

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

In the Matter of a Working Case to)
Investigate solutions to Problems Facing)
Small Water and Sewer Public Utilities.)

File No. WW-2009-0386

**STAFF'S SUMMARY OF WORKING DOCKET
IN SUPPORT OF CASE CLOSURE**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and submits this *Summary of Working Docket in Support of Its Closure (Summary)* to the Missouri Public Service Commission stating the following in support thereof:

1. On May 1, 2009, the Missouri Public Service Commission (Commission) issued a *Notice Creating Working Case* to, among other things, “serve as a repository for documents and comments regarding the problems facing small water and sewer public utilities”.

2. On November 1, 2012, Staff filed its *Motion to Close Case*, noting that several meetings occurred during 2009 and 2010, but those meetings have ceased and nothing substantive has occurred in 2011 and 2012.

3. On November 29, 2012, the Commission issued an *Order Directing Filing (Order)*, instructing Staff to file a detailed report no later than January 2, 2013, that includes at minimum:

- a.) a list of the dates that workshops or conferences were held;
- b.) a list of the attendance for each of the workshops or conferences;
- c.) a complete list of all of the identified issues discussed during the workshops conferences;
- d.) a list of the proposed solutions to the issues and problems identified; and
- e.) an explanation regarding the viability of each proposed solution.

4. Staff is providing its *Summary of the Working Docket* which is attached as Appendix A and incorporated by reference herein. This filing complies with that *Order*.

5. Over the course of this working docket, several problems were identified and a corresponding number of solutions proposed by various interested parties. Unfortunately, a consensus was not reached on all of the problems, so it is difficult for Staff to make a filing asserting all positions discussed and proposed because Staff does not want to misrepresent any other party's position, particularly if Staff disagrees with such a proposal. Still, Staff asserts that Appendix A provides very specific information on what occurred since this docket opened, highlights the topics that were discussed and includes a list of all who attended the meetings and workshops held.

6. During the Missouri Bar Fall Committee meetings on November 16, 2012, a representative from Washington University gave a presentation on an Environmental Clinic that hopes to assist small water and sewer utilities with legal compliance. During Agenda, Commissioner Kenney referenced this clinic. Staff Counsel's office was made aware of the proposal at that fall meeting and has followed up with a clinic attorney to discuss the possibility of Staff working with the Environmental Clinic on some project(s) related to regulated water and sewer companies. That discussion will continue without this working docket.

7. Industry-wide problems with small water and sewer companies still exist. Currently, those problems are addressed on an individual company basis as the need arises, which seems to be the best approach at this time.

8. Staff will continue to be available to discuss the issues discussed in this docket with interested parties, as they request or as needed, and will notify the

Commission if a new working docket is needed in the future. However, at this time, Staff asserts that this docket may be closed.

WHEREFORE Staff respectfully submits this *Summary* for the Commission's information and consideration and requests that WW-2009-0386 be closed and removed from the Commission's docket.

Respectfully submitted,

/s/ Rachel M. Lewis

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or by electronic mail to all counsel of record on this 2nd day of January, 2013.

/s/ Rachel M. Lewis

Staff's Summary of Working Docket WW-2009-0386

File No. WW-2009-0386 was opened on May 1, 2009, in response to a request by the Office of the Public Counsel (Public Counsel) in File Nos. WO-2009-0362 and SO-2009-0363. SO-2009-0363 was closed shortly thereafter and WO-2009-3622 remains open as the working docket. Shortly after the opening of the working docket, Staff held a Water Symposium in the ballroom of the Governor Office Building on June 5, 2009. A copy of the agenda for this Water Symposium is attached as Attachment A. Although the Water Symposium was planned prior to the opening of the working docket, many of the items addressed in the day-long discussion were the same types of items that the working docket was to address. Invitees to the Water Symposium, in addition to members and Staff of the Public Service Commission (Commission), included Public Counsel, all regulated small water and sewer companies, Missouri-American Water Company (MAWC), the Department of Natural Resources (DNR), the Attorney General's Office (AGO), the U.S. Environmental Protection Agency (EPA), and members from the Missouri House and Senate. A list of all attendees is included as Attachment B.

Based upon this meeting and the direction provided by the Commission, the first official workshop held in conjunction with the working docket was held on October 1, 2009. A list of attendees is included as Attachment C is a list of all attendees. As with all workshops associated with this working docket, representatives from Staff, Public Counsel, DNR, MAWC, AGO, and various small regulated water and sewer systems were either invited, in attendance or participated by phone. Eight items were identified to be discussed during this workshop. Those items were:

- (1) PSC Assessment
- (2) Small Company Rate Requests
- (3) Succession Planning
- (4) Mobile Home Parks and Submetering
- (5) General Ratemaking
- (6) Access to capital
- (7) Benchmarking
- (8) Depreciation

Although these were the items initially identified, not all of them were discussed and other topics were brought up for further discussion.

The next workshop occurred on December 14, 2009. This meeting narrowed down the list of items for discussion to the following:

- (1) Surcharges
- (2) PSC Assessment
- (3) Contingency/Emergency Funds
- (4) Rate Cases

The PSC Assessment and contingency/emergency funds received the most discussion and focus. The list of attendees is included as Attachment D to this summary. Staff created an Update of

the December 14 meeting and provided it to some of the participants. A copy of the Staff's Update is included as Attachment E to this summary.

On February 25, 2010, another workshop was held to continue the discussion. Based upon this workshop, two sub-committees were formed. The first sub-committee was to explore the emergency/contingency fund idea. The second sub-committee was to explore rate case education for our smaller utilities. The list of attendees at the February 25, 2010, meeting is included as Attachment F.

Additionally, in July 2010, various parties filed reports outlining their respective positions on the PSC assessment and eventually presented their proposals to the Commission during an Agenda held on November 9, 2010. The main issue with the PSC assessment stems from the fact that there are a small number of customers who take sewer service from a PSC regulated sewer entity. The percentage of revenues that the PSC Assessment takes from small sewer utilities can be anywhere from 6 – 10% compared to under 1% for the other utilities. The assessment also is subject to yearly fluctuations to the sewer utilities, making it difficult to budget for this expenditure. Based upon the information garnered during these discussions Staff has proposed legislation over the past few years to combine the water and sewer utilities into one group for purposes of the PSC assessment. To date, the Missouri Legislature has not enacted the proposed legislation.

The two sub-committees conducted various meetings over the course of 2010 and 2011. Those in attendance at various meetings included Staff, Public Counsel, as well as representatives of Timber Creek Sewer Company, The Raytown Water Company, Terre Du Lac Utilities Corporation, Aqua Missouri, Lake Region Water and Sewer and MAWC. Attendance at those meetings was more limited than those workshops discussed earlier, as the participation changed over time as focuses shifted and various small utility leaders left the industry and no longer participated in the discussions. Further, workload considerations hampered work on any of these specific questions in the context of a larger group, as other items became more critical to handle on a company-specific basis. Thus, the working docket has remained relatively quiet since 2011.

Other than the proposal for the PSC Assessment, the participants were unable to reach a consensus regarding the other issues identified above. Although rate case education is an admirable goal, trying to create an appropriate training and finding the money and time to spread the information is difficult. Further, requiring or advocating educational events to small utility owners is difficult because the time it would take for them to attend the educational events shifts their focus away from the daily requirements of being a small utility owner – providing safe and adequate service to its customers. This concept is something that Staff would like to pursue at some point in the future, but the timing has not been right to appropriately address it to date.

The idea of an emergency/contingency fund is controversial at best. Many parties have differing opinions on the concept and there is debate as to the overall legality of it. The basic premise is to build into rates an amount that would allow small utilities to have access to cash in case of emergencies or new DNR/EPA requirements. However, reaching agreement on what types of items it could be used on, interest payments, treatment of collected dollars, controls on access to the dollars, etc. has proven to be difficult. Thus, this concept is still very much alive in the water

and sewer industries, but is probably best addressed on a case-by-case basis. At this time, Staff prefers this approach.

Surcharges were another topic that garnered debate during the meetings. Much like the emergency/contingency fund issue above, there is debate on the viability of any generic surcharge. Surcharges can take various forms and are unique to the companies that need them or are eligible for them. Making those determinations on a case-by-case basis is most beneficial at this time. Currently, Staff's approach is to review the concept of surcharges on an individually requested basis, based upon the specific circumstances at that time.

During the Missouri Bar fall committee meetings, Staff counsel's office was informed that Washington University is establishing a clinic to assist small water and sewer utilities with legal compliance. Staff will continue discussion with the Washington University coordinator to determine whether this program is applicable to the work done at the Commission.

The bottom line is that there are many issues that impact small water and sewer utilities in Missouri and throughout the nation. Trying to balance the interests of the owner/operators and the consumers is complex due to the amount of dollars that are required, multiple levels of requirements, and generally small customer bases. Finding a one-size fits all approach may not be the best solution or even a possibility. However, the best way to approach the situation at this time is to allow flexibility to those involved in order to address the various issues that impact a given utility, at a given time. As these situations are addressed, Staff and the other interested parties can see what works and what does not work while continuing to build stable industries.

WATER SYMPOSIUM/WORKSHOP

JUNE 5, 2009

10:00 a.m. – 1:00 p.m.

Ballroom – Governor Office Building

Jefferson City, MO

10:00 – 10:15

Welcome/Opening Remarks – Robert Clayton III, Chairman PSC

10:15 – 10:45

Frank Kartman – President Missouri American Water Company

Metro Water Infrastructure Partnership

Viewing of Documentary “Liquid Assets”

10:45 – 11:30

Bob Dunlevy – Environmental Protection Agency – Asset Management

11:30 – 11:45

Break

11:45 – 12:00

John Rustige – DNR – Anti –Degradation

12:00 – 12:20

Phil Schroeder – DNR – Nutrient Criteria Development

Expansion of Water Classification

Regional Dissolved Oxygen Criteria Development

2008 303(d) List

12:20 – 12:45

Joe Boland – DNR – State Revolving Fund and other Funding Options

12:45 – 1:00

General Q & A with PSC Staff

Sign-in Sheet for Water Symposium

June 5, 2009

10:00 a.m. - 1:00 p.m.

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Sign-in Sheet for Water Symposium
June 5, 2009

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**Sign-in Sheet for Water Symposium
June 5, 2009**

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June 5, 2009**

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**Sign-in Sheet for Water Symposium
June 5, 2009**

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**Sign-in Sheet for Water Symposium
June 5, 2009**

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Water Symposium
June 5, 2009

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Water Symposium
June 5, 2009

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WW-2009-0386 Working Group
October 1, 2009

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WW-2009-0386 Working Group
October 1, 2009

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December 14, 2009**

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December 14, 2009**

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**WW-2009-0386 Working Group
December 14, 2009**

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WW-2009-0386 Working Group
December 14, 2009

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WW-2009-0386
Staff Update
January 31, 2010

On December 14, 2009, a roundtable discussion was held in Jefferson City with interested stakeholders in Case No. WW-2009-0386. In attendance were members of the Missouri Public Service Commission Staff (Staff), Missouri Department of Natural Resources (DNR), the Missouri Attorney General Staff (AG), and various representatives of water and sewer utilities from the State of Missouri. Many items were discussed at that meeting. The foremost discussions dealt with the PSC assessment and the concept of a Reserve/Contingency/Emergency fund for small (for purposes of this update, small will be water and sewer utilities with under 8,000 customers) water and sewer companies.

Other topics addressed at the roundtable were rate case education, consolidating rates (single-tariff pricing (STP) v. district-specific pricing), pass-through of wholesale water costs, and infrastructure approvals. At the end of the meeting, Staff promised to report back to the group by the end of January, 2010 and set up a phone conference to discuss Staff's comments. At this time, Staff has not been able to set up a date for this phone conference. However, Staff will find a date that is suitable and let the parties know ASAP. Below is Staff's update concerning the PSC assessment, Reserve/Contingency/Emergency Fund, and rate case education.

1) PSC Assessment

Staff has had numerous discussions regarding the PSC assessment. As the group knows, the assessment for sewer has increased over the last couple of years. Those increases have been due to the significant rise in Staff's hours attributable to work related to the sewer industry. After much discussion, it is Staff's opinion that due to statutory constraints, it has no authority or ability to change the way the assessments are calculated and collected. However, Staff will continue to explore options that will address this situation.

2) Emergency/Contingency/Reserve Fund

Staff has also had numerous discussions regarding some type of fund for small water and sewer utilities. To help keep this concept moving forward, Staff offers some concepts below that we think will be important if we move to this type of mechanism.

- A) Yearly limit on revenues collected. The small utility will have a limit on to how much additional revenue it can collect within this fund.
- B) Limit on additional charge to ratepayers. There will be a limit as to how much additional dollars the company will be allowed to collect from the ratepayer on a monthly basis.

- C) Fund cap. There will be a limit as to how much extra money the utility can collect after which the excess charge will no longer be collected from the ratepayers.
- D) Record Keeping and Overview. Staff will have overview of the dollars collected for the fund. The small utility will have to maintain and provide Staff with certain documents regarding the dollars collected and the balance of the fund. This fund will be set up in a dedicated account by the company separate from its normal banking accounts.
- E) Limit on use of funds. The small utility will only be able to spend the funds on certain types of projects that will be defined prior to the utility receiving approval to collect any fund in rates. In keeping with (D) above, Staff will also have to be notified and provide approval prior to the release of any of these funds for a project.
- F) Rate case. Any utility wanting to establish a fund will have to come in for a rate request and full audit before any fund can be established in rates.
- G) Managerial conduct. Staff will develop a benchmark of recordkeeping requirements that the company will have to meet before it can be eligible for a fund.
- H) Misappropriation of funds. If any utility, officer of said utility, employee, or anyone involved with the utility mis-uses the funds set up through this mechanism, that mis-use will cause the fund to be discontinued with all dollars re-paid to the ratepayers, including interest. Further, Staff will initiate an investigation into the behavior that may lead to the seeking of penalties against the utility.

This list is not necessarily a comprehensive list of items that will be required of any small utility that participates in this type of mechanism, but is Staff's initial attempt to identify what qualifications will need to be in place in order to ensure that any funds collected are used for designated purposes only and that there will be sufficient oversight to insure the proper use of said funds. Further this mechanism will be limited to companies that have fewer than 8,000 customers in total. This includes customers in Missouri and customers in other states combined, including customers of firms under the same parent organization.

3) Rate Case Education

Staff does believe that educating the companies is beneficial. Staff agrees that to be able to develop some sort of checklist for the companies would help both the utilities and Staff. However, at this time, Staff is unable to commit to accomplishing these tasks in the near future. The crush of business is such that Staff does not have the time to devote to such an important endeavor. Staff will start to work on the process and as items are completed will make companies aware as time permits. The utilities are also encouraged to begin the development of such checklists and criteria for the effective internal control and management of such funds.

If anyone has any questions or comments prior to the phone conference, please do not hesitate to contact Jim Busch at 573-751-7529.

WW-2009-0386 2/25/10

Rm 130 @ 9am

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Angela Swan	SKM	
Kim Joyce	Aqua Tena Graham & Moore	
Marty Miller	DNR Jim Macy	
Steve Sturges	DNR	
Neil Cleverger	Raytown & Chuk Thompson	
Mike Tacey	TDL	
Dennis Gill	Common	
John Sumner	Lalle Legon	

Phone :