

Exhibit No.: 23
Issue(s): Timber Creek Staff Compensation/
Timesheets/Overtime
Rate Case Expenses
Alternative Energy Gas Well Cost Recovery
PSC Assessment
Contingency/Emergency Repair Fund
Witness: Ted Robertson
Type of Exhibit: Rebuttal
Sponsoring Party: Public Counsel
Case Numbers: SR-2010-0320
Date Testimony Prepared: Dec. 21, 2010

REBUTTAL TESTIMONY

OF

TED ROBERTSON

Submitted on Behalf of
the Office of the Public Counsel

TIMBER CREEK SEWER COMPANY

Case Nos. SR-2010-0320

December 21, 2010


Exhibit No. 23
Date 1-5-11 Reporter TU
File No. SR-2010-0320

In the Matter of the Small Company Rate)
Increase of Timber Creek Sewer Company.) **Case No. SR-2010-0320**

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

A circular notary seal for the State of Missouri. The outer ring contains the text "NOTARY PUBLIC" at the top and "STATE OF MISSOURI" at the bottom, separated by two stars. The center of the seal contains the words "NOTARY" and "SEAL" stacked vertically.


Jerene A. Buckman
Notary Public

My Commission expires August 23, 2013.

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**REBUTTAL TESTIMONY
OF
TED ROBERTSON**

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**TIMBER CREEK SEWER COMPANY
CASE NO. SR-2010-0320**

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Ted Robertson, PO Box 2230, Jefferson City, Missouri 65102-2230.

Q. ARE YOU THE SAME TED ROBERTSON THAT HAS PREVIOUSLY FILED
DIRECT TESTIMONY IN THIS CASE?

A. Yes.

II. PURPOSE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. I will provide the OPC rebuttal to the Direct Testimony of Company witness, Mr. Derek Sherry, on the issues: 1) Timber Creek Staff Compensation, Timesheets and Overtime, 2) Rate Case Expense, 3) Alternative Energy Gas Well Cost Recovery, 4) PSC Assessment, and 5) Contingency/Emergency Repair Fund. I will also rebut the Direct Testimony of the Missouri Public Service Commission (MPSC) Staff witnesses, Mr. Bret G. Prenger, on the issue of Timber Creek Staff Compensation and Overtime and Mr. V. William Harris on the Rate Case Expense issue.

1
2 **III. TIMBER CREEK STAFF COMPENSATION, TIMESHEETS AND OVERTIME**

3 Q. WHAT IS THE COMPENSATION ISSUE?

4 A. The issue pertains to the level of annualized salary the MPSC Staff has proposed
5 as a result of its audit of the Company's books and records, what the Company is
6 seeking and what the Public Counsel recommends.
7

8 Q. WHAT IS THE AMOUNT OF ANNUAL COMPENSATION THAT THE MPSC
9 STAFF IS PROPOSING?

10 A. Excluding payroll taxes, the total annual compensation approximates \$245,441.
11

12 Q. HOW WAS THE MPSC STAFF'S COMPENSATION DETERMINED?

13 A. The MPSC Staff witness, Mr. Bret G. Prenger, discusses the development of the
14 amounts in his Direct Testimony; however, it is my understanding that book payroll
15 costs were adjusted for cost of living increases for all employees and that overtime
16 was included for one employee.
17

18 Q. WHAT IS THE AMOUNT OF COMPENSATION THAT THE COMPANY IS
19 SEEKING?

20 A. On page 5, lines 8 - 11, of his Direct Testimony, Mr. Sherry states that the Company
21 believes the accumulated salaries for Timber Creek's personnel are below market

1 salary levels for similar positions in the Kansas City region and should be increased.

2 Further, on page 8, lines 1 - 4, he states Company is seeking annual salaries for
3 the positions of General Manager - \$94,529, Office Manager - \$43,263, Operations
4 Manager - \$78,660 and Collection System Operator - \$49,290. Company also
5 requests that if it is to track employees time via timesheets, additional revenue
6 requirement of \$10,033 is needed to pay overtime for the positions Collection
7 System Operator and Office Manager and for increased workman's compensation
8 and general liability insurance.

9
10 Q. HOW WAS THE COMPANY'S PROPOSED COMPENSATION DETERMINED?

11 A. My review of Mr. Sherry's Direct Testimony, and its attached schedules, indicate
12 that the General Manager's salary appears to be based on an example of Missouri
13 Economic Research and Information Center's (MERIC) Occupations Wages year
14 2007 information identified on page 7 of his Schedule DS-3, the Office Manager's
15 salary is an average of year 2009 MERIC (median) information and other market
16 data obtained (Sherry Direct Testimony, Schedule DS-2, p. 3), it is my
17 understanding, from archives of the Kansas City Star newspaper, the Operations
18 Manager's salary is his 2007 book salary increased by 3.5% (Sherry Direct
19 Testimony, Schedule DS-2, p. 1) and the Collection System Operator's salary
20 appears to be from the same example as the proposed General Manager's.

1 Q. WHAT IS THE LEVEL OF ANNUALIZED SALARY THAT THE MPSC STAFF
2 PROPOSES IN COMPARISON TO THE LEVEL THAT THE COMPANY
3 REQUESTS?

