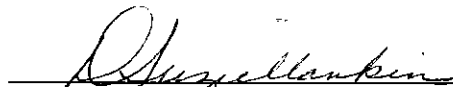
Deborah Ann Bernsen, of lawful age, on her oath states: (1) that she is a Utility Management Analyst III in the Consumer and Management Analysis Department of the Missouri Public Service Commission; (2) that she participated in the preparation of the foregoing *Staff Recommendation*; (3) that information in this *Staff Recommendation* was provided by her; (4) that she has knowledge of matters set forth in the *Staff Recommendation*; and (5) that such matters set forth in the *Staff Recommendation* are true and correct to the best of her knowledge, information and belief.


Deborah Ann Bernsen

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 8th day of November, 2016.




NOTARY PUBLIC

My commission expires: _____.