

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Mark Sievers, Chairman
 Ward Loyd
 Thomas E. Wright

In the Matter of the Application of Suburban)
Water, Inc., d/b/a Suburban Water)
Company, for Approval of the Commission)
to Make Certain Changes in its Rates for)
Water Service, for Approval of an)
Amendment to a Contract for Sale of Water) Docket No. 12-SUBW-359-RTS
with Board of Public Utilities, an)
Administrative Agency of the Unified)
Government of Wyandotte County/Kansas)
City, Kansas ("BPU") and for Approval of a)
Purchase Water Adjustment ("PWA"))
Tariff.)

REPORT AND RECOMMENDATIONS OF PREHEARING OFFICER

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The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. The Commission designated Melissa Doeblin, Advisory Counsel, to act as Prehearing Officer in this proceeding. Order Designating Prehearing Officer and Granting Intervention to the Citizens' Utility Ratepayer Board, December 14, 2011, paragraph 4 (December 14, 2011 Order, ¶ 4). Having reviewed the files and records, the Prehearing Officer makes the following findings and recommendations:

1. On November 16, 2011, Suburban Water Company (Suburban Water), pursuant to K.S.A. 66-117, 66-1,230, 66-1,232, 66-1,233 and K.A.R. 82-1-231(b) and (c), filed an

Application seeking approval of the Commission of: (1) certain changes in its rates for water service; (2) an amendment to a contract for sale of water between Suburban Water and the Board of Public Utilities; and (3) approval of a Purchase Water Adjustment. Application, November 16, 2011, paragraphs 7, 12 (Application, ¶¶ 7, 12). Suburban Water is a privately owned water public utility serving approximately 1,500 residential and small commercial customers in Leavenworth County, Kansas. Application, ¶ 3. Suburban Water claims its existing retail water rates are unjust and unreasonable in that its earnings are deficient, and that rates based upon a cash-flow/margin approach will allow it to provide adequate supplies of water, and continue to render the quality of service that the public requires. Suburban Water proposes to adjust its rates to increase its revenues annually by \$296,280. Application, ¶ 9.

2. The Citizens' Utility Ratepayer Board (CURB) was granted intervention in this docket. December 14, 2011 Order, ¶ 7. The parties in this docket, Suburban Water, CURB, and Commission Staff, informed the Prehearing Officer that the parties are very sensitive to activities that would serve to increase rate case expense, and requested to forego the initial prehearing conference. The parties submitted a proposed procedural schedule for the Prehearing Officer's review. The Prehearing Officer scheduled an informal teleconference for Thursday, December 22, 2011.

3. The deadline for the Commission to file an Order in this docket is July 16, 2012. The Commission has jurisdiction over this Application under K.S.A. 66-117 and K.A.R. 82-1-231.

I. Conference

4. As noted above, the Prehearing Officer conducted a teleconference to discuss the proposed procedural schedule and other procedural matters with the parties. The Prehearing

Officer discussed with the parties whether they were willing to use electronic service for testimony, briefs, and orders in this proceeding and waive receipt of a hard copy follow-up as required in K.A.R. 82-1-216(a)(6). The parties agreed to use of electronic service for testimony, briefs, and orders, as will be discussed in more detail below.

5. The parties proposed a procedural schedule, which is as follows:

<u>Date</u>	<u>Time</u>	<u>Action</u>
November 16, 2011		Application filed
February 21, 2012		Public hearing
March 15, 2012	3:00 p.m.	Staff and Intervenor Direct Testimony
March 30, 2012	3:00 p.m.	Staff and Intervenor Cross-Answering Testimony
April 9, 2012	3:00 p.m.	Suburban Water Rebuttal Testimony
April 12, 2012	3:00 p.m.	Discovery Cut-off
April 13, 2012	1:30 p.m.	Settlement Conference (Third Floor Hearing Room)
April 23, 2012		Stipulation & Agreement with Supporting Testimony
April 24, 2012	3:00 p.m.	Prehearing Motions Cut-off
April 24, 2012	3:00 p.m.	List of Contested Issues
April 30, 2012	1:30 p.m.	Prehearing Conference, if needed (First Floor Hearing Room)
May 7-9, 2012	9:00 a.m.	Evidentiary Hearing (First Floor Hearing Room)
May 24, 2012		Suburban Water Initial Post-Hearing Brief
June 4, 2012		Staff and Intervenor Responsive Post-Hearing Briefs
June 15, 2012		Suburban Water Reply Brief
July 16, 2012		Order Due

6. In this Report and Recommendations, the Prehearing Officer reviews issues and makes recommendations regarding the procedural schedule to be adopted in this proceeding.

