

**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**

CASE NO. WW-2009-0386

STAFF'S REPORT ON ASSESSMENTS

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and hereby states to the Missouri Public Service Commission (Commission) Staff's Report on Assessment Charges to Water and Sewer Companies.

1.) This case was developed opened by the Commission to address various issues that impact the small water and sewer industry in the State of Missouri.

2.) One of the first issues raised by the working group created in this case was the Commission's Assessment. Earlier this year, the parties exchanged some initial positions regarding the Commission's assessment. Since the parties could not reach a consensus, the parties determined to bring forth any interested parties' position before the Commission. It was agreed that any interested party should file in the above referenced docket their positions regarding the Commission's Assessment by July 30, 2010.

3.) The attached Report represents Staff's Position on Assessment Charges. Staff will also be filing the small water and sewer industries position as well, as a courtesy to that group.

WHEREFORE, Staff respectfully requests that the Commission review this information and address in any and all manners it deems appropriate.

Respectfully submitted,

/s/ Rachel M. Lewis
Rachel M. Lewis
Deputy General Counsel
Missouri Bar No. 56073

Attorney for the
Staff of the Missouri
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 526-6715 (Telephone)
(573) 751-9285 (Fax)
rachel.lewis@psc.mo.gov

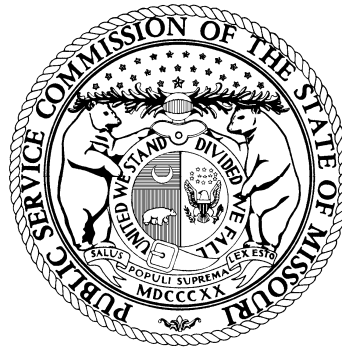
Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record on this 30th day of July, 2010.

/s/ Rachel M. Lewis

MISSOURI PUBLIC SERVICE COMMISSION

STAFF REPORT ON THE MISSOURI PUBLIC SERVICE COMMISSION ASSESSMENT CHARGED THE WATER AND SEWER INDUSTRY



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to Problems Facing Small Water and Sewer Public Utilities**

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*Jefferson City, Missouri
July 30, 2010*

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STAFF REPORT ON THE MISSOURI PUBLIC SERVICE COMMISSION ASSESSMENT CHARGED THE WATER AND SEWER INDUSTRY

The small water and sewer Industry (herein referred to as the "Industry") has indicated a desire to have the ability to directly charge its customers for the Missouri Public Service Commission's (Commission or PSC) annual assessment (herein referred to as the PSC Assessment or Assessment). Currently the PSC Assessment is based upon a number of factors such as: 1) industry activity at the Commission for the preceding fiscal year, 2) the percentages derived by dividing each utility industry **group's** total gross intrastate operating revenue by the total gross intrastate operating revenue for **all** jurisdictional utility companies, and 3) an individual utility company's gross intrastate operating revenue for the previous calendar year. Each utility company pays the Assessment annually or quarterly. State statute dictates the Commission's responsibility in regulating public utilities and in the charging of the Assessment as a means of funding the Commission.

This report and analysis addresses the Commission's Assessment allocated to the regulated utility industry by statute each fiscal year for the reimbursement of the agency's expenditures. These expenditures include salaries, operating expenses such as rent and utilities for office space, costs related to travel, such as fuel and vehicles, and computers and office equipment which are necessary to the normal course of the Commission's operation. The Assessment also includes the allocation of costs from the Department of Economic Development (DED) and the Office of Administration (OA). Each year the Commission's Administration Division goes through a detailed and lengthy process in developing the PSC Assessment that is charged back to the utilities the Commission regulates.

At the water and sewer industry forum held on December 14, 2009 as part of Case No. WW-2009-0386 (Case No. WW-2009-0386 was created by the Commission to address various issues that impact the small water and sewer industry in the State of Missouri), Staff of the Missouri Public Service Commission (Staff) committed to review the PSC Assessment process and report back to the industry. Staff sent its initial thoughts on March 17, 2010 (attached as Schedule 1). The industry then expressed a desire to have the Commission review the differing opinions on this matter. It was agreed that all interested parties file their respective opinions in this case prior to July 30, 2010. This report will serve as Staff's position on direct pass-through of the Assessment on customer bills and how the Commission allocates its operating expenses to the utilities under its jurisdiction.

