

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

For Consideration of a Wastewater)
Rate Change Proposal by the Rate)
Commission of the Metropolitan)
St. Louis Sewer District)

**THIRD DISCOVERY REQUEST
OF THE RATE COMMISSION**

Pursuant to §§ 7.280 and 7.290 of the Charter Plan of the Metropolitan St. Louis Sewer District (the “Charter Plan”), Operational Rule 3(2) and Procedural Schedule §§ 1, 14, 15 and 17 of the Rate Commission of the Metropolitan St. Louis Sewer District (“Rate Commission”), the Rate Commission requests additional information and answers from the Metropolitan St. Louis Sewer District (“District”) regarding the Rate Change Proposal dated May 10, 2011 (the “Rate Change Proposal”).

The District is requested to amend or supplement the responses to this Discovery Request, if the District obtains information upon the basis of which (a) the District knows that a response was incorrect when made, or (b) the District knows that the response, though correct when made, is no longer correct.

The following Discovery Requests are deemed continuing so as to require the District to serve timely supplemental answers if the District obtains further information pertinent thereto between the time the answers are served and the time of the Prehearing Conference.

1. During the Technical Conference for District Testimony and Rate Setting Documents, Karl Tyminski stated that a Black & Veatch Bond Feasibility Report and reports issued by PFM and Butcher and Mark were utilized in determining the average annual interest rate, the term and the associated issuance costs of proposed revenue bonds and State Revolving Fund obligations to fund CIRP projects. In the Second Discovery Request of the Rate Commission, the District was asked to provide (a) copies of each of these reports and (b) any other memorandum, report, work paper, summary, analysis, or schedule analyzing such matters. The District only provided in its response, Exhibit MSD 18Y, a draft of the Report on Financial Feasibility of the Metropolitan St. Louis Sewer District Wastewater System Revenue Bonds, Series 2011A, prepared by Black & Veatch. On page D-51 of Exhibit MSD 18Y, reference is made to the "District Financial Advisors."

Please provide copies of any reports, memoranda, work papers, summary, analysis or schedule prepared by PFM, Butcher and Mark, and any other financial advisor to the District regarding the assumptions used for term, interest rate, amortization and issuance costs of any proposed revenue bonds and state Revolving Funds obligations to fund CIRP projects.

RESPONSE:

2. On September 21, 2007, the District filed its Answer and Affirmative Defenses including counterclaims against the State of Missouri in the matter captioned United States of America and the State of Missouri v. Metropolitan St. Louis Sewer District alleging (i) that pursuant to Section 309(c) of the CWA that the State of Missouri is liable for the payment of any judgment or expenses incurred as a result of complying with any judgment entered against the District; and (ii) that the State of Missouri has an equitable duty to indemnify the District for its costs of defense and compliance with any judgment including the payment of fines and penalties. See Ex. MSD 18H. On September 12, 2008, the United States District Court found that the District's affirmative defenses and counterclaims based on the Hancock Amendment must be dismissed. See Ex. MSD 18H7. The judgment of the District Court was affirmed on appeal by the United States Court of Appeals for the Eighth Circuit. See Ex. MSD 18H8. On June 29,

2011, the Board of Trustees adopted an ordinance to enter into a settlement with the United States and the Intervenor, the Missouri Coalition for the Environment. The State of Missouri is not a party to the Consent Decree. See Opening Statement of Susan Myers, Ex. MSD 14 and Ex. MSD 23. The United States District Court will retain jurisdiction of the proceeding until termination of the Consent Decree. See Art XX, P. 82 of Ex. MSD 49A. The Consent Decree constitutes a final judgment as to the United States, the District and the Coalition for the Environment but not to the State of Missouri. See Art. XXVI, p. 87 of Ex. MSD 49A. Susan Myers testified that the non-Hancock related type counterclaims relate to future legislative, Charter Plan, or bond limits changes. See 2011 Wastewater Rate Change Proceedings, June 13, 2011, Ex. MSD 17, pp. 69-70, ll. 17-7.

Please (a) describe the legal basis for each pending counterclaim and (b) state whether the District intends to pursue each such pending counterclaim.

RESPONSE:

3. Keith D. Barber testified that certain cost increases due to inflation for the District’s wastewater revenue projections are based on the following annual percentage increases:

• Group Insurance	2011-2015	10%
	2016	6.0%
• Supplies, including Chemicals	2011	3.5%
	2012-2016	3%
• Electric and Gas	2011-2012	3.5%
	2013	3%
	2014-2016	5.5%
• Contractual Services	2011-2012	3.5%
	2013	3%
	2014-2016	4.5%
• Bond and Liability Insurance	2011-2016	5%

• Capital Outlay	2011-2012	3.5%
	2013-2016	3.0%
• Pension	2011	8.4%;
	2012	9.3%
	2013	10.2%
	2014	11.4%
	2015-2016	5.0%

Mr. Barber further testified that these future inflation allowances are consistent with prior inflation rates experienced by the District and the overall long-term Consumer Price Index for Urban Consumers. See Direct Testimony of Keith D. Barber, Ex. MSD 9F at p. 14, ll. 20-23; p. 15, ll. 1-11.

Please provide (a) the annual percentage increase experienced by the District for each of these items for each of the fiscal years 2006 through 2011 inclusive; and (b) the individual components of the “overall long-term Consumer Price Index” used by the District as a basis for the future inflation allowances.