II. Electronic Service

7. The parties agreed that all testimony, briefs, and orders be served electronically without hard copy follow-up, with confidential papers served by providing the confidential information on a compact disc. The Prehearing Officer recommends that any service via electronic mail specifically state that this electronic service constitutes service and that a hard copy will not follow. The Prehearing Officer recommends that the parties provide electronic service on the date due at or before 3:00 p.m., with the original and at least seven paper copies filed with the Commission before 5:00 p.m. on the same day. K.A.R. 82-1-215(a). The Prehearing Officer recommends the parties be directed to include electronic service of testimony and briefs to the Prehearing Officer at m.doeblin@kcc.ks.gov, and that any electronic service on the date due that is received after 3:00 p.m. would be considered to be filed the next business day, and should be accompanied by a Motion to File Out of Time.

8. The Prehearing Officer recommends that the Commission approve the use of electronic service for serving all testimony, briefs, and orders in this proceeding without requiring provision of hard copy follow-up as required by K.A.R. 82-1-216(a)(6). The Prehearing Officer notes that parties have successfully used electronic service for testimony and briefs in several dockets and that these parties have agreed to expand the use of electronic service of Commission and Prehearing Officer Orders as well.

III. Public Hearing and Notice

9. Although not specifically required by statute, the Commission has historically scheduled public hearings in rate cases to give members of the public directly impacted by a

utility's proposed changes: (1) the opportunity to inquire of the company, Staff, and intervenors regarding the Application, and (2) the opportunity to present statements to the Commission regarding the company's requested changes. While the Legislature specified that the Commission shall hold a public hearing when a utility applies to construct an electric transmission line, K.S.A. 66-1,178, and even detailed its timing, no statute requires a public hearing in rate cases. Therefore, the Commission may exercise its discretion in setting a public hearing in rate proceedings.

A. Public Hearing

10. The Commission's Director of Public Affairs and Consumer Protection (PACP) recommended that one public hearing be held in this docket, as follows:

Tuesday, February 21, 2012, beginning at 6:00 p.m.
Community Library
1400 North 158th Street
Basehor, Kansas 66007

The Prehearing Officer adopts the recommendation that one public hearing be conducted in this proceeding, as stated above and based upon the recommendation of the Director of PACP. The Prehearing Officer requests the Director of PACP work to set details for the public hearing and share the information with the Prehearing Officer when it is secured.

B. Public Comment Period

11. The Prehearing Officer recommends that the Commission encourage the public to submit public comments about this docket via electronic mail and in writing, and that the direct mailing, discussed below, provide Suburban Water customers with information indicating that the Commission is accepting comments regarding the application. The Prehearing Officer also recommends that the Commission's website, Suburban Water's website, and CURB's website provide information regarding this proceeding and explain how the public can submit comments.

12. The Prehearing Officer recommends the public comment period begin immediately and end on May 1, 2012, at 5:00 p.m., which is four business days before the evidentiary hearing is proposed to begin, which would allow for Commission review of public comments prior to the start of the evidentiary hearing. The Prehearing Officer recommends the PACP Office submit a report summarizing public comments received, which would be due on May 3, 2012.

C. Issue of Notice

13. The Director of PACP recommended notice be provided to Suburban Water customers through a bill insert and also published in local newspapers. The Prehearing Officer recommends that notice of Suburban Water's Application, the public comment period and the public hearing be provided to each customer of Suburban Water by a direct mailing and publication in the major newspapers in the region. The notice should contain basic information about the docket and should comply with the Commission's regulations and explain the opportunity for the public to submit comments regarding the proposed changes. The Prehearing Officer recommends that the Commission's Director of PACP work with Suburban Water to develop a proposed notice. The Prehearing Officer shall rule on any dispute regarding the proposed notice, and provide a final notice to Suburban Water on or before January 27, 2012.