Certain utility owners within the Industry have stated they want a "pass-through" item identified on customer bills for the PSC Assessment. This would allow annual increases or decreases for the PSC Assessment to be billed directly to utility customers. If the PSC Assessment increases then that increase would be identified on the customer's water and sewer bill in a manner very similar to the way sales taxes are assessed to the utility customers currently.

Staff is generally opposed to this type of treatment of the Assessment to be directly charged to utility customers taking water and sewer services in this state. Staff does not believe the PSC Assessment should be treated differently than other cost of service items required to provide utility service in the State of Missouri.

Statutory Authority for the PSC Assessment

The PSC Assessment is supported by Section 386.370, RSMo. This section states in part:

386.370. 1. The Commission shall, prior to the beginning of each fiscal year beginning with the fiscal year commencing on July 1, 1947, make an estimate of the expenses to be incurred by it during such fiscal year reasonably attributable to the regulation of public utilities as provided in chapters 386, 392 and 393, RSMO, and shall also separately estimate the amount of such expenses directly attributable to such regulation of each of the following groups of public utilities: Electrical corporations, gas corporations, water corporations, heating companies and telephone corporations, telegraph corporations, sewer corporations, and any other public utility as defined in section 386.020, as well as the amount of such expenses not directly attributable to any such group.

2. The Commission shall allocate to each group of public utilities the estimated expenses directly attributable to the regulation of such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group as the gross intrastate operating revenues of such group during the preceding calendar year bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission, as aforesaid, during such calendar year. The commission shall then assess the amount so allocated to each group of public utilities, subject to reduction as herein provided, to the public utilities in such group in proportion to their respective gross intrastate operating revenue during the preceding calendar year, except that the total amount so assessed to all such public utilities shall not exceed one-fourth of one percent of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission.

Conclusions

1. The Commission is required to annually assess its operating and administrative costs budget back to industry types-- electric, natural gas, telecommunications, water, and sewer--by statute.
2. The Assessment is the only means the Commission has to fund its operations and conduct the business of regulating public utilities as defined by Missouri statute.
3. Commission Staff has enforced and implemented the PSC assessment consistently and correctly over the last several years.
4. The Commission's actual budgeted costs are within the 0.25% cap set out by the legislation.

5. The allocation of Commission costs between the industry types is based on an allocation methodology that has been consistently used for several years.
6. The results of the allocation of costs are fairly presented and correctly applied to the industry types based on a common cost method and actual time spent approach.
7. The Commission has internal procedures in place to ensure that the allocation of costs- both indirect (for example, common costs which is time spent by staff that is not directly related to a specific utility type) and direct costs (for example, actual time spent on utility activities) are properly assigned to each of the industry types.
8. The Commission's internal procedures include an electronic program that all Commission employees except the Commissioners themselves are required to use to record actual time spent by either actual project/ assignment or industry type or, in the case of administrative functions an assignment of time which gets allocated to the common costs pool.
9. The Commission's operating costs are reasonable and properly assigned to each industry type and each individual utility. The Commission's costs have not increased over the last several years and the full time employees (FTE) have actually declined over the last five years. The Commission consistently retains a reserve fund (gives back to the budget process) every year which is used as an off set to current year's budgeting process.
10. Any changes to the method and approach of assigning Commission costs to industry type would have to be made through legislative process.
11. There are several reasons for the increased assessments to the Sewer Industry. Some of the reasons are based on the small number of companies in the industry, the small number of customers, and the small amount of sewer revenues, especially in relation to the other industry types. The Sewer Industry in the state does not have a large entity that can absorb the regulatory costs associated with the Assessment unlike the electric and natural gas and even the water industry. The overwhelming reason for the increase in the allocation of the Commission's operating budget to the sewer industry is the actual amount of time spent by all Commission employees to this industry type.

Why Staff opposes the "pass-through"

Staff opposes the separately-stated, "pass-through" sought by certain utility owners because, by statute, the PSC Assessment is imposed on utility companies and not on utility customers. Section 386.370, RSMo. To separately state the assessment on customer bills would misrepresent the nature of the assessment and lead to customer confusion. Customers are not liable for the assessment; companies are liable for it. Of course, like any other cost of doing business, the company will recover the amount paid out for the PSC Assessment from its customers. But the company may not properly separately state the amount as a "pass-through" any more than it may for its own utility or labor costs.

