

# OPERATIONAL RULES, REGULATIONS AND PROCEDURES OF THE RATE COMMISSION OF THE METROPOLITAN ST. LOUIS SEWER DISTRICT

## Section 1 - *Definitions*

*This section defines terms used in operational rules, regulations and procedures of the Rate Commission of the Metropolitan St. Louis Sewer District.*

- (1) “Charter (Plan)” means the organizing plan and charter for the Metropolitan St. Louis Sewer District, as approved by the voters of St. Louis and St. Louis County at a special election on February 9, 1954 and amended by the voters on November 7, 2000.
- (2) “MSD” or “District” means the Metropolitan St Louis Sewer District as established by and described in the Charter (Plan).
- (3) “MSD Staff” means any and all employees and agents of the of the District, including the Executive Director, Director of Finance, Secretary-Treasurer and Internal Auditor, and any firm, person, consultant or other third party hired by the District to perform work relating to a Rate Change Notice.
- (4) “Commission” means the Rate Commission of the Metropolitan St. Louis Sewer District as established by Section 7.040 of the Charter (Plan).
- (5) “Commission member” means a Rate Commission Delegate is established and described in Section 7.230 of the Charter (Plan).
- (6) “Board” means the MSD Board of Trustees established pursuant to the Charter (Plan).

## Section 2 — *Organization of the Commission*

*This section establishes and describes the internal organization of the Commission, including its elected officers, standing committees and the duties assigned to each.*

- (1) **Officers of the Commission** — At the fifth meeting of the Commission, and every February of each odd calendar year thereafter, the Commission members shall, by a majority vote, elect a Chair, Vice-Chair and Secretary from among the Commission’s membership. Each officer so elected shall serve a term of two years, beginning the first day of February and ending on the 31st day of January of the second following year, and may be elected for one additional two year term by a majority vote of the Commission. In the event that a vacancy occurs in the position of Chair, Vice-Chair or Secretary prior to the expiration of the member’s term of office in that position, the Commission shall elect a member to fill the unexpired term of the position at the next regularly scheduled meeting of the Commission. Officers shall serve until their successors assume office.

(2) **Duties of the Chair** — The Chair of the Commission shall:

(a) conduct all meetings of the Commission, including the setting of the agenda for such meetings in consultation with the other Officers and, upon request, other members of the Commission;

(b) serve as the presiding officer at the public hearing held in connection with a Rate Change Notice;

(c) coordinate the activities of the Commission's Standing Committees; and

(d) establish, subject to Commission approval, interim committees or task forces to address specific matters that fall outside of the scope of the matters assigned to the Standing Committees.

(e) convey to the public, in coordination with the Public Affairs Committee and its Chair, the context in which the Commission was created, its mission, style of operation, independence and other considerations that assist all parties in understanding the role of the Commission; and

(f) serve as the primary point of contact for entities interacting with the Commission, unless that role has been delegated to another Officer or member of a Standing Committee.

(3) **Duties of the Vice-Chair** — the Vice-Chair of the Commission shall:

(a) perform the duties of the Chair of the Commission in the event of the Chair's absence at any scheduled meeting or hearing;

(b) assist the Chair in the performance of any of the Chair's duties that the Chair may delegate to the Vice-Chair; and

(c) serve as a liaison between the Commission and other appropriate entities.

(4) **Duties of the Secretary** - the Secretary of the Commission shall:

(a) perform the duties of the Chair of the Commission in the event both the Chair and Vice-Chair are absent at any scheduled meeting or hearing;

(b) keep, or supervise the keeping, of the minutes or transcripts of all scheduled meetings and hearings of the Commission, including the recording of all votes of the Commission members;

(c) certify all reports, requests and other formal actions issued or taken by the Commission.

(5) **Standing Committees** - The Commission shall have three Standing Committees, including a Technical Services Committee, a Public Affairs Committee, and a Finance Committee, to assist the Commission in carrying out its assigned duties in an expeditious and efficient manner. Each Committee shall have a minimum of three Commission members and a maximum of six Commission members. Upon the first meeting of each Committee after the bi-annual election of officers of the Commission, each Committee shall elect a Chair for purposes of conducting any meetings of the Committee. The Chair of the Committee shall be a member other than the Chair, Vice-Chair or Secretary of the Commission.

