

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Thomas E. Wright, Chairman
 Joseph F. Harkins
 Ward Loyd

In the Matter of the Application of Suburban)
Water, Inc., d/b/a Suburban Water Company,)
for Approval of a Purchased Water Adjustment) Docket No. 10-SUBW-602-TAR
("PWA").)

In the Matter of the Application of Suburban)
Water, Inc., d/b/a Suburban Water Company,)
for Approval of an Automatic Meter Reading) Docket No. 10-SUBW-603-TAR
System Surcharge Tariff.)

PREHEARING OFFICER'S REPORT AND RECOMMENDATION

The above-captioned matters come on for consideration. In an Order Designating Prehearing Officer, the Commission designated Martha J. Coffman, Advisory Counsel, to act as Prehearing Officer in this proceeding. April 16, 2010 Order, ¶ 5. Having reviewed the filings and the Prehearing Conference in this proceeding, the Prehearing Officer finds as follows:

1. On March 19, 2010, Suburban Water, Inc., d/b/a Suburban Water Company, filed two tariff Applications asking the Commission to approve a Purchased Water Adjustment (PWA) in Docket No. 10-SUBW-602-TAR (10-602) and an Automatic Meter Reading System Surcharge Tariff (AMR) in Docket No. 10-SUBW-603-TAR (10-603). The Commission has jurisdiction under K.S.A. 66-117 and K.S.A. 66-1, 230, *et seq.*

2. On April 7, 2010, Orders granted The Citizens' Utility Ratepayer Board (CURB) intervention and suspended operation of the proposed tariffs until November 14, 2010, pursuant to the 240-day deadline of K.S.A. 66-117.

3. In its April 16, 2010 Order, ¶¶ 4-5, the Commission designated the Prehearing Officer and concluded one public hearing should be conducted on these tariff proposals. On May 3, 2010, the parties filed a Joint Motion for Establishment of Procedural Schedule, which contained a proposed schedule including deadlines for filing testimony, a public hearing, a prehearing conference, a settlement conference among the parties, a public comment period, an evidentiary hearing, and post-hearing briefs. Parties agreed testimony and briefs will be served on other parties and the Prehearing Officer by 3:00 p.m. on the date due using electronic service without requiring a follow-up hard copy. Parties recognized that a paper original and seven copies of testimony or briefs shall still be filed no later than 5:00 p.m. on the dates due. K.A.R. 82-1-215(a).

I. Procedural Schedule

4. A Prehearing Conference was held on May 5, 2010, during which the parties discussed the proposed procedural schedule. The following appearances were made at the Prehearing Conference: Colleen Harrell on behalf of the Commission staff (Staff) and the public generally; James G. Flaherty on behalf of Empire; and Niki Christopher and David Springe on behalf of CURB. Transcript of Proceedings held May 5, 2010, pages 2-3 (Tr., 2-3). Hearing no objection to Staff's statement on notice of the hearing, the Prehearing Officer found that notice was proper and that jurisdiction existed to proceed with the Prehearing Conference. Tr., 3-4.

5. In discussing the procedural schedule, Mr. Flaherty noted that Suburban Water submitted prefiled direct testimony of witnesses in Docket 10-603, regarding the AMR, but not in Docket 10-602, regarding a PWA. He proposed that the company prefile direct testimony in Docket 10-602 by May 14, 2010, which was accepted by the other parties. Tr., 6. The Prehearing Officer notes that, after the Prehearing Conference, the parties reconsidered how these dockets

should be conducted procedurally before the Commission. As a result, the company did not file testimony on May 14, 2010, as originally indicated. However, Mr. Flaherty has informed the Prehearing Officer and parties that Suburban Water will prefile direct testimony in Docket 10-602 by Friday, June 4, 2010. The parties accepted this deadline, which is included in the schedule.

6. During the Prehearing Conference, the parties agreed to schedule a Prehearing Conference at 10:00 a.m. and a Settlement Conference at 2:00 p.m. on September 1, 2010. Both will be in the Commission's Third Floor Hearing Room. Tr., 6-7. The Evidentiary Hearing is scheduled for September 8-9, 2010, in the Commission's First Floor Hearing Room. The Prehearing Officer noted that the 240-day deadline for the Commission's Order in this proceeding is November 14, 2010, which is a Sunday. Suburban Water and other parties have no objection to treating the deadline for the Order as the next business day, Monday, November 15, 2010. Tr. 7. Regarding electronic service, the parties agreed that orders, as well as testimony and briefs, will be served electronically without a follow-up hard copy. Tr., 7-8.