When rates of a company are determined, all relevant factors are considered in the revenue requirement calculation. To isolate one cost component such as the PSC Assessment to the exclusion of all other items considered in the revenue requirement calculation such as revenues and other costs would violate the fundamental principle in the rate determination process. The Commission has historically considered items causing increases in the revenue requirement to be included in the cost of service calculation if all other material items have also been included in the analysis. While the PSC Assessment may go up over time, other items necessary to the proper determination of the revenue requirement such as revenues may increase or other costs may decrease. In fact, one of the major drivers for an increase of the PSC Assessment to a particular utility is if that company's revenues have increased. As companies experience an increase in revenues, they will pay more in PSC Assessments-- that is part of the formula for determining how much utilities are charged for the reimbursement of the Commission's costs.

If the PSC Assessment goes up for a utility while the company is expanding its operations and adding additional customers, revenues will increase. This in effect will offset (reduce) the additional revenue requirement that would be needed due to the increased costs. Utility companies can and do experience cost reductions as well which would also offset increasing expenses such as an increase in PSC Assessment.

A pass-through of an increase in the PSC Assessment could result in windfall revenues to the utility if the company had revenue growth and/or expense reductions. Thus, the reason all material revenues and costs need to be examined in context of a rate review before any rate is increased.

The Commission has traditionally used a total package of adjustments to implement rates in the rate case process.

The Commission has stated it is important to maintain a representative relationship between rate base, revenues and expenses in order for a public utility to have an opportunity to earn a fair and reasonable return. An attempt is made in the regulatory process to set rates to properly reflect the levels of investment and expenses necessary to serve a customer base which provides revenues to the utility. In an Order in Case No. ER-83-49 involving the 1983 general rate case filed by Kansas City Power & Light Company, the Commission stated:

The purpose of using a test year is to create or construct a reasonable expected level of earnings, expenses and investments during the future period in which the rates, to be determined herein, will be in effect. All of the aspects of the test year operations may be adjusted upward or downward to exclude unusual or unreasonable items, or include unusual items, by amortization or otherwise, in order to arrive at a proper allowable level of all of the elements of the Company's operations. The Commission has generally attempted to establish those levels at a time as close as possible to the period when the rates in question will be in effect.

In Case No. ER-83-49, regarding the need for a true-up, the Commission stated that it would not "consider a true-up of isolated adjustments, but will examine only a package of adjustments

designed to maintain the proper revenue-expense-rate base match at a proper point in time. [26 Mo P.S.C. (N.S.) 104, 110 (1983)] This concept of developing a revenue requirement calculation based on consideration of all relevant factors has been a long-standing approach to ratemaking in this state.

The ratemaking process includes making adjustments to reflect normal, on-going operations of a utility. This process generally uses four approaches to reflect changes determined to be reasonable and appropriate. These are commonly referred to as annualization adjustments, normalization adjustments, disallowances, and pro forma adjustments.

Costs Associated with Implementation of the PSC Assessment Pass-through

There would be additional costs relating to implementing a PSC Assessment pass-through. In order to authorize a pass-through on the water and sewer bills to customers, companies would have to file for an initial rate request in order to establish the appropriate rate. This would result in additional assignment of time and costs to this industry, adding to the PSC Assessment.

In addition, in order to determine whether the proper costs are being charged to water and sewer customers using a pass-through mechanism for PSC Assessment, a true-up review would have to be implemented. This would result in increased time spent for the Industry and also would cause increases in the PSC Assessment. Further, if this mechanism were to pass, additional staff would have to be hired to handle the additional workload associated with the number of companies utilizing this type of mechanism. Currently, there are approximately 80 small water and sewer companies that would have to have a full true-up review. Finally, this would increase the amount of time and effort small water and sewer companies would need to spend more time on this type of effort. This is due to the added complexity of having to track the specified revenues associated with the pass-through, reconciling the amount owed versus the amount collected, then submitting the appropriate paperwork and back-up documents necessary for Staff to do an appropriate true-up.