(6) **Duties of Technical Services Committee** - the Technical Services Committee shall:

(a) develop and make recommendations to the full Commission regarding the retention and supervision of any consulting firm or other provider of professional services required to facilitate the work of that Committee;

(b) develop and make recommendations to the full Commission regarding the content of discovery, information requests, or other recommended areas of investigation and inquiry that the Technical Services Committee determines should be pursued by the Commission or its agents in connection with a Proposed Rate Change;

(c) coordinate with appropriate entities and the Commission the implementation of any other measure reasonably required to complete a timely and thorough review of any Proposed Rate Change; and

(d) assist the Commission in defining the matters before the Commission most in need of legal review based on the Charter (Plan), federal, state, and local laws, and the powers of the Commission.

(7) **Duties of Public Affairs Committee** - The Public Affairs Committee shall:

(a) develop and make recommendations to the full Commission regarding the publication, timing, format and location of the public hearing mandated by Section 7.280 of the Charter (Plan) and any other public hearings scheduled by the Commission;

(b) develop and make recommendations to the full Commission regarding measures for informing the general public of the purpose, operations and work product of the Commission and for encouraging public awareness of, and participation in, the process for reviewing Proposed Rate Changes;

(c) coordinate with appropriate entities and the Commission the implementation of any other measure reasonably required to educate consumers of the District's Services regarding Rate Change review process and the role they can play in that process; and

(d) develop and make recommendations to the full Commission regarding the retention and supervision of any consulting firm or other provider of professional services required to facilitate the work of that Committee.

(8) **Duties of Finance Committee** - The Finance Committee shall:

(a) develop and make recommendations to the full Commission regarding the amount, content and basis for the Commission's annual budget request to the Board as provided by Section 7.260 of the Charter (Plan);

(b) develop and make recommendations to the full Commission regarding any supplemental funding or resource requests that may be reasonably required outside of the annual budget request to discharge the duties of the Commission and any other required authorization that must be sought from the Board pursuant to law;

(c) review all bills incurred on behalf of the Commission prior to submission to the Rate Commission for final approval;

(d) prepare and submit monthly financial reports and end of fiscal year report to the Rate Commission; and

(e) coordinate with appropriate entities and the Commission the implementation of any other administrative measure reasonably required to assist the Commission in the discharge of its duties.

(9) **Preservation of Decision-Making Authority and Member Participation Rights** - The assignment of specific tasks to a Standing Committee, interim committee or task force shall not be construed as limiting in any manner the Commission's ultimate authority to review and decide the business matters of the Commission or matters relating to Proposed Rate Changes or any Commission member's right to fully participate in the determination of such matters.

**Section 3 - Review of Proposed Rate Changes**

*This section establishes and describes the procedures, testimony requirements, discovery practices and other procedural rules and regulations that will be followed in the submission of Rate Change Notices and the review of Proposed Rate Changes by the Commission.*

(1) **Meetings** — All meetings of the Commission, its Standing Committees and any interim committees or task forces that may be established by the Commission shall be open to the public and conducted in accordance with the provisions of Chapter 610 of the Revised Statutes of Missouri (2000), as amended from time to time. A quorum to conduct a meeting of the Commission, a Standing Committee or an interim committee or task force shall exist when a majority of the members of such Commission, Committee or task force are present.

(2) **Filing of Rate Change Notices -- Submission of Direct Testimony** — Within three (3) business days of the date it submits a Rate Change Notice, the District shall also submit to each member of the Commission any and all direct testimony, accounting schedules, economic and engineering analyses, legal memoranda, reports, memoranda, contracts for services and any other

information or data (“Rate Setting Documents”) that may be required to fully demonstrate and explain:

(a) why the Proposed Rate Change set forth in the Rate Change Notice is necessary, fair and reasonable;

(b) how the Proposed Rate Change will enhance the District’s ability to provide adequate sewer and drainage systems and facilities, or related services;

(c) whether and to what extent the Proposed Rate Change is necessary to enable the District to comply with any covenant or provision relating to any outstanding bonds or indebtedness of the District, together with a specific quantification of the amount of the Proposed Rate Change that is necessary for such purposes;

(d) whether and to what extent the Proposed Rate Change is necessary to enable the District to comply with applicable federal or State laws or regulations as amended front time to time, together with a specific quantification of the amount of the Proposed Rate Change that is necessary for such purposes;

(e) why the burden imposed on each class of ratepayers by the Proposed Rate Change is fair and reasonable, including whether and how cost of service considerations, cost causation principles, customer impact data, economic development considerations, environmental effects and other factors have or have not been factored into such determination;

(f) the measures taken by the District to ensure that the cost of constructing and maintaining the District’s facilities and providing related services are being incurred in a reasonable and efficient manner, including copies of all internal or external audit reports that address such matters;

(g) the name, address and telephone number of each person submitting and sponsoring such direct testimony.