RESPONSE:

4. Keith D. Barber testified that cost increases due to inflation for the District’s wastewater revenue projections are based on the following annual percentage increases:

• Wages, Salaries and Overtime	2011-2016	3.0%
• Personnel Services and Benefits ¹	2011	3.5%
	2012-2016	3.0%

Please (a) provide (i) the annual percentage increase experienced by the District for each of these items for each of the fiscal years 2006 through 2011 inclusive; (ii) the individual components of the “overall long-term Consumer Price Index” used by the District; (b) describe (i) the process used by the District to determine annual salary and wage adjustments for its employees; (ii) the process for approval by the District and the Board of Trustees; (iii) how those adjustments have been incorporated into the Rate Change Proposal; and (d) provide a summary

¹ Except group insurance and pension.

of the annual salary and wage increases approved by the Board of Trustees for each of the years FY2007 through FY2012.

RESPONSE:

5. The Charter Plan requires that in no event shall the total amount of proposed expenditures for the budget year from any fund exceed the estimated revenues to be actually received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year. See Charter Plan §7.130. Karl Tyminski testified that most projects are appropriated or encumbered at the time they are approved by the Board, except large multi-year projects where the District would sometimes use a phased appropriation over time. See Direct Testimony of Karl Tyminski, Ex. MSD 9E at p. 134, ll. 1-22. Mr. Tyminski further testified that with respect to the encumbrances in a larger project, it is possible to encumber on an annualized basis to spread the expenses over time but it's much more difficult for a series of smaller projects because of their nature and number and when such projects are initiated. See Direct Testimony of Karl Tyminski, Ex. MSD 9E at p. 134, ll. 1-22. Brian Hoelscher testified that a project encumbrance sufficient to start a \$5 million project must have at least \$5 million in the account so the fund has sufficient dollars to be able to make that appropriation." See Direct Testimony of Brian Hoelscher, Ex. MSD 9B at p. 103, ll. 5-19.

Please (a) describe any policy or procedure to determine whether an appropriation is phased in over time and (b) identify for each project phased in over time and the annual appropriation for such projects for each of the fiscal years 2006 through 2010 inclusive.

RESPONSE:

6. The Rate Change Proposal was developed on an appropriation basis. As such, the contract price of a project is assumed appropriated at the time the contract is awarded. The actual expenditure of these appropriations occurs over the life of the project. This timing mismatch results in annual variance fluctuations over and under the proposed annual appropriations. See Brian Hoelscher's response to Q. 13 of the Rate Commission Second

Discovery Request. Or, as described in the Direct Testimony of Karl Tyminski, a series of projects are constantly moving in and out of that program or forward and back in the program. See Direct Testimony of Karl Tyminski, Ex. MSD 9E at pp. 135-6, ll. 20-22. Or, as Brian Hoelscher testified, “economic conditions created additional funds which could be used to complete projects beyond the original program budget.” See Direct Testimony of Brian Hoelscher, Ex. MSD 9B at p. 5, ll. 13-15.

Please state (a) annual fluctuation over and under the proposed appropriations for each of the final years 2006 through 2010 inclusive; (b) the additional funds applied to complete projects beyond the original program budget for each of the fiscal years 2006 through 2010 inclusive; and (c) whether each such project was contained in the CIRP.

RESPONSE:

7. Please provide a comparison of the District’s proposed FY2012 Budget presented to the Board of Trustees on March 15, 2011, with the projected operating costs for FY2012 shown in Table 2-1 of the May 5, 2011 Rate Change Proposal, Ex. MSD 1.

RESPONSE:

8. Please (a) compare the actual expenses for the General Counsel activities to the approved budget for fiscal years 2009, 2010, and 2011; and (b) describe (i) how the District expects the General Counsel expenses to change over the period of FY2012 through FY2016 due to the entry of the Consent Decree; and (ii) how any changes in the General Counsel expenses have been factored into the Rate Change Proposal.

RESPONSE:

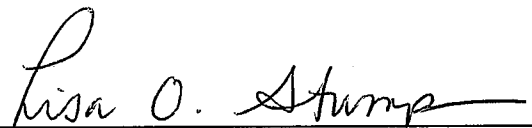
9. Please provide a detailed estimate of the pension costs for the District for Fiscal Years 2012 through 2016 under the new defined contribution plan and compare the expected

costs of the new pension plan to the District's projected costs had they continued with the defined benefit plan.

RESPONSE:

10. The Charter Plan provides that the Board of Trustees shall, by ordinance, identify the Rate Commission Representative Organizations, and that each Representative Organization shall designate an individual to represent it and serve on the Rate Commission. See Charter Plan § 7.230. Please (a) provide copies of all ordinances identifying the current Rate Commission Representative Organizations; and (b) provide a copy of the designation letter from each Rate Commission Representative Organization stating the individual representing the Organization during these proceedings.

RESPONSE:



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CERTIFICATE OF SERVICE

The undersigned certifies that on the 19th day of August, 2011:

An electronic copy of the foregoing instrument as e-mailed to the Secretary of the Rate Commission c/o jfenton@stlmsd.com.

SECRETARY OF RATE COMMISSION: Ms. Nancy Bowser
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At the request of the Rate Commission Counsel, one paper original and associated Exhibits are held at the Rate Commission office for Commissioner review.

An electronic copy of the foregoing instrument was e-mailed to:

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**MISSOURI INDUSTRIAL ENERGY
CONSUMERS:**

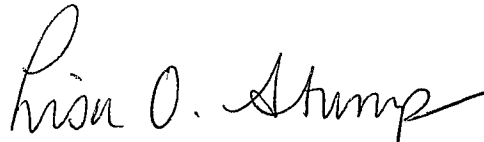
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