4 A. The following table shows a comparison of the Company's requested annualized
5 salary excluding payroll taxes and the MPSC Staff's proposal (rounded)
6 excluding payroll taxes:

	<u>Company</u>	<u>MPSC</u>	<u>Difference</u>
9 General Manager	\$94,529	\$76,862	\$17,667
10 Office Manager	\$43,263	\$41,559	\$1,704
11 Operations Manager	\$78,660	\$81,020	(\$2,360)
12 Plt. & Coll. System Operator	<u>\$49,290</u>	<u>\$46,000</u>	<u>\$3,290</u>
13 Total	\$265,742	\$245,441	\$20,301

14 Note: The additional \$10,033 Company requests for overtime, workman's
15 compensation and general liability insurance is not included in the above table;
16 however, the MPSC Staff Position does include overtime for the Plant and
17 Collection System Operator.
18
19

20 Q. WHAT IS PUBLIC COUNSEL'S POSITION ON THE COMPENSATION ISSUE?

21 A. Public Counsel believes that the annualized compensation proposed by both the
22 MPSC Staff and Company is excessive.
23

1 Q. WHY DOES THE PUBLIC COUNSEL BELIEVE THE MPSC STAFF AND
2 COMPANY COMPENSATION RECOMMENDATIONS TO BE EXCESSIVE?

3 A. I believe the MPSC Staff's recommendation to be excessive because it relies on
4 adjusted actual current salaries which I believe to be excessive and also includes
5 overtime costs which have not been incurred. While the Company's is excessive
6 because its recommendation relies on an excessive current salary, inaccurate
7 MERIC information, and other selective, and likely incomplete and unverified,
8 market information pulled from the article archives of a local newspaper.
9

10 Q. WHAT DOES THE PUBLIC COUNSEL RECOMMEND?

11 A. Public Counsel recommends that the Commission base its authorization of
12 compensation on information provided in the MERIC Occupations Wages -
13 Kansas City Region 2009 along with verifiable additional support.
14

15 My review of the MERIC Occupations Wages - Kansas City Region 2009 shows
16 the following job classifications and annual salaries which I believe would better
17 represent the utility's compensation costs for all employees except the General
18 Manager:
19

	<u>MERIC Median</u>
20	
21 Office & Admin. Support (Office Mgr.)	\$30,776

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1	1st line Supr./Mgrs. of Prod. (Op. Mgr.)	\$55,856
2	W&L Waste Treat. Plt. & Sys. Op. (P&C Sys. Op.)	<u>\$43,234</u>
3	Total	\$129,866

4
5 Q. WHY ARE YOU RECOMMENDING THAT THE ANNUAL SALARY LEVELS BE
6 AUTHORIZED AT THE MERIC MEDIAN?

7 A. Based on Mr. Sherry's Direct Testimony on page 8, lines 14 - 22, it is obvious
8 that these employees have several years experience in their jobs but the utility is
9 an extremely small company servicing approximately 1,526 residential customers
10 (Prenger Direct Testimony page 5, line 24) while the MERIC database consists of
11 payroll information gathered from large, medium and small companies within and
12 outside the metropolitan Kansas City area. In fact, some of the MERIC payroll
13 information likely includes unionized jobs and activities which, I believe, usually
14 includes pay rates that exceed similar non-unionized jobs and activities pay
15 rates. To adjust for those anomalies, I believe that the MERIC median pay rates
16 are more representative of the compensation that the utility should be paying its
17 employees.

18
19 In addition, my review of Mr. Sherry's Direct Testimony, Schedule DS-2,
20 indicated to me that he did not correctly classify the Office Manager and
21 Operations Manager with comparable MERIC information. He classified the

1 Office Manager as an Executive Secretary/Administrative Assistant which
2 according to MERIC lists the associated duties as:

3
4 Provide high-level administrative support by conducting research,
5 preparing statistical reports, handling information requests, and
6 performing clerical functions such as preparing correspondence,
7 receiving visitors, arranging conference calls, and scheduling
8 meetings. May also train and supervise lower-level clerical staff.
9
10

11 Whereas, the MERIC classification I utilized was the average for the Office and
12 Administrative Support Occupation because no job classification was identified for
13 Office Manager of a small sewer utility and the aforementioned Executive
14 Secretary/Administrative Assistant duties do not match well with those described in
15 the Direct Testimony of Mr. Prenger, page 11, lines 14 - 23.
16

17 Mr. Sherry's Schedule DS-2 also shows that he found no MERIC information for
18 the Operations Manager; however, the position of First Line
19 Supervisors/Managers of Production is clearly shown in the Production
20 Occupations category as is Water and Liquid Waste Treatment Plant and System
21 Operator he identified as support for the salary of the Company's Plant and
22 Collection System Operator (though it appears that he relied on older MERIC
23 information in his recommendation of salary for this position).
24

1 MERIC states that the duties of the First Line Supervisors/Managers of
2 Production are:

3
4 Supervise and coordinate the activities of production and operating
5 workers, such as inspectors, precision workers, machine setters
6 and operators, assemblers, fabricators, and plant and system
7 operators.
8
9

10 I believe that the aforementioned duties are representative of the duties of the
11 Operations Manager as listed in the Direct Testimony of Mr. Prenger beginning on
12 page 14, line 17.
13

14 Q. DID YOU LOCATE ANY OTHER INFORMATION THAT WOULD SUPPORT
15 YOUR RECOMMENDATION FOR THE OPERATIONS MANAGER ANNUAL
16 COMPENSATION?

17 A. Yes. Attached as Schedule TJR-1 to this testimony is an advertised job offering
18 from the City of Kansas City, Missouri-Water Services, dated October 29, 2010.
19 The job offer seeks a Chief Plant Operator with a Class A waste/wastewater
20 certification and the position salary range is listed as \$3,481 - \$5,305 per month.
21 The monthly salary represents an annual salary of \$41,772 - \$63,660 per year
22 which means that the \$55,856 median identified by the 2009 MERIC, and

1 recommended by OPC, is well within the range of a market-based salary for the
2 area.

3
4 Q. WHAT IS PUBLIC COUNSEL'S POSITION REGARDING THE
5 COMPENSATION OF THE COMPANY'S GENERAL MANAGER?