(h) if the Rate Setting Documents are voluminous in nature, such Documents may be referenced and described in the District’s direct testimony, provided that copies of such Documents shall be made available to any Commission member upon request.

(3) **Scheduling** — Within twenty (20) days of the date a Rate Change Notice is filed, the Commission shall meet to establish a procedural schedule for the submission of applications to intervene, the submission of rebuttal testimony, the holding of technical conferences, a prehearing conference and a public hearing or hearings. The procedural schedule established by the Commission shall be sufficient to permit the Commission to tender its Rate Commission Report within one hundred and twenty (120) days after receipt of the Rate Change Notice. At such meeting, the Commission shall also select the consulting firm or other provider of professional services that will assist it in its review of the Proposed Rate Change, unless such arrangements have already been completed, and receive from the District an oral presentation and responses to any questions by the Commission regarding the Proposed Rate Change.

(4) **Applications to Intervene** — On or before the date established by the Commission for such purpose, any person who would be affected by the Proposed Rate Change may submit an application to intervene in the proceedings established by the Commission to consider the Proposed Rate Change. Such application to intervene shall:

(a) provide the name, address, and telephone number of the person seeking to intervene and any other person on whose behalf such intervention is sought;

(b) describe the person's interest in the Proposed Rate Change;

(c) specify whether the person intends to submit prepared testimony; and

(d) indicate the person's agreement to respond to discovery submitted in connection with such person's testimony.

(e) An Application to Intervene will be deemed granted unless rejected by the Commission.

Neither the District nor any person or persons engaged by the Commission to review the Proposed Rate Change shall be required to seek intervention in order to participate in the proceedings established to review the Proposed Rate Change.

(5) **Discovery Procedures** —

(a) The person or persons engaged by the Commission to review the Proposed Rate Change or any person or persons permitted to intervene shall be permitted to request additional information and answers from the District regarding any element of the Proposed Rate Change. The person or persons engaged by the Commission to review the Proposed Rate Change as well as the District may request additional information and answers from any person or persons who has been permitted to intervene regarding any testimony submitted by such person. The District may request additional information and answers from the person or persons engaged by the Commission to review the Proposed Rate Change.

(b) Any request for information shall set forth each question in clear and concise language, leaving an appropriate place below each question for an answer or objection to be inserted. The answers to the request for information shall be typewritten in the space provided. In the event an answer is too lengthy to place in the space provided, it shall be attached as an appendix and clearly identified.

(c) All such information and answers shall be provided within ten (10) days of the date the request for such information and answers is received. All other discovery of the District, the person or persons engaged by the Commission to review the Proposed Rate Change, and of persons permitted to intervene shall be conducted in a series of two, on-the-record technical conferences held after each round of testimony during which time each individual person submitting testimony in the immediately preceding round of testimony shall answer questions

propounded by the Commission, the District, the person or persons engaged by the Commission to evaluate the Proposed Rate Change and any person who has been permitted to intervene.

(d) No person shall be required to answer questions for a total period of more than three hours, with the time evenly divided among all participants desiring to ask questions.

(e) A transcript of such conferences shall be made and provided to the Commission and the participants at a price equal to the cost of producing such transcripts.

(f) Any person who fails to answer relevant and otherwise proper questions regarding their testimony, to make themselves available for questioning in the technical conferences, or to provide other information properly requested pursuant to these discovery procedures shall be subject to having their testimony disregarded by the Commission.

(6) **Submission of Rebuttal Testimony** - Any interested person who is permitted to intervene and any person or persons engaged by the Commission to review the Proposed Rate Change may submit prepared rebuttal testimony and schedules in accordance with the schedule and in the manner established by the Commission. Such testimony shall include all information, analysis and other supporting data explaining why the party rejects or disagrees with any element of the Proposed Rate Change and supporting and explaining any alternative to the Proposed Rate Change that the party wishes the Commission to consider.

(7) **Testimony and Discovery Responses to be Presented under Oath** — Any testimony or discovery response provided by any person permitted to intervene, the District, or any person or persons engaged by the Commission to review the Proposed Rate Change shall be accompanied by a notarized affidavit stating that the matters contained therein are true, correct and complete to the best of that person's knowledge and belief and all persons answering questions or presenting testimony during any technical conference shall do so under oath.

