

BEFORE THE RATE COMMISSION OF
THE METROPOLITAN ST. LOUIS SEWER DISTRICT

For Consideration of a Wastewater Rate)
Change Proposal by the Rate) Case No. _____
Commission of the Metropolitan)
St. Louis Sewer District.)

**Barnes-Jewish Hospital Statement of Position
For Prehearing Conference – September 28, 2011**

You are undoubtedly all aware of the five criteria that this Rate Commission must use to determine if MSD’s wastewater rate increase request is acceptable under the MSD Charter.

Barnes-Jewish Hospital is not questioning whether MSD’s request meets the first four criteria, its concern is with the fifth one—whether the rate change requested will impose a fair and reasonable burden on all classes of ratepayers (or more aptly, whether it imposes an unfair and unreasonable burden on all classes of ratepayers).

This Rate Commission’s expert, William Stannard, defined the terms “fair” and “reasonable” in his rebuttal testimony, Exhibit 30.

In the context of utility rate setting, the word “fair” means to me that rates recover revenues from customer classes in relation to the costs incurred in providing utility services to those customer classes and be free from self-interest, prejudice or favoritism. In the context of utility rate setting, the word “reasonable” means to me that the revenue requirements upon which the rates are based reflect an appropriate level of funding to enable the utility to provide adequate and sustainable service and support the financial health of the utility.¹

Using Mr. Stannard’s definition, we contend that MSD’s rate proposal is not reasonable, given the information that has been provided. We feel that the level of funding is both

¹ Ex. L&B 30 at pp. 6-7

too far reaching in timeframe and too high to perform the work needed as it is presently known.

At the surrebuttal technical conference, MSD's own expert, Ms. Vanda, testified that MSD's rate filing was ". . . a little bit premature to do this until you have the consent decree."² At that same technical conference, MSD's Director of Engineering, Brian Hoelscher, testified that a draft of the SSO master plan is not yet available.³ The SSO plan comprises a significant portion of the amount of the increase that MSD has requested in this case, but there isn't a draft of it for parties to see??

In order for this rate increase request to be fair and reasonable, MSD should have a list of all of the projects that it needs to fund for the period of the rate increase so that the expected costs for them can be closely scrutinized by all the parties and the Rate Commission. We cannot know if the rates recovered are "fair" in relation to the costs incurred nor can we know if the revenue requirements provide a "reasonable" level of funding without that information.

Therefore, Barnes-Jewish Hospital recommends that this Rate Commission approve only the portion of the rate increase that can be determined to be fair and reasonable with the information available at this time, and revisit the remainder of the rate increase request when the SSO Plan is in its near final form. None of us wants to go through this process again in a year or two, but we really don't have much choice if this Rate Commission is going to meet the "fair and reasonable" standard required under the Charter.

² Ex. MSD 90, 9/6/11 Surrebuttal Technical Conf. Transcript p. 134

³ Ex. MSD 90, 9/6/11 Surrebuttal Technical Conf. Transcript p. 193

The question then becomes: what portion of MSD's rate increase case is "fair and reasonable" right now? We believe that the adjustments in Ms. LaConte's surrebuttal and supplemental, coupled with Mr. Gorman's recommended debt expense would be a "fair and reasonable" rate change for the near term until the Consent Decree is finalized and a SSO plan is available for review by all parties. To outline these adjustments:

1. MSD's customer count would remain the same throughout the rate period;
2. Operating costs would increase 2.3 percent per year, excluding Rate Commission cost, Additional Operating and Maintenance Cost, Civil Service Commission cost, or Group Insurance cost—all of which remain the same as proposed in MSD's rate proposal;
3. A cash expenditure method to estimate the annual CIRP costs would be used with an inflation allowance of 1.5 percent (using 2010 dollars);
4. Lower the revenue bond issuance cost, while maintaining the State Revolving Loan proceeds in MSD's proposal;
5. Lower the cash financing amount; and
6. Use a bad debt expense escalator of 3 percent per year

By switching to a cash expenditure basis and modifying its growth and inflation assumptions, these changes would increase rates by only 8 percent per year vs. the 11-12 percent increases that MSD has suggested, while still meeting the requirements under the Consent Decree agreed to by MSD.

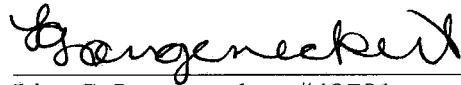
I would venture to say that not many of MSD's ratepayers want higher rates, but I believe that the majority will also agree that they want a healthy sewer system. MSD is a monopoly. It has no competition. In the monopoly utility industry, regulation takes the place of competition. MSD's ratepayers are relying on you. You are the closest thing that MSD has to regulation. The ratepayers are counting on you to ensure that any rate

increase is fair and reasonable, providing only the amount that is necessary to meet its legal obligations under all five criteria of the Charter, not just the first four.

DATED: SEPTEMBER 28, 2011

Respectfully Submitted,

SANDBERG PHOENIX & VON GONTARD, P.C.

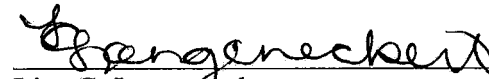


Lisa C. Langeneckert #49781
600 Washington Avenue – 15TH Floor
St. Louis, MO 63101-1313
314 446-4238 (Direct Dial)
314 241-7604
llangeneckert@sandbergphoenix.com

Attorneys for Barnes-Jewish Hospital

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of the foregoing to be served on all persons on the official service list of record on this 28th day of September, 2011.



Lisa C. Langeneckert