6 A. Mr. Sherry's Schedule DS-2 shows that he classified the General Manager as
7 MERIC Management Occupations. I believe he misclassified the position
8 because the MERIC classification, Management Occupations, is the average for
9 that job category. However, within the same category is the position of General and
10 Operations Manager (Mr. Sherry's title is General Manager). The duties for the
11 position are listed as:

12
13 Plan, direct, or coordinate the operations of companies or public and
14 private sector organizations. Duties and responsibilities include
15 formulating policies, managing daily operations, and planning the use
16 of materials and human resources, but are too diverse and general in
17 nature to be classified in any one functional area of management or
18 administration, such as personnel, purchasing, or administrative
19 services. Include owners and managers who head small business
20 establishment whose duties are primarily managerial.

21
22
23 I believe that the aforementioned duties are representative of the duties of the
24 General Manager as listed in the Direct Testimony of Mr. Prenger beginning on
25 page 12, line 5.
26

1 Q. WHAT IS THE MERIC MEDIAN SALARY FOR THE GENERAL AND
2 OPERATIONS MANAGER?

3 A. The median salary is identified as \$83,512.
4

5 Q. IS THE MERIC MEDIAN SALARY FOR THE GENERAL AND OPERATIONS
6 MANAGER WHAT PUBLIC COUNSEL PROPOSES TO INCLUDE AS THE
7 ANNUAL COMPENSATION FOR THE GENERAL MANAGER?

8 A. No. Because Timber Creek Sewer Company is a very small sewer utility, I
9 believe the General Manager's salary should be based on the known salary
10 information for his position in the geographic area in which the utility operates
11 (i.e., MERIC) adjusted for the size of the utility's operations and other supporting
12 information.
13

14 For example, the 2009 MERIC range for the General and Operations Manager
15 position described above is Entry - \$48,290, Median - \$83,512, Mean - \$97,023 and
16 Experienced - \$121,389. However, since the MERIC database likely includes
17 information from companies of all sizes, it is inconceivable to me, that a utility the
18 size of this Company would pay its relatively new General Manager a salary that
19 much exceeded the entry level salary of \$48,290 particularly when you take into
20 account the recently authorized salary for the General Manager of the Lake Region
21 Water and Sewer Company, a sewer utility with a similarly sized customer base.

1
2 Q. WHAT IS THE ANNUAL SALARY PUBLIC COUNSEL'S PROPOSES TO
3 INCLUDE IN THE COST OF SERVICE FOR THE COMPENSATION OF THE
4 COMPANY'S GENERAL MANAGER?

5 A. The General Manager (i.e., Mr. Sherry) is a relatively new employee of the utility
6 having started his employment with the utility in 2008 (Sherry Direct Testimony p. 8,
7 lines 19 - 20). Thus, Public Counsel recommends that his annual salary be
8 calculated as the MERIC entry level amount (i.e., \$48,290) adjusted for annual 3%
9 merit increases for the approximate 3 years of his employment. The total annual
10 salary I recommend for the position is \$52,768.
11

12 Q. WHY DOES PUBLIC COUNSEL'S RECOMMENDATION UTILIZE A 3% MERIT
13 INCREASE PERCENTAGE?

14 A. It is my understanding that the 3% merit increase is the amount most recently paid
15 by the Company to its employees.
16

17 Q. WHAT IS THE TOTAL ANNUAL PAYROLL COMPENSATION (EXCLUDING
18 PAYROLL TAXES) RECOMMENDED BY PUBLIC COUNSEL FOR THE
19 COMPANY'S EMPLOYEES?

20 A. Since the MERIC information I reviewed is dated as of early 2009, I believe that
21 the OPC recommended salaries for the utility's other employees should also be

1 adjusted upward for merit increases similar to the General Manager's, but for
2 only two years instead of three. Public Counsel's recommended total Company
3 annual payroll compensation is as follows:
4

	<u>OPC Recommendation</u>
5	
6 General and Operations Manager (G Mgr.)	\$52,768
7 Office & Admin. Support (Office Mgr.)	\$32,650
8 1st line Supr./Mgrs. of Prod. (Op. Mgr.)	\$59,258
9 W&L Waste Treat. Plt. & Sys. Op. (P&C Sys. Op.)	<u>\$45,867</u>
10 Total	\$190,543
11	

12 Q. WILL PAYROLL TAXES HAVE TO BE ADJUSTED BASED ON THE AMOUNT
13 OF ANNUAL PAYROLL ULTIMATELY AUTHORIZED BY THE COMMISSION?

14 A. Yes.
15

16 Q. WHAT IS PUBLIC COUNSEL'S POSITION ON THE TIMESHEET ISSUE?

17 A. Public Counsel believes that the utilization of an employee time reporting system
18 is a best business practice standard that would greatly assist the management of
19 the utility in a myriad of ways. Not the least of which is the proper allocation of
20 costs to new plant construction. In addition, it is Public Counsel's belief that a
21 time reporting system is a requirement of *The Uniform Systems of Accounts For*

1 *Class A and B Sewer Utilities 1976* (USOA) adopted and prescribed for use by all
2 sewer companies under the jurisdiction of the Public Service Commission (4 CSR
3 240-61.020 (1)). Therefore, Public Counsel recommends that the Commission
4 require the utility to develop and implement a time reporting system for its
5 employees.

6
7 Q. WHAT DOES THE COMMISSION AUTHORIZED USOA STATE REGARDING
8 THIS ISSUE?