(8) **Prehearing Conference** — Following the submission of testimony, a prehearing conference shall be scheduled for the purpose of identifying any issues raised by the prepared testimony previously submitted in connection with the Proposed Rate Change. The Commission, the District, the Consultant, Legal Counsel and all persons submitting testimony may participate in the prehearing conference. Within five (5) business days of the conclusion of the prehearing conference, the participants shall submit to the Commission a prehearing conference report describing the issues raised by the prepared testimony, together with a brief description of each participant's position, if any, on each issue and the rationale therefore. In the event, the participants are able to resolve any issue or issues raised in the prepared testimony, they shall also include as part of the prehearing conference report a joint recommendation describing each such issue, their recommended resolution of the issue, and the rationale therefore.

(9) **Public Hearing** - At a time or times designated by the Commission on-the-record public hearings shall be held. The Commission may designate for which purposes a particular public hearing is scheduled. At least one public hearing shall be held after the prehearing conference, the purpose of which shall be to:

- (a) permit ratepayers and taxpayers to testify regarding the Proposed Rate Change;
- (b) permit management of the District and/or Board to testify regarding the Proposed Rate Change;
- (c) receive into evidence any prepared testimony previously submitted to the Commission subject to any valid objections, together with the discovery responses and transcripts of the technical conferences;
- (d) permit the Commission members or those designated by the Commission to ask questions regarding any issue addressed by the prepared testimony or any other element of the Proposed Rate Change;
- (e) permit closing statements by the District, the person or persons engaged by the Commission to review the Proposed Rate Change and any person who has been permitted to intervene.

(10) **Preparation and Approval of Rate Commission Report** — Upon completion of the final Public Hearing, the Commission shall, at its next meeting discuss the issues presented for the Commission’s resolution and, based on all of the information received into evidence and all of the relevant criteria governing its rate determinations, vote on the amount of the Proposed Rate Change that should be approved and how the Proposed Rate Change should be allocated to the District’s customer classes. A Report reflecting the vote of a majority of the Commission members on each of these matters together with findings sufficient to explain why the Commission’s decisions are consistent with the criteria governing rates as set forth in Section 7.270 of the Charter (Plan) shall be prepared and issued with the assistance of the person or persons engaged by the Commission to review the Proposed Rate Change. Such person or person shall also assist in the preparation of any minority report.

(11) **Amendments** - These rules may be amended from time to time by a vote of two thirds of the members of Commission at the next meeting following the meeting at which such amendment or amendments were *submitted to the Commission*.

#### **Section 4 – General Provisions regarding Meetings**

*This section establishes and describes the requirements relating to general meetings of the Commission, including when meetings may be closed and the date, times, and notice of meetings.*

(1) **Open Meeting Policy** – All meetings of the Commission and meetings of Commission Committees or any Commission task force, whether corporeal or by means of communication equipment, shall be open to the public, except closed sessions as authorized by law. All meetings shall be held at a place and time reasonably convenient and of sufficient size to accommodate the anticipated members of the public. In addition, reasonable efforts shall be made to make the meeting accessible to individuals with disabilities.

(2) **Closed Meetings** - The Commission reserves the right to sit in closed meetings on matters which are authorized by Section 610.021, RSMo. The Commission may hold a meeting closed to the public, or close a portion of the meeting to the public, upon a majority vote of the members present, taken at a meeting open to the public for which notice has been given or as stated in the public notice. The vote of each Commission member on the question of holding a closed meeting and a reference to the specific exception which authorizes the closing of the meeting to the public shall be recorded and entered into the minutes of the meeting.

(3) **Dates, Times and Notice** – The Commission will conduct monthly meetings at dates and times determined by the Commission. Special meetings of the Commission may be called at any time by the Chair. Public notice of the time, date, place, and a tentative agenda advising the public of the matters to be considered for each meeting will be posted as provided in Section 610.020, RSMo.

(4) **Participation by Telephone** – Any member or members of the Commission may participate in a meeting of the Commission or any Committee of the Commission by conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute attendance and presence in person at the meeting of the members or members so participating.

(5) **Quorum** – A quorum for a meeting of the Commission, a Committee, or task force shall exist when a majority of the members of such Commission, Committee, or task force are present.

(6) **Meeting Conduct** – Unless otherwise provided by law, the Charter, or the Operational Rules, meetings of the Commission shall be conducted in accordance with the current edition of Robert’s Rules of Order.

Adopted the 16th day of August, 2001.

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Amended the 2nd day of March, 2007.

Amended the 18th day of January, 2008.