Unique Characteristics of the Water and Sewer Industry

Unlike major rate case filings, Staff is required to perform the revenue requirement calculation and rate design for small utilities who avail themselves to the Commission's small informal rate case procedures. While Staff spends significant amounts of time in the electric and natural gas industries reviewing formal rate requests, Staff's work is based on a review of the rate applications filed by those companies. Staff performs comprehensive audits of these larger companies but has the company's filings as a starting basis for the review. This is not the case for the small water and sewer industry. Staff is required to actually develop the entire revenue requirement from scratch, in many instances, with often poorly organized records and in some cases non-existent records. This creates the need for Staff to spend a great deal of time to develop the necessary information for the revenue requirement calculation. While Staff believes it is its proper role to assist the small water and sewer industry in this state, this process does require increased resource commitment during times of rate requests. The direct assignment of

time spent on these cases has resulted in increases to the PSC Assessment charged to the sewer companies in particular. Staff typically assigned to a small company rate request include personnel from the Water and Sewer Department, Auditing, Engineering and Management Services Department, Financial Analysis Department, and Staff Counsel's Office, plus adjudication, public information and education, and consumer services. As the Staff performs tasks specific to a given industry category, the PSC Assessment is charged to those utilities accordingly. Additionally, rate cases for water and sewer companies have become more contentious over the past several years resulting in more time spent by Staff in preparing the case work and defending the over all work product.

Analysis of Commission's PSC Assessment

The Commission's Administrative Division Staff performs many analyses to support the allocation of its operating budget through the PSC Assessment. These analyses include the tracking of hours worked by each individual employee by department, by division with respect to case-work and Commission projects. The Commission has procedures in place that require a time reporting of each of its employees to identify time spent by assignments and work activities. The time reporting forms a significant part of the Assessment allocation process. The other part of this process is the distribution of common hours which are typically part of any organization. The common hours are distributed to the utility groups by the proportion of each group's intrastate operating revenues are of the total jurisdictional utility revenues.

Actual working hours by year by utility group shows an increase to the sewer industry type.

Utility Group	FY- 2011	FY- 2010	FY- 2009	FY- 2008	FY- 2007	FY- 2006	FY- 2005
Electric	70,465	81,577	67,663	77,136	63,932	58,522	55,548
Gas	75,166	54,903	63,281	76,578	63,480	64,388	76,030
Heating	378	6,123	2,258	252	1,774	1,527	1,556
Water	30,261	30,211	27,015	25,007	19,097	14,268	30,482
Sewer	12,086	10,734	8,068	6,825	7,532	6,620	5,333
Telephone	17,281	22,054	29,061	36,210	47,509	54,032	55,731
Common	134,314	141,806	143,464	106,481	134,822	135,408	147,661
Total Hours	339,950	347,407	340,808	328,489	338,144	334,763	375,341

The actual hours worked on the sewer industry has significantly increased each year since fiscal year 2008. The actual hours the Commission Staff has devoted to the sewer industry has increased from 6,825 for FY 2008 to 12,086 hours for FY 2011, an increase of over 77%.

The Commission does not use the entire amount assessed each year in the course of operation. An estimate of the previous fiscal year's PSC fund balance is used as a reduction to the subsequent year's assessment as required by statute. This reduction is considered in the amount billed to the utility industry in Missouri for any given annual period and forms the basis of the actual Assessment assigned to each utility beginning in any fiscal year.

The Commission's procedures regarding the PSC Assessment is an analysis to ensure the Assessment is kept below its maximum allowed limits. By statute, the Assessment has a cap of 0.25% to total revenue. In each year the PSC Assessment is well under this maximum level.

The Commission budget has been stable over the last several years. A comparison of the budget of FY 2010 to the levels of FY 2004 show a decline in the number of full time employees (FTEs) and a decline in the amount of expenditures incurred by the Commission (excluding Deaf Relay Service and Manufactured Housing).

Fiscal Year	Personal Services	Expense & Equipment	Refunds	Total	% increase (decrease)	Full Time Employees
FY 2011	\$10,436,668	\$2,577,477	\$10,000	\$13,024,145	0.3%	194
F/Y 2010	10,446,608	2,523,721	10,000	12,980,329	(0.05%)	194
F/Y 2009	10,391,608	2,585,501	10,000	12,987,109	2.48%	193
F/Y 2008	10,088,938	2,574,288	10,000	12,673,226	2.77%	193
F/Y 2007	9,795,084	2,525,956	10,000	12,331,040	2.39%	193
F/Y 2006	9,418,350	2,614,434	10,000	12,042,784	(11.5%)	199
F/Y 2005	9,857,490	3,736,614	10,000	13,604,104	3.20%	211
F/Y 2004	9,435,499	3,736,614	10,000	13,182,113		208

Source: PSC Annual Reports - pages 12, 13 and 18 (excluding Deaf Relay and Manufactured Housing)

The Commission's expenditures have declined 1.5% since 2004 (F/Y 2010 of \$12,980,329 from F/Y 2004 of \$13,182,113). The employee levels have declined from the 211 level in F/Y 2005 to the 194 level for F/Y 2010, an 8% reduction.