7. The parties also discussed a public hearing and public comments. The parties agreed to have the public hearing on July 22, 2010, at the Bonner Springs Community Center. The public hearing will begin at 7:00 p.m. with a question-and-answer session, followed at approximately 8:00 p.m. with the Commission accepting statements from the public on the record. Tr., 8, 11. Mr. Flaherty noted Suburban Water was considering making a presentation to demonstrate old and new meters during the question and answer portion of the public hearing. After discussion, the parties agreed that, if Suburban Water desires to conduct a demonstration, it will be better to do so before the public hearing begins at 7:00 p.m. If Suburban Water decides to present a demonstration of meters, the notice sent to ratepayers and published in newspapers will explain this. Tr., 11-17. In the Joint Motion, parties proposed the Commission allow public

comments submitted to the Commission's Office of Public Affairs and Consumer Protection (PACP Office) until Friday, September 3, 2010, at 5:00 p.m.

8. Before the Prehearing Conference, parties and the Prehearing Officer reviewed notice as proposed by Suburban Water and discussed its contents. Parties agreed upon contents of the notice, as will be circulated by Ms. Harrell. Tr., 8. Mr. Flaherty stated that, because cards are used for billing, notice to ratepayers will be by separate mailing that can be done any time in June, rather than pursuant to a billing cycle. He recommended the notice be finalized by the end of May for mailing in June and agreed to work with Staff, Curb and the Commission's public information office to coordinate this mailing. Tr., 9. Regarding publication of the notice, Mr. Flaherty proposed using the same newspapers that were used for notice of a public hearing in the company's last rate case, which were the Basehor Sentinel, Bonner Springs Chieftain, and Tonganoxie Mirror. The Company will use the notice approved for mailing to its customers for the notice published in newspapers. Tr., 9-10.

II. Recommendation of Prehearing Officer

9. The Prehearing Officer recommends that the Commission approve the procedural schedule proposed by the parties in their Joint Motion with modifications that were discussed during the Prehearing Conference. The procedural schedule, as modified, provides as follows:

June 4, 2010	Company's Prefiled Direct Testimony in 10-602
July 22, 2010	Public hearing at Bonner Springs Community Center
July 30, 2010	Staff & Intervenor Testimony Due
August 13, 2010	Company's Rebuttal Testimony Due
August 20, 2010	Discovery Ends
August 30, 2010	Pretrial Motions Due

September 1, 2010	Settlement Conference (among the parties), 10:00 a.m.
September 1, 2010	Prehearing Conference, 2:00 p.m.
September 3, 2010	Public Comment Period Ends, 5:00 p.m.
September 8-9, 2010	Evidential Hearing, 9:00 a.m.
September 24, 2010	Company Initial Brief Due
October 8, 2010	Staff & Intervenor Responsive Briefs Due
October 15, 2010	Company Reply Brief Due
November 15, 2010	Order Due (1 st business day after Sunday, Nov. 14, 2010)

10. Pursuant to this schedule, a Prehearing Conference, with Prehearing Officer Martha J. Coffman presiding, will be conducted on September 1, 2010, beginning at 2:00 p.m., in the Commission's Third Floor Hearing Room, 1500 Arrowhead Road, Topeka, KS 66604, telephone number 785-271-3105, email m.coffman@kcc.ks.gov. If the Prehearing Conference follows a regularly scheduled Commission Open Meeting that is continuing in session at 2:00 p.m., the Prehearing Conference will begin after that meeting ends. Issues to be addressed at the Prehearing Conference include procedures for the evidentiary hearing and any other preliminary matters to be addressed before the evidentiary hearing. Any party who fails to attend or participate in the hearing or in any other stage of this proceeding may be held in default under the Kansas Administrative Procedure Act (KAPA). K.S.A. 77-516(c)(8); K.S.A. 2009 Supp. 77-520. At the Prehearing Conference, this proceeding without further notice may be converted into a conference hearing or a summary proceeding for disposition of the matter as provided by KAPA. K.S.A. 77-516(c)(7).