9 A. USOA Utility Plant Instructions 2(A) states:

10
11 All amounts included in the accounts for utility plant acquired as an
12 operating unit or system except as otherwise provided in the texts
13 of the intangible plant accounts shall be stated at the cost incurred
14 by the person who first devoted the property to utility service. All
15 other utility plant shall be included in the account at the cost
16 incurred by the utility. Where the term "cost" is used in the detailed
17 plant account, it shall have the meaning stated in this paragraph.
18
19 ©

20 Furthermore, Utility Plant Instructions 3 adds:

21
22 The cost of construction properly includable in the utility plant
23 accounts shall include, where applicable, the direct and overhead
24 costs as listed and defined hereunder.
25

1 The costs listed and defined in Utility Plant Instructions 3 include contract work,
2 labor, materials and supplies, transportation, special machine service, shop
3 service, protection, injuries and damages, privileges and permits, rents,
4 engineering and supervision, general administration, engineering service,
5 insurance, law expenditures, taxes, allowance for funds used during construction
6 and earnings and expenses during construction.

7
8 Lastly, Utility Plant Instructions 4 states:

9
10 A. All overhead construction costs, such as engineering,
11 supervision, general office salaries and expenses, construction
12 engineering and supervision by others than the accounting utility,
13 law expenses, insurance, injuries and damages, relief and
14 pensions, taxes and allowance for funds used during construction,
15 shall be charged to particular jobs or units on the basis of the
16 amounts of such overheads reasonably applicable thereto, to the
17 end that each job or unit shall bear its equitable proportion of such
18 costs and that entire cost of the unit, both direct and overhead,
19 shall be deducted from the plant account at the time the property is
20 retired.

21
22 B. As far as practicable, the determination of payroll charges
23 includible in construction overheads shall be based on time card
24 distributions thereof. Where this procedure is impractical, special
25 studies shall be made periodically of the time of supervisory
26 employees devoted to construction activities to the end that only
27 such overhead costs as have a definite relation to construction shall
28 be capitalized. The addition to direct construction costs of arbitrary
29 percentages or amounts to cover assumed overhead costs is not
30 permitted.
31

1 C. The records supporting the entries for overhead construction
2 costs shall be so kept as to show the total amount of each
3 overhead for each year, the nature and amount of each overhead
4 expenditure charged to each construction work order and to each
5 utility plant account, and the basis of distribution of such costs.
6

7 (Emphasis added by OPC)
8

9 Q. WHAT IS PUBLIC COUNSEL'S POSITION ON THE OVERTIME ISSUE?

10 A. Public Counsel recommends that the Commission not authorize the inclusion of
11 any alleged (or estimated) overtime costs in the determination of the utility's
12 annualized payroll cost.
13

14 Q. WHY HAS PUBLIC COUNSEL TAKEN THE POSITION OF NO RECOVERY
15 FOR ALLEGED OVERTIME COSTS?

16 A. Public Counsel bases its position on the fact that during the test year no overtime
17 costs were incurred by the utility. Thus, if no overtime expenditures were
18 incurred or paid to employees, none should be recoverable in the determination
19 of rates for this case. This position is supported by the Direct Testimony of Mr.
20 Sherry for on page 9, lines 20 - 21, he states:
21

22 Timber Creek has historically paid all staff on a salary basis as
23 exempt employees - not eligible for overtime....
24
25

1 In addition, in its response to MPSC Staff Date Request No. 3, dated November
2 2, 2010, Company stated:

3
4 Timber Creek does not track overtime.
5
6

7 Q. DOES THE MPSC STAFF'S ANNUALIZED PAYROLL
8 RECOMMENDATION INCLUDE AN ADDITION FOR ALLEGED
9 OVERTIME COSTS?

10 A. Yes. Beginning on page 9, line 15, of the Direct Testimony, of MPSC Staff
11 witness, Mr. Bret G. Prenger, he states:
12

13 Q. Have there been any changes to the annualized payroll
14 since Staff filed its case?

15
16 A. Yes, there have been changes to the annualized payroll level
17 that is included in the revenue requirement amount
18 recommended in this case. Following the initial
19 recommendation made to the Company, there were a
20 number of discussions between the parties in this case with
21 payroll being one of the topics.
22

23 Q. What has Staff done to address the concerns of the
24 Company?
25

26 A. Part of the concerns identified by the Company related to the
27 payment of overtime for certain employees. The Company
28 feels that its assistant plant operator will have to be
29 compensated for overtime pay based on job responsibilities.
30 The General Manager provided Staff with a calculation of

1 the overtime pay worked by the assistant operator for the
2 calendar year 2009.

3
4 Staff agreed to include overtime for the assistant operator
5 based on the level of overtime worked in 2009. The
6 overtime was included in the payroll amount and reflected in
7 the revenue requirement calculation.
8
9

10 Q. IS IT PUBLIC COUNSEL'S POSITION THAT THE ALLEGED OVERTIME
11 COSTS INCLUDED IN THE MPSC STAFF'S ANNUALIZED PAYROLL BE
12 DISALLOWED?

