

**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)	File No. WW-2009-0386
Sewer Public Utilities.)	

**THE OFFICE OF THE PUBLIC COUNSEL'S REQUEST FOR
SMALL WATER AND SEWER UTILITY WORKSHOP**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Request for Small Water and Sewer Utility Workshop states as follows:

1. On April 8, 2009, Public Counsel filed a Petition to Open a Workshop Docket to allow interested entities and the Missouri Public Service Commission (Commission) to investigate some of the many issues facing small water and sewer regulated utilities. Public Counsel's petition was assigned Commission File Numbers WO-2009-0362 and SO-2009-0363.
2. On April 13, 2009, the Staff of the Missouri Public Service Commission (Staff) filed its response to Public Counsel's petition to open a workshop docket. In its response, Staff conceded the need for a workshop, but, due to Staff's current workload, requested the Commission begin the workshop as of August 20, 2009.
3. Public Counsel filed a reply to Staff's response on April 20, 2009, urging the Commission not to delay and stating that the problems faced by small water and sewer regulated public utilities and their customers require immediate attention. Public Counsel also suggested that the sooner a workshop docket is held to bring together the various stakeholders, the sooner creative solutions can be found.
4. On May 1, 2009, the Commission issued a Notice Creating Working Case which created the present File. In its Notice, the Commission agreed that the problems of the small water and

sewer utilities should be examined promptly. To that end, the Commission stated it was inviting the public and interested utilities to submit written comments describing the problems facing small water and sewer utilities, and offering possible solutions to those problems. The Commission also stated that after those comments were collected, the Commission may schedule a workshop at which interested persons could gather to discuss the identified problems and solutions. As of the date of this filing, no workshop has been scheduled by the Commission.

5. Public Counsel suggests that the presence or absence of public comments in this File should not be the deciding factor as to whether a workshop should or should not be held. As the Commission has conceded, small water and sewer regulated public utilities are having problems which should be examined promptly.

6. Small regulated utilities and their customers face increasing hardships in these troubled economic times. Due to the fact that customer numbers are few, even a small investment by the utility has a great effect on rates which potentially could result in customer rate shock.

7. Increasingly, the Commission is faced with regulated utilities that do not have the technical, managerial and financial viability essential to successfully running a public utility while meeting ever increasing environmental regulations.

8. Many of the small water and sewer utilities have no succession planning to ensure continual safe and adequate utility service for the customers and therefore, the Commission finds itself regulating an increasing number of utilities under the control of a court-appointed receiver.

9. The Commission must be proactive in ensuring that those who seek to set up or own a small regulated public utility have the necessary technical, managerial and financial skills to run that utility successfully. However, the Commission requires only a determination of whether an application for a Certificate of Convenience and Necessity is a detriment to the public at the time

the application is filed. There is no mechanism to consider obvious signs that the utility may not have the ability to be successful and may become a detriment to the public in the future.

10. The Commission is also often faced with small water and sewer regulated public utilities which have no rate-base upon which to set rates. Without investment, there is no return or profit available for the utility. Those that seek to purchase these utilities are then faced with the problem that the purchase price may not be recoverable through rates. If the customers have already paid for the plant, it is not fair to ask them to pay again just because the new owner paid more than that plant is worth in the ratemaking scheme.

11. As the Commission is aware, the examples above represent only a small number of the problems faced by water and sewer regulated public utilities. Additionally, these small water and sewer utilities also face similar problems with the regulations of other State agencies as well. In order to encourage multi-agency problem-solving, Public Counsel has been in contact with Mr. Jack McManus, Ms. Kara Valentine and Ms. Jessica Blome, of the Attorney General's Office, and Mr. Marty Miller, of the Department of Natural Resources, all of whom have voiced their respective agency's support for a workshop for small water and sewer regulated utilities. Therefore, Public Counsel is requesting that the Commission schedule, at its earliest convenience, a workshop to investigate solutions to the issues faced by small water and sewer regulated public utilities.

12. As stated previously, the Commission's own Staff conceded the need for a workshop and requested the Commission begin the workshop as of August 20, 2009. This date has come and gone and, nearly five (5) months after Public Counsel's original request, a workshop still has not been scheduled. Public Counsel sees no benefit to the Commission or to the small water and sewer regulated utilities and their customers in further delay.

WHEREFORE, Public Counsel submits its Request for Small Water and Sewer Utility Workshop.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By:_____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 1st day of September 2009:

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