11. A settlement conference among the parties will be held on September 1, 2010, beginning at 10:00 a.m., in the Commission's Third Floor Hearing Room, 1500 SW Arrowhead Road, Topeka, Kansas 66604, telephone number 785-271-3100..

12. Under this schedule, an Evidentiary Hearing, with the Commission presiding, will be conducted on September 8 to 9, 2010, beginning at 9:00 a.m., in the Commission's First Floor Hearing Room, 1500 Arrowhead Road, Topeka, KS 66604, telephone number 785-271-3100.

13. The Prehearing Officer recommends that a public hearing be scheduled for July 22, 2010, beginning at 7:00 p.m., at the Bonner Springs Community Center, 200 E. Third Street, Bonner Springs, Kansas. The Prehearing Officer recommends that the public hearing begin with a question-and-answer session with the Prehearing Officer presiding that allows the parties to address members of the public, which is followed at approximately 8:00 p.m. with the Commission presiding over an opportunity for members of the public to present statements on the record. Notice of the public hearing should be provided to Suburban Water ratepayers through direct mailing and to the public generally through publication in newspapers, as was done in Suburban Water's last rate case. The Prehearing Officer recommends Suburban Water be required to submit an affidavit verifying compliance with notice requirements by Friday, July 16, 2010.

14. The Prehearing Officer further recommends that a public comment period begin immediately and continue through Friday, June 3, 2010, at 5:00 p.m. The Prehearing Officer recommends that the PACP Office provide a report that summarizes comments received to July 20, 2010, at the Public Hearing on July 22, 2010. Then, on September 6, 2010, the PACP Office shall submit a final report summarizing comments received following July 20, 2010.

15. Finally, the Prehearing Officer recommends the Commission approve the agreement of the parties to use electronic service of testimony, briefs, and orders in this proceeding and waive receipt of a follow-up hard copy as required in K.A.R. 82-1-216(a)(6). Tr., 7. Parties recognize that a paper original and seven copies of testimony or briefs must be filed no later than 5:00 p.m. on the dates due. K.A.R. 82-1-215(a).

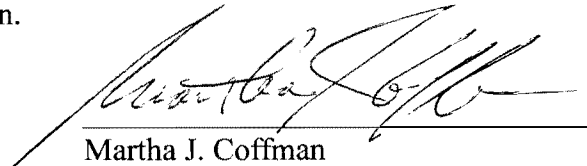
WHEREFORE, the Prehearing Officer recommends:

(A) The Commission adopt the procedural schedule set forth above in ¶ 9. This schedule includes a prehearing conference, with the Prehearing Officer presiding, and a settlement conference among the parties on September 1, 2010, as well as an evidentiary hearing, with the Commission presiding, on September 8-9, 2010. See above ¶¶ 9-12.

(B) The Commission approve scheduling a public hearing on July 22, 2010, and a public comment period until September 3, 2010, as discussed in ¶¶ 13-14. In addition, the Commission should approve the parties' agreements and the Prehearing Officer's recommendations for providing notice to ratepayers through direct mail and the public through publication, as discussed in ¶¶ 7-8, 13-14.

(C) The Commission approve use of electronic service of testimony, briefs, and orders, as addressed above in ¶¶ 14.

(D) Under agreement of the parties, this Order will be served electronically without a hard-copy follow-up. Parties shall have until June 16, 2010, to submit any comments or objections to this Report and Recommendation.


Martha J. Coffman
Prehearing Officer

Dated: 2 June 2010

CERTIFICATE OF SERVICE

10-SUBW-602-TAR & 10-SUBW-603-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Prehearing Officer's Report and Recommendation was served by electronic mail this 2nd day of June, 2010, to the following parties who have waived receipt of follow-up hard copies:

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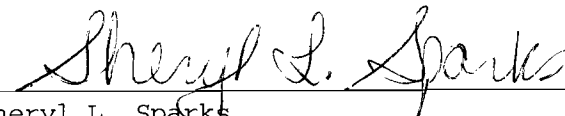
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