13 A. Yes. It is my understanding that the "overtime pay" referenced in Mr. Prenger's
14 Direct Testimony is an "estimate" of alleged overtime hours worked based on
15 call-out and other information originally provided in a Company email to Staff and
16 OPC, dated August 20, 2010, and currently included as Schedule DS-5 to Mr.
17 Sherry's Direct Testimony and not actual overtime payments made to the
18 employee. No overtime payment was provided to the employee because he has
19 been treated as a salaried employee and no time reporting records have been
20 kept to substantiate the overtime hours claimed. Therefore, the alleged costs
21 were not incurred or paid and are not known and measureable and they should
22 not be included in the determination of the cost of service for this case.
23

24 **IV. RATE CASE EXPENSES**

25 Q. WHAT IS THE ISSUE?

Rebuttal Testimony of Ted Robertson
Case No. SR-2010-0320

1 A. The issue pertains to the level of rate case expense that the MPSC Staff has –
2 proposed, what the Company is seeking and what the Public Counsel recommends.
3

4 Q. WHAT IS THE AMOUNT OF RATE CASE EXPENSE THAT THE MPSC STAFF IS
5 PROPOSING?

6 A. MPSC witness, Mr. V. William Harris, recommends, beginning on page 6, line 1, of
7 his Direct Testimony, a total rate case expense of \$23,073 normalized over 3 years
8 or \$7,691 per year included in the cost of service. He also states that additional
9 costs will likely be incurred and they will be considered for inclusion in his proposal.
10

11 Q. HOW WAS THE MPSC STAFF'S RATE CASE EXPENSE DETERMINED?

12 A. It is my understanding that since Company booked no rate case expense in the test
13 year, Mr. Harris developed a normalized level of costs based on rate case expense
14 costs incurred in the Company's last rate case.
15

16 Q. IS THE COMPANY CURRENTLY INCURRING RATE CASE EXPENSE?

17 A. Yes. In fact, Company now states it has incurred some rate case expense during
18 the period May 2010 to current.
19

1 Q. DOES PUBLIC COUNSEL BELIEVE IT APPROPRIATE TO USE PRIOR RATE
2 CASE COSTS AS A SURROGATE FOR RATE CASE EXPENSE ACTUALLY
3 BEING INCURRED IN THE INSTANT CASE?

4 A. No. The MPSC Staff's reliance on the costs of a prior rate case for inclusion in the
5 current case is not appropriate given rate case expense for the current case is being
6 incurred.

7
8 Q. DO YOU BELIEVE THAT THE RATE CASE EXPENSES SHOULD BE
9 NORMALIZED?

10 A. Yes, however, I believe that the normalization should be based on actual costs incurred
11 by the utility as represented by the current case. To do otherwise, would likely
12 cause the utility to either under-recover or over-recover the Commission authorized
13 costs on a going forward basis since the level of costs incurred in the current case
14 are significantly different from what the MPSC Staff has used as a surrogate.

15
16 Q. WHAT IS THE AMOUNT OF RATE CASE EXPENSE THAT THE COMPANY IS
17 SEEKING?

18 A. Beginning on page 11, line 5, of his Direct Testimony, Mr. Sherry states:

19
20 The Company is seeking to recover all rate case expenses from the
21 previous rate case SR-2008-0080, as well as rate case expenses
22 incurred for this rate case SR-2010-0320.

1
2
3 He goes on to state that \$18,175 of rate case expenses for SR-2008-0080 were not
4 included in that case and an estimated \$40,000 will be incurred to process this
5 case. He proposes that the total, \$58,175, be normalized over 3 years (i.e.,
6 \$19,391 per year).

7
8 Q. WHAT DO THE COSTS ASSOCIATED WITH THE PRIOR RATE CASE
9 REPRESENT?

10 A. Beginning on page 11, line 11, of his Direct Testimony, Mr. Sherry describes the
11 costs as:

12
13 The disputed amount of \$18,175 is the invoiced amount from Derek
14 Sherry to manage the company's rate case SR-2008-0080. While Mr.
15 Sherry was an officer of Timber Creek, he was not an employee of
16 Timber Creek at the time of the rate case and did not become an
17 employee until after the completion of Case No. SR-2008-0080.
18
19

20 Q. WERE THE ALLEGED COSTS INCURRED DURING THE TEST YEAR OF THE
21 INSTANT CASE?

22 A. No.
23

1 Q. SHOULD COSTS, ALLEGED OR ACTUAL, OF A PRIOR PERIOD BE INCLUDED
2 IN THE COST OF SERVICE FOR THE INSTANT CASE?

3 A. No. Mr. Sherry's request, if authorized, amounts to retroactive ratemaking.
4

5 Q. WHAT IS RETROACTIVE RATEMAKING?

6 A. Retroactive ratemaking is defined as, "the setting of rates which permit a utility to
7 recover past losses or which require it to refund past excess profits collected
8 under a rate that did not perfectly match expenses plus rate-of-return with the
9 rate actually established." See. State ex rel. Utility Consumers' Council of
10 Missouri, Inc. v. Public Service Commission of Missouri, 585 S.W.2d at 59 (Mo.
11 banc 1979). The rule prevents regulated companies from collecting revenues to
12 compensate from prior over- or under-recoveries. That is, the regulator may not
13 adjust rates to compensate for past under-recoveries or to penalize past over-
14 recoveries.

15
16 Q. DOES THE COMMISSION ALLOW RETROACTIVE RATEMAKING?

17 A. No. It is my understanding that, in the State of Missouri, there exists a prohibition
18 against retroactive ratemaking. See. State ex rel. Util. Consumers' Council of
19 Mo., 585 S.W.2d at 41.
20

1 Q. SHOULD MR. SHERRY'S ESTIMATED COSTS TO PROCESS THE CURRENT
2 CASE BE AUTHORIZED BY THE COMMISSION?

3 A. No. Regardless of the positions of the parties to recovery of rate case expense,
4 costs that are not "known and measureable" should not be included in the cost of
5 service and determination of rates.
6

7 Q. WHAT IS MEANT BY THE RATEMAKING TERM, "KNOWN AND
8 MEASURABLE?"

9 A. The term refers to the permitting of adjustments for conditions that are known
10 with absolute finality and measurable by some explicit test year activity.
11

12 Q. DOES MR. SHERRY'S REQUEST MEET THE STANDARD OF KNOWN AND
13 MEASURABLE?

14 A. No. His testimony defines the costs to process the current case as estimates
15 because they have not been incurred.
16