The number of rate cases filed both formally and informally have increased over the last several years. The following table shows the number of water and sewer rate cases filed with the Commission by fiscal year 2005 to 2009:

Fiscal Year	Water	Sewer	TOTAL
FY 2009	12	8	20
FY 2008	8	7	15
FY 2007	9	11	20
FY 2006	13	10	23
FY 2005	16	9	25

The above table supports the conclusions that the agency is devoting more actual work time addressing the needs of the small Water and Sewer Industries in this state. Total hours assigned by division shows a significant increase in time assigned over the last two years, in particular to Services and Staff Counsel's Office, as the Commission has processed more rate cases both filed and completed and those filed but withdrawn.

Commission is Required to Use Method of Direct Assignment for the Assessment

The Missouri State Auditor conducts audits of the Commission periodically. In past audit reports the State Auditor has been critical in which the assignment of the Assessment was made to the utility industry types. In an Auditor's Report in early 1990s the Staff was criticized for assigning the entire Commission's budget to utilities based on a straight allocation of industry revenues (how the common costs are allocated presently). The State Auditor recommended the allocation be based on actual time spent in each utility industry, and the Staff has been using this method ever since. The concept was simple and one we use in rate cases all the time-- costs should be allocated to the proper entity that caused the costs- the cost causer.

The Auditor's office was critical of the way in which the Commission allocated the Assessment during its Audit Findings. The Commission has since assigned time by utility type which results in all the direct charges to the utilities (in this case sewer).

The increase is directly based on hours spent on sewer activities in fiscal years ending June 2010, 2009 and 2008 compared to previous years. The number of sewer companies and, more importantly, the amount of total sewer revenues under the jurisdiction of the Commission contribute to the disproportion of Commission costs compared to the sewer utilities size.

This is clearly shown by the tables below. The break down is not public, but Staff has released the total direct hours by Commission division and by industry for fiscal years 2006 to 2011.

Fiscal Year	Total hours excluding common pool	% of sewer hours to total hours	Staff hours assigned to Sewer Industry	% increase in hours assigned to Sewer Industry
FY 2011	205,636	5.9%	12,086	12.6% increase
FY 2010	205,601	5.2%	10,734	33.3% increase
FY 2009	197,345	4.1%	8,068	18.2% increase
FY 2008	222,008	3.1%	6,825	(9.4%) decrease
FY 2007	203,322	3.7%	7,532	13.8% increase
FY 2006	199,365	3.3%	6,620	

The Sewer Industry was allocated the following amounts regarding common costs of the Commission:

Fiscal Year	Common Costs allocated to Sewer Industry	Total Common Costs	% of Common Costs allocated to Sewer Industry
FY 2011	\$6,228	\$8,073,457	0.07%
FY 2010	5,012	8,573,454	0.06%
FY 2009	4,396	8,389,736	0.05%
FY 2008	3,675	6,998,314	0.05%
FY 2007	4,057	8,729,833	0.05%
FY 2006	3,493	7,527,068	0.05%

This allocation of common costs is a further example of how the direct hours assigned to sewer utilities results in the greatest increase in the PSC Assessment for that industry type. If a straight allocation of time devoted to the sewer industry in relation to total Commission hours was used the Sewer Industry would get a very small amount of the PSC Assessment assigned to that utility type.

The following tables show the actual hours incurred for each fiscal year from FY 2006 to FY 2011 identified to each utility type and common hours by the Commission in the performance of its duties and responsibilities regulating public utilities in this state.