14. The Director of PACP recommended publication should be scheduled once each week for two consecutive weeks, the last publication to be not less than five days before the hearing date. The Prehearing Officer adopts the recommendation of the Director of PACP, and recommends that Suburban Water be required to provide information to the public about this proceeding and the public hearing by publishing notice in major newspapers in its region. The Prehearing Officer recommends that Suburban Water propose a list of newspapers to the

Director of PACP for publishing such notice by **January 4, 2012**, and work with the Director of PACP to determine the timing of publication and the newspapers in which notice will be published. The Prehearing Officer also recommends that the Director of PACP explore other avenues to notify the public in addition to publication notice in newspapers.

15. The Prehearing Officer recommends the Commission require Suburban Water file an Affidavit confirming notice has been mailed to customers and printed in newspapers. The Prehearing Officer recommends this Affidavit be filed on or before **February 17, 2012, at 3:00 p.m.**

IV. Procedural Schedule

16. Based upon the recommendation of the parties, and the incorporation of a schedule for reports filed summarizing public comments recommended above and public hearing, as well as other procedural dates, the Prehearing Officer recommends the Commission adopt the following modified procedural schedule, with changes and additions to the proposed schedule in bold font:

<u>Date</u>	<u>Time</u>	<u>Action</u>
November 16, 2011		Application filed
February 17, 2012	3:00 p.m.	Suburban Water Affidavit of Notice Mailed
February 21, 2012	6:00 p.m.	Public hearing in Basehor, Kansas
March 15, 2012	3:00 p.m.	Staff and Intervenor Direct Testimony
March 30, 2012	3:00 p.m.	Staff and Intervenor Cross-Answering Testimony
April 9, 2012	3:00 p.m.	Suburban Water Rebuttal Testimony
April 12, 2012	3:00 p.m.	Discovery Cut-off
April 13, 2012	1:30 p.m.	Settlement Conference (Third Floor Hearing Room)

<u>Date</u>	<u>Time</u>	<u>Action</u>
April 23, 2012	3:00 p.m.	Stipulation & Agreement with Supporting Testimony
April 24, 2012	3:00 p.m.	Prehearing Motions Cut-off
April 24, 2012	3:00 p.m.	List of Contested Issues
April 30, 2012	1:30 p.m.	Prehearing Conference, if needed (First Floor Hearing Room)
May 1, 2012	5:00 p.m.	Public Comment Period Ends
May 3, 2012	5:00 p.m.	PACP Report of Public Comments
May 7-9, 2012	9:00 a.m.	Evidentiary Hearing (First Floor Hearing Room)
May 24, 2012	3:00 p.m.	Suburban Water Initial Post-Hearing Brief
June 4, 2012	3:00 p.m.	Staff and Intervenor Responsive Post-Hearing Briefs
June 15, 2012	3:00 p.m.	Suburban Water Reply Brief
July 16, 2012		Order Due

17. The Prehearing Officer recommends that the Commission schedule a Prehearing Conference, to address any pending matters and to establish procedures to be used during the Evidentiary Hearing, on **April 30, 2012, beginning at 1:30 p.m.**, in the Commission's First Floor Hearing Room, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. The Prehearing Officer presiding will be Melissa Doebelin, Advisory Counsel, telephone 785-271-3186, email address m.doeblin@kcc.ks.gov.

18. The Prehearing Officer further recommends that an Evidentiary Hearing, with the Commission presiding, be scheduled for **May 7, 2012 through May 9, 2012, beginning at 9:00 a.m.**, in the Commission's First Floor Hearing Room, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, telephone 785-271-3100.