17 Q. WHAT IS THE AMOUNT OF RATE CASE EXPENSE COMPANY HAS
18 ACTUALLY INCURRED TO-DATE?

19 A. Company has provided Public Counsel with documentation that identifies it has
20 incurred approximately \$6,977 in the processing of this case.
21

1 Q. WHAT IS THE PUBLIC COUNSEL'S POSITION ON THE RECOVERY OF THE
2 RATE CASE EXPENSE INCURRED?

3 A. Public Counsel recommends that all rate case expense associated with the current
4 case that has been identified and documented, except those attorney costs billed by
5 the firm Finnegan, Conrad and Peterson, L.C., be normalized over 3 years. Further,
6 I recommend that only fifty percent (50%) of the Finnegan, Conrad and Peterson,
7 L.C. costs be recovered from ratepayers and that that 50% also be normalized over
8 3 years.

9
10 Public Counsel's recommendation results in a normalized rate case expense of
11 \$1,809 per year. However, I believe it likely that the Company will continue to incur
12 additional costs prior to the time that the case is finalized. Public Counsel will
13 continue to monitor and audit the Company's rate case expenses, as they are
14 incurred, and will present in surrebuttal testimony any additional information
15 required.

16
17 Q. WHY IS PUBLIC COUNSEL RECOMMENDING A DISALLOWANCE OF 50% OF
18 THE ATTORNEY COSTS COMPANY INCURS TO PROCESS THIS CASE?

19 A. Public Counsel believes that this Company has inappropriately forced issues to the
20 Commission for hearing that are frivolous and irresponsible given their substance
21 and likely outcome. Ratepayers should not be forced to reimburse the owner's of a

1 utility for costs incurred, legal or otherwise, simply because Company's
2 management want "face time" before the Commission. This Company has
3 presented issues to the Commission for decision relating to plant that does not exist
4 and costs that are not known and measureable (i.e., costs for which recovery is
5 prohibited by law), in addition to requesting changes in Commission policy that are
6 more appropriately discussed in a setting outside of a contested rate hearing. If the
7 utility wants to present the issues in the current case for decision by the
8 Commission, so be it, but ratepayers should not be required to fund their folly.
9
10

11 **V. ALTERNATIVE ENERGY GAS WELL COST RECOVERY**

12 **Q. WHAT IS THE ISSUE?**

13 **A.** Beginning on page 15, line 2, of Mr. Sherry's Direct Testimony, he requests
14 Commission authorization for the Company to recover \$10,849 over 3 years (i.e.,
15 \$3,616 per year) under the pretense to continue to explore alternative energy
16 options that could potentially reduce its energy costs to the benefit of its
17 customers.
18

19 **Q. WHAT DO THE MONIES ACTUALLY REPRESENT?**

20 **A.** As I stated in my Direct Testimony, and Mr. Sherry describes in his Direct
21 Testimony, page 14, lines 19 - 21, Company drilled a speculative pilot natural

1 gas well in the summer of 2009 at a cost of \$10,849, but natural gas was not
2 found. Company is now seeking Commission authorization to recover the
3 expenditures from ratepayers albeit, I believe, in a disingenuous framing of the
4 request.

5
6 Q. WHAT IS PUBLIC COUNSEL'S POSITION ON THIS ISSUE?

7 A. Public Counsel recommends, as I did in my Direct Testimony, that the
8 Commission disallow the request because the drilling of the natural gas well was
9 nothing more than a costly speculative venture conceived and implemented by the
10 utility's management. In as much as the venture reached far outside what could
11 reasonably be identified as the skill set of the sewer company's operations and
12 operators, it is no surprise that it failed. No natural gas was found and no plant in
13 service has been installed as used and useful in the provision of service to
14 ratepayers.

15
16 Q. WHAT IS MEANT BY THE RATEMAKING TERM, "USED AND USEFUL?"

17 A. The general rule is that:

18
19 The rate base on which a return may be earned is the amount of
20 property used and useful, at the time of the rate inquiry, in
21 rendering a designated utility service. (A.J.G. Priest, *Principles of*
22 *Public Utility Regulation* (1969), p. 139, Vol. 1)
23

1
2 This principle is certainly grounded in common sense. In dividing the
3 responsibility for a utility's operation between ratepayers and stockholders,
4 regulators have traditionally required that stockholders rather than ratepayers be
5 required to bear the costs of any utility's investment which is not used and useful
6 to provide service to ratepayers.

7
8 In a discussion of the policy in State ex rel. Union Electric v. Public Service of the
9 State of Missouri, 765 S. W. 2d 618 (Mo. App. 1988), the Court of Appeals for the
10 Western District of Missouri endorsed the used and useful policy. The case
11 involved Union Electric's appeal of the Commission's denial of the costs of
12 cancellation of its Callaway II nuclear unit. The Commission ruled that the risk of
13 cancellation should be borne by the shareholder, since if it was not, the
14 shareholders investment would be practically risk free. The Court, in upholding
15 the Commission's decision stated:

16
17 The utility property upon which a rate of return can be earned must
18 be utilized to provide service to its customers. That is, it must be
19 used and useful. This used and useful concept provides a well-
20 defined standard for determining what properties of a utility can be
21 included in its rate base. Id. at 622
22
23

1 Q. SHOULD COST RECOVERY BE AUTHORIZED BASED ON THE PREMISE
2 THAT THE MONIES WOULD BE UTILIZED TO CONTINUE FURTHER
3 EXPLORATION OF ALTERNATIVE ENERGY OPTIONS?

