

JOURNAL OF THE 48th MEETING OF THE  
MSD RATE COMMISSION  
JULY 25, 2007 – 10:00 A.M.

The Rate Commission of the District met at the District's offices, 2350 Market Street, St. Louis, Missouri, on the above date. Present at meeting:

Rate Commission

L. Toenjes, Chair	D. Murphy
J. Stein, Vice Chair	E. Sardina (excused)
N. Bowser, Secretary	R. Ward (excused)
V. Harris	G. Tomazi
W. Reeves	P. Brockmann (excused)
W. Peick	W. Allen
C. Davis (excused)	M. Schoedel (via phone)
S. Sullivan (via phone)	

Staff

Randy Hayman, General Counsel  
Karl Tyminski, Secretary-Treasurer  
Jan Zimmerman, Director of Finance  
Pam Bell, Secretary to Executive Director

The meeting was opened pursuant to