V. Opportunity to Object and Comment

19. Parties are given an opportunity to respond to matters set forth in this Report and Recommendations of Prehearing Officer. If parties wish to object to or comment on matters set forth in this Report and Recommendations, these responses must be communicated to the Prehearing Officer or filed by **Tuesday, January 3, 2012, at 5:00 p.m.**

20. The Prehearing Officer directs that a copy of this Report and Recommendations of Prehearing Officer be served electronically on all parties involved in this proceeding through email addresses listed for this docket.

WHEREFORE, THE PREHEARING OFFICER MAKES THE FOLLOWING FINDINGS AND RECOMMENDATIONS:

A. The Prehearing Officer recommends the Commission approve the use of electronic service for serving all testimony, briefs, and orders in this proceeding without requiring provision of hard copy follow-up, as set forth above in paragraphs 7 and 8.

B. The Prehearing Officer recommends that one public hearing be conducted in this docket, as set forth above in paragraph 10. The Prehearing Officer recommends that the public hearing be held on February 21, 2012, beginning at 6:00 p.m. at the Community Library, 1400 North 158th Street, Basehor, Kansas 66007.

C. The Prehearing Officer recommends that the Commission encourage the public to submit public comments about this docket, as set forth above in paragraph 11. The Prehearing Officer recommends that the Commission's website, Suburban Water's website, and CURB's website provide information regarding this proceeding and explain how the public can submit comments.

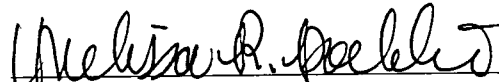
D. The Prehearing Officer recommends the public comment period begin immediately and end on May 1, 2012, at 5:00 p.m., which is four business days before the evidentiary hearing is proposed to begin on May 7, 2012. The Prehearing Officer recommends the PACP Office submit a report summarizing public comments received, which would be due May 3, 2012, at 5:00 p.m., as set forth above in paragraph 12.

E. The Prehearing Officer recommends that Suburban Water be directed to provide notice through direct mailing to each customer in its service territory, as set forth above in paragraph 13. The Prehearing Officer recommends that the notice contain basic information about the public hearing, public comment period and Suburban Water's Application, and that the Director of PACP work jointly with the Prehearing Officer to develop and provide final notice to Suburban Water on or before January 27, 2012, as set forth above. The Prehearing Officer recommends Suburban Water be required to publish notice in major newspapers throughout its region, and that Suburban Water propose a list of newspapers to the Director of PACP on or before January 4, 2012, and work with the Director of PACP to determine the timing of publication and the newspapers in which notice will be published. The Prehearing Officer recommends Suburban Water file an Affidavit confirming notice has been mailed to customers and printed in newspapers. The Prehearing Officer recommends this Affidavit be filed on or before February 17, 2012, at 3:00 p.m.

F. The Prehearing Officer recommends that the Commission adopt the modified procedural schedule set forth above in paragraph 16. The Prehearing Officer recommends that the Commission schedule a Prehearing Conference on April 30, 2012, beginning at 1:30 p.m., as set forth above in paragraph 17, and an Evidentiary Hearing to begin on May 7, 2012 through May 9, 2012, beginning at 9:00 a.m., as set forth above in paragraph 18.

G. The Prehearing Officer directs service of this Report and Recommendations of Prehearing Officer on the parties to this proceeding using electronic service through email addresses listed for this docket, as provided for in K.A.R. 82-1-216(a)(6), without hard copy follow-up as agreed to by the parties. The email notice to parties should note that no hard copy of this Report and Recommendations will follow. Parties are given an opportunity to respond to matters set forth in this Report and Recommendations of Prehearing Officer. If parties wish to object to or comment on matters set forth in this Report and Recommendations, these responses must be communicated to the Prehearing Officer or filed by Tuesday, January 3, 2012, at 5:00 p.m.

Dated: December 29, 2011


Melissa R. Doebelin
Advisory Counsel

mrd

ORDER MAILED DEC 29 2011

CERTIFICATE OF SERVICE

DEC 29 2011

12-SUBW-359-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Report and Recommendations of Prehearing Officer was served by electronic mail this 29th day of December, 2011, to the following parties who have waived receipt of follow-up hard copies:

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12-SUBW-359-RTS



Sheryl L. Sparks
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