4 A. No. Mr. Sherry's attempt to characterize the recovery of the expenditures from
5 that associated with a failed investment project to a future, but unknown,
6 operating expense is quite a "stretch" in my opinion. Rates developed via the
7 regulatory ratemaking process are not based on the possible future incurrence of
8 costs that may or may not yield tangible benefits to ratepayers. They are based
9 on a revenue requirement which consists of an appropriate return on the
10 shareholders used and useful investment plus reasonable known and
11 measureable operating expenses, depreciation and taxes. Mr. Sherry's request
12 is a *disingenuous proposal because he frames it as needed to fund future*
13 *unknown exploration of alternative energy options when in fact what he actually*
14 *seeks is recovery of the costs from the failed speculative drilling of a natural gas*
15 *well.*

16
17 Q. DOES MR. SHERRY'S REQUEST MEET THE STANDARD OF KNOWN AND
18 MEASURABLE DISCUSSED PREVIOUSLY?

19 A. No. His attempt to recover the costs associated with the failed investment
20 project by now stating the monies, if authorized, will be utilized to continue
21 exploring options for alternative energy resources does nothing to identify or

1 quantify what the costs of the yet unknown exploration will encompass or yield.
2 In fact, his request is a bit nonsensical since it is the obligation of the utility and
3 its management to always be on the outlook for opportunities to lower the cost of
4 providing service to ratepayers. In part, that is what the shareholders and
5 ratepayers alike expect to receive in return for the salaries and employee
6 benefits that they provide to management.
7

8 **VI. PSC ASSESSMENT**

9 Q. WHAT IS THE ISSUE?

10 A. Beginning on page 17, line 2, of Mr. Sherry's Direct Testimony, he requests
11 Commission authorization for several positions related to this issue. He requests
12 that the Commission authorize the utility to recover \$45,902 of prior year's
13 assessments, alleged to have not been recovered from ratepayers, over a period
14 of 3 years. He also recommends that the PSC assessment for sewer companies
15 become more equitable to other utility industries with percentage allocation of
16 less than 2%. Lastly, he requests that Company be allowed to segregate the
17 annual MSPC assessment from its operating costs and instead allow it to pass
18 the cost directly to ratepayers as a separate surcharge on their monthly bills
19 identified as a "PSC Assessment Charge."
20

1 Q. WHAT IS THE PUBLIC COUNSEL'S POSITION ON MR. SHERRY'S
2 REQUESTS?

3 A. Public Counsel will not address Mr. Sherry's recommendation that the PSC
4 assessment for sewer companies become more equitable to other utility
5 industries with a percentage allocation of less than 2% because we believe that
6 to be an internal matter of the Commission's associated with how it bills the
7 various industries for the oversight and services it provides. However, regarding
8 his requests that Company be authorized future recovery of prior period costs
9 and segregation of the annual MPSC Assessment from other operating costs to
10 be billed as a surcharge, we oppose both.

11
12 Q. WHY DOES PUBLIC COUNSEL OPPOSE COMPANY'S REQUEST FOR
13 RECOVERY OF PRIOR PERIODS COSTS?

14 A. Mr. Sherry's request, if authorized, amounts to retroactive ratemaking.

15
16 Q. WHAT IS RETROACTIVE RATEMAKING?

17 A. As I stated earlier, retroactive ratemaking is defined as "the setting of rates which
18 permit a utility to recover past losses or which require it to refund past excess
19 profits collected under a rate that did not perfectly match expenses plus rate-of-
20 return with the rate actually established."

1 Q. DOES THE COMMISSION ALLOW RETROACTIVE RATEMAKING?

2 A. No.

3
4 Q. WHY DOES PUBLIC COUNSEL OPPOSE COMPANY'S REQUEST FOR
5 SEGREGATING THE MPSC ASSESSMENT FROM OTHER OPERATING
6 EXPENSES AND TREATING THE COST AS A SURCHARGE ON RATEPAYERS
7 MONTHLY BILLS?

8 A. What Mr. Sherry is requesting is "single-issue ratemaking" which is also
9 prohibited in the State of Missouri.
10

11 Q. WHAT IS SINGLE-ISSUE RATEMAKING?

12 A. Single-issue ratemaking is a departure from the normal practice of determining
13 appropriate rates by looking at all the expenses, investment, cost of capital and
14 revenues of a utility in a test period. The concern that must be addressed in
15 evaluating single-issue rates is that changing rates based on only one factor
16 necessarily ignores potential offsetting changes in other factors. For example,
17 increases in some costs may be offset by decreases in other costs or by
18 increased revenues. If there are such offsetting changes, the rates resulting from
19 the examination of only one factor might not accurately reflect the real financial
20 needs of the company.
21

1 Furthermore, in the State of Missouri, the Commission determines the
2 appropriateness of a rate or charge that a utility seeks to impose on its
3 customers, it is obligated to review and consider all relevant factors, rather than
4 just a single factor. To consider some costs in isolation might cause the
5 Commission to allow a company to raise rates to cover increased costs in one
6 area without recognizing counterbalancing savings in another area. Such a
7 practice is justly considered to be single-issue ratemaking.

8
9 Q. WHY IS SINGLE-ISSUE RATEMAKING PROHIBITED IN THE STATE OF
10 MISSOURI?