The Personal Services allocation for FY-2011 Assessment that is based on June 2009 through May 2010 time reports are:

PERSONAL SERVICE	ELECTRIC	GAS	HEATING	WATER	SEWER	TELEPHONE	COMMON	TOTAL
Total Direct Hours	70,465	75,166	378	30,261	12,086	17,281	134,314	339,950
	20.7%	22.1%	0.11%	8.9%	3.6%	5.1%	39.5%	100 %

The Personal Services allocation for FY-2010 Assessment that is based on June 2008 through May 2009 time reports are:

PERSONAL SERVICE	ELECTRIC	GAS	HEATING	WATER	SEWER	TELEPHONE	COMMON	TOTAL
Total Direct Hours	81,576.75	54,902.50	6,123.00	30,211.00	10,733.75	22,054.00	141,806.00	347,407.00
	23.5%	15.8%	1.8%	8.7%	3.1%	6.3%	40.8%	100%

The Personal Services allocation for FY-2009 Assessment that is based on June 2007 through May 2008 time reports are:

PERSONAL SERVICE	ELECTRIC	GAS	HEATING	WATER	SEWER	TELEPHONE	COMMON	TOTAL
Total Direct Hours	67,663.00	63,280.50	2,257.75	27,014.50	8,067.75	29,061.00	143,463.75	340,808.25
	19.9%	18.6%	0.6%	7.9%	2.3%	8.5%	42.1%	100%

The Personal Services allocation for FY-2008 Assessment that is based on June 2006 through May 2007 time reports are:

PERSONAL SERVICE	ELECTRIC	GAS	HEATING	WATER	SEWER	TELEPHONE	COMMON	TOTAL
Total Direct Hours	77,136.25	76,578.25	252.00	25,007.00	6,824.50	36,210.00	106,480.75	328,488.75
	23.4%	23.3%	0.08%	7.6%	2.1%	11.0%	32.4%	100%

The Personal Services allocation for FY-2007 Assessment that is based on June 2005 through May 2006 time reports are:

PERSONAL SERVICE	ELECTRIC	GAS	HEATING	WATER	SEWER	TELEPHONE	COMMON	TOTAL
Total Direct Hours	63,931.50	63,479.50	1,773.50	19,096.75	7,532.25	47,508.75	134,821.50	338,143.75
	18.9%	18.8%	0.5%	5.6%	2.2%	14.0%	39.9%	100%

The Personal Services allocation for FY-2006 Assessment that is based on June 2004 through May 2005 time reports are:

PERSONAL SERVICE	ELECTRIC	GAS	HEATING	WATER	SEWER	TELEPHONE	COMMON	TOTAL
Total Direct Hours	58,521.75	64,387.75	1,526.50	14,268.25	6,619.50	54,031.75	135,407.83	334,763.33
	17.5%	19.2%	0.5%	4.3%	2.0%	16.1%	40.4%	100%

Featherstone, Cary

From: Busch, Jim
Sent: Wednesday, March 17, 2010 5:16 PM
To: Busch, Jim; 'Derek Sherry'; 'Miller, Marty'; Russo, Jim; Merciel, James; Kremer, Lisa; Cassidy, John; Featherstone, Cary; Wandel, Joan; Brueggemann, Shelley; Ott, Jaime; 'Baker, Christina'; 'Chiki Thompson'; 'Angela Swan'; 'timberidge@socket.net'; 'greg.weeks@amwater.com'; 'kevin.caveny@amwater.com'; 'chorton@nnlaw.com'; 'jpardeck@whiteriver.org'; 'astransport123@yahoo.com'; 'tdlu@charter.net'; 'rmitten@brydonlaw.com'; 'meyerbus@sbcglobal.net'; 'mike@ahreal.com'; 'meramecsewer@yahoo.com'; 'Hale-Rush, Tena C.'; 'jrsummers@lakeozarks.com'; 'whitecl@unitedsky.net'; Sturgess, Steve; Macy, Jim; 'McManus, Jack'; 'Blome, Jessica'; 'Craig Johnson'; 'Dean Cooper'; 'Marie Rock'; Mohammadi, Kevin; 'cassellre@hotmail.com'; 'Gary Cover'; 'Joyce, Kimberly A.'; 'Jason Williamson'; Bolin, Kim; Lewis, Rachel; 'Baker, Christina'

Subject: RE: Assessment

Attachments: Staff's assessment position.doc

Everyone,

Attached is Staff's DRAFT position regarding the assessment issue. I believe that the other parties will add their respective positions to this as well. Staff will check with the Regulatory Law Judge that is assigned to this case to see what would be the appropriate manner to bring this to the Commission. However, Staff believes there are some other issues that everyone should be aware of regarding the potential for creating a surcharge for the pass-through of the yearly PSC assessment.

Although Staff is not in favor of this mechanism, it would be Staff's belief that this would be for the sewer industry only. However, all other entities would want to have this type of mechanism. Thus, this could create some unintended consequences beyond just our working group. Also, if this surcharge concept would be approved, the reality would be this, before a company could have a surcharge, it would have to come in for a rate case, maybe even a general rate case. This is because there is currently a given level of assessment that is currently built into the rates for all companies that would have to be removed from the overall cost-of-service. This could not just happen without a rate case. Then, a tariff would have to be created that would set out the surcharge. Once the surcharge is created, the company would have to file every year for an adjustment and a true-up. This would also take time and money. This would be similar to the FAC or the PGA. For those of you unfamiliar, an FAC is the Fuel Adjustment Clause for the electric industry and the PGA is the Purchased Gas Adjustment for the natural gas industry. At the end of each year, the true-up is conducted to ensure that the appropriate amount collected was correct, not too little or not too much.

If anyone has any questions or concerns about this concept, please let me know. I can be reached at 573-751-7529. If there is anyone that is not on this email that you think should see this, please feel free to pass it along.

Thanks,

Jim

From: Busch, Jim
Sent: Monday, March 15, 2010 4:10 PM
To: 'Derek Sherry'; 'Miller, Marty'; Russo, Jim; Merciel, James; Kremer, Lisa; Cassidy, John; Featherstone, Cary; Wandel, Joan; Brueggemann, Shelley; Ott, Jaime; 'Baker, Christina'; 'Chiki Thompson'; 'Angela Swan'; 'timberidge@socket.net'; 'greg.weeks@amwater.com'; 'kevin.caveny@amwater.com'; 'chorton@nnlaw.com'; 'jpardeck@whiteriver.org'; 'astransport123@yahoo.com'; 'tdlu@charter.net'; 'rmitten@brydonlaw.com'; 'meyerbus@sbcglobal.net'; 'mike@ahreal.com'; 'meramecsewer@yahoo.com'; 'Hale-Rush, Tena C.'; 'jrsummers@lakeozarks.com'; 'whitecl@unitedsky.net'; Sturgess, Steve; Macy, Jim; 'McManus, Jack'; 'Blome, Jessica'; 'Craig Johnson'; 'Dean Cooper'; 'Marie Rock'; Mohammadi, Kevin; 'cassellre@hotmail.com'; 'Gary Cover'; 'Joyce, Kimberly A.'; 'Jason Williamson'
Subject: Assessment

All,

In our phone conference that we had back in February, Staff indicated that it would work on its position regarding assessments and pass something to the group by March 15. Well, today is March 15 and Staff does not have its position paper ready to roll.

It is in the process of review and should be out no later than Wednesday, March 17.

Sorry for the delay.

Staff's position – Assessment Funding

The Missouri Public Service Commission (Commission) is funded via a yearly assessment that is assessed to the various public utilities that engage in business activity in the State of Missouri. The authority for the Commission to assess these companies is found in the Missouri Revised Statutes, specifically, RSMo 386.370 (2000). The dollar amount that is to be collected from each company is determined by this statute as well as an estimate of the yearly expenses of the Commission. Basically, the Commission's total expense is allocated to each industry, (electric, gas, water, telecom, sewer, and heating) based upon the total number of hours worked in those industries by the Commission's Staff (Staff). Furthermore, any expenses incurred by Staff in the performance of its duties are specifically assigned to the industry in which the work occurred. In other words, if a member of the Staff's auditing department travels to do an audit on a sewer company, those specific costs are allocated to the sewer industry.

There are certain hours worked that cannot be attributable to any given industry. Those hours are lumped in a "common" category and are re-allocated to the industries based on the percentage of revenues collected in the State by each industry. To each business, the amount allocated to each industry is then compared to that industry's revenue to determine the percentage to be applied to each firm.

It is Staff's opinion that the method used to determine each public utility's assessment is done correctly as required by Missouri State Statute, Section 386.370 RSMo (2000), set out in its entirety below.