11 A. Section 393.270.4, RSMo 2000, provides that when the Commission determines
12 the rate that can be charged by a utility, it "may consider all facts which in its
13 judgment have any bearing upon a proper determination of the question . . . ,
14 with due regard, among other things, to a reasonable average return upon the
15 value of the property actually used in the public service and to the necessity of
16 making reservations out of income for surplus and contingencies." The law is
17 quite clear that when determining a rate the Commission is obligated to review
18 and consider all relevant factors, rather than just a single factor. See. State ex
19 rel. Missouri Water Co. v. Public Service Commission, 308 S.W.2d 704 (Mo.
20 1957); State ex rel. Util. Consumers' Council of Mo., 585 S.W.2d at 41; and

1 Midwest Gas Users' Association v. Public Service Commission, 976 S.W.2d 470
2 (Mo. App. W.D. 1998).
3

4 To consider some costs in isolation might cause the Commission to allow a
5 company to raise rates to cover increased costs in one area without realizing that
6 there were counterbalancing savings in another area. Such a practice is justly
7 condemned as single-issue ratemaking. Midwest Gas Users' Association, 976
8 S.W.2d at 480.
9

10 **VII. CONTINGENCY/EMERGENCY REPAIR FUND**

11 Q. WHAT IS THE ISSUE?

12 A. Beginning on page 18, line 6, of Mr. Sherry's Direct Testimony, he requests that
13 the Commission authorize the utility to establish and maintain a contingency fund
14 for emergency and extraordinary unplanned events. Further, beginning on page
15 20, line 21, he states that Company proposes an additional small amount to be
16 charged per month that would accumulate over a period of time until the cap (see
17 Sherry Direct Testimony Schedule DS-7) is reached. Once the cap is reached
18 the monthly charge would be removed. Additionally, the cap would be adjusted
19 as additional capital infrastructure is added.
20

21 Q. WHY IS COMPANY PROPOSING THE CONTINGENCY FUND?

1
2 Q. WHY DOES THE PUBLIC COUNSEL BELIEVE THE RISK ASSOCIATED WITH
3 OPERATING THE UTILITY SHOULD NOT BE SHIFTED FROM THE
4 SHAREHOLDER TO RATEPAYER?

5 A. As I stated in my Direct Testimony, Public Counsel generally opposes any scheme
6 that would force ratepayers to pay more than the cost of service determined under
7 the traditional regulatory ratemaking process. Public Counsel opposes such
8 schemes because it is our understanding that the owners of the regulated utility
9 bear the responsibility for funding the capital investments associated with the
10 operation of their company - not ratepayers. In addition, once the Commission has
11 determined a reasonable and prudent level of expenses to include in rates, that
12 amount plus the authorized return on their in-service investment is the owner's
13 reward for risks taken. Mitigation of the owner's risk by forcing ratepayers to pay
14 rates that exceed the actual cost of service is, in my opinion, inappropriate and
15 unreasonable.

16
17 Q. HAS MR. SHERRY PROVIDED ANY EVIDENCE THAT THE MPSC STAFF'S
18 ANNUALIZED LEVEL OF OPERATION AND MAINTENANCE EXPENSE IS
19 UNREASONABLE?

20 A. No. In fact, just the opposite is true. Mr. Sherry has accepted the MPSC Staff's
21 annualization(s) as reasonable. That fact is evident because operation and

1 maintenance expense has not been identified as a contested issue in this
2 proceeding.

3
4 Q. WHAT INFORMATION HAS MR. SHERRY PROVIDED THAT HE HOPES WILL
5 CONVINCING THE COMMISSION TO SUPPORT HIS REQUEST?

6 A. Attached as Schedule DS-7 to his Direct Testimony, Mr. Sherry has provided a
7 table of what he identifies as probabilities and costs associated with a list of possible
8 unplanned events.

9
10 Q. HAS MR. SHERRY PROVIDED ANY DOCUMENTATION THAT WOULD
11 SUPPORT THE VALIDITY AND ACCURACY OF THE INFORMATION THAT IS
12 SHOWN ON HIS SCHEDULE DS-7?

13 A. No. It is my understanding that Mr. Sherry has no workpapers to support the
14 probabilities and costs he lists on the schedule. Thus, one must assume that the
15 information he has provided is a creature of his own imagination without auditable
16 substance.

17
18 Q. HAVE THE UNPLANNED EVENTS LISTED ON MR. SHERRY'S SCHEDULE DS-7
19 ACTUALLY OCCURRED?

20 A. It is my understanding that the schedule is a listing of possible future unplanned
21 events. Therefore, they have not occurred, it is not known if or when they will ever

Rebuttal Testimony of Ted Robertson
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1 occur and the costs must be viewed as purely speculative since they are not known
2 and measurable.
3

4 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

5 A. Yes, it does.
6
7
8



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Chief Plant Operator

Posted date [Oct-29-2010]
(ID: 407)

Supervises and participates in the operation of one or more major treatment facilities and multiple pumping stations including flood pumping stations. Establishes operating procedures on an assigned shift for the efficient operation of water treatment facilities. Supervises and participates in troubleshooting problems with processes and equipment. Ensures proper priority is assigned to repair work by maintenance crews. Ensures operational records are accurate, complete, and up-to-date. Ensures sample collection and handling is performed in accordance with NPDES permit requirements and sound scientific practices. Trains Plant Operators and develops specific career development plans for employees under CPO supervision. Provides safety training and ensures safe work practices are strictly adhered to. Requires high school graduation and 1 year of experience at the Senior Plant Operator level. Must possess an A-level operator certification in waste/wastewater issued by the Missouri Department of Natural Resources. For this position, must possess a valid driver's license in accordance with City of KCMO policies. Preference will be given to those who have surface water treatment plant experience, have lab and computer skills, have managed work crews and possess a DS-III Drinking Water Distribution license. **Specify all licenses on application/resume.**

Job Title	Chief Plant Operator
Post Details	0
Employer	City of Kansas City, Missouri-Water Services
Fax	
Position Details	
Location ST/Province	MO
Deadline	Nov-24-2010
Category	
Job Type	<u>Full-time</u>
Classification	<u>Water Treatment Plant Jobs</u>
Salary	\$3,481-\$5,305/month



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Schedule TJR-1