In addition, the State Auditor's Office has conducted periodic audits of the Commission. The State Auditor has consistently recommended that the Commission assign its costs of operations on the basis of time spent on projects and by utility industry. The Commission has followed these recommendations and set up the appropriate procedures throughout the agency to identify costs and assignment to the various utility industry types.

The problem that is impacting the sewer industry is a simple one. The Commission regulates approximately 50 sewer companies. These 50 companies have approximately 15,000 customers state-wide. When compared to the other industries, the sewer industry is very small. Further, it does not have the revenue base that the other industries have either. Thus, whenever there is any increase in work related to this industry, the assessment amount will, unfortunately, spike due to these "perfect storm" of circumstances. It is Staff's opinion that the way to change this is through a change in the statute that can be accomplished by going through the Legislature, not here at the Commission level. At this time, Staff does not have an opinion regarding whether or not a change at the Legislative level is necessary.

Staff opposes the idea of putting a surcharge on the customer's bills as a pass-through for the PSC assessment. Staff believes that the psc assessment is a normal business expense that is properly built into rates similar to the salaries of employees or the return on equity that is built in for the owners. Once through a rate case, virtually every expense that a utility has can be isolated and theoretically placed separately as a pass-through on the customer's bill. This is not practical. The total amount of dollars needed for the Commission to operate does not fluctuate

much on a year-to-year basis. The way in which the assessment is calculated does not fluctuate from year-to-year. What does fluctuate is the percentage of time that Staff must spend on a given industry based upon the amount of cases or investigations that is worked on over the course of a year. Thus, Staff believes that the companies do have some control over how much the assessment could fluctuate from one year to the next.

Section 386.370 RSMo (2000) states:

1. The commission shall, prior to the beginning of each fiscal year beginning with the fiscal year commencing on July 1, 1947, make an estimate of the expenses to be incurred by it during such fiscal year reasonably attributable to the regulation of public utilities as provided in chapters 386, 392 and 393, RSMo, and shall also separately estimate the amount of such expenses directly attributable to such regulation of each of the following groups of public utilities: Electrical corporations, gas corporations, water corporations, heating companies and telephone corporations, telegraph corporations, sewer corporations, and any other public utility as defined in section 386.020, as well as the amount of such expenses not directly attributable to any such group.

2. The commission shall allocate to each such group of public utilities the estimated expenses directly attributable to the regulation of such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group as the gross intrastate operating revenues of such group during the preceding calendar year bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission, as aforesaid, during such calendar year. The commission shall then assess the amount so allocated to each group of public utilities, subject to reduction as herein provided, to the public utilities in such group in proportion to their respective gross intrastate operating revenues during the preceding calendar year, except that the total amount so assessed to all such public utilities shall not exceed one-fourth of one percent of the total gross intrastate operating revenues of all utilities subject to the jurisdiction of the commission.

3. The commission shall render a statement of such assessment to each such public utility on or before July first and the amount so assessed to each such public utility shall be paid by it to the director of revenue in full on or before July fifteenth next following the rendition of such statement, except that any such public utility may at its election pay such assessment in four equal installments not later than the following dates next following the rendition of said statement, to wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of revenue shall remit such payments to the state treasurer.

4. The state treasurer shall credit such payments to a special fund, which is hereby created, to be known as "The Public Service Commission Fund", which fund, or its successor fund created pursuant to section 33.571, RSMo, shall be devoted solely to the payment of expenditures actually incurred by the commission and attributable to the regulation of such public utilities subject to the jurisdiction of the commission, as aforesaid. Any amount remaining in such special fund or its successor fund at the end of

any fiscal year shall not revert to the general revenue fund, but shall be applicable by appropriation of the general assembly to the payment of such expenditures of the commission in the succeeding fiscal year and shall be applied by the commission to the reduction of the amount to be assessed to such public utilities in such succeeding fiscal year, such reduction to be allocated to each group of public utilities in proportion to the respective gross intrastate operating revenues of the respective groups during the preceding calendar year.

5. In order to enable the commission to make the allocations and assessments herein provided for, each public utility subject to the jurisdiction of the commission as aforesaid shall file with the commission, within ten days after August 28, 1996, and thereafter on or before March thirty-first of each year, a statement under oath showing its gross intrastate operating revenues for the preceding calendar year, and if any public utility shall fail to file such statement within the time aforesaid the commission shall estimate such revenue which estimate shall be binding on such public utility for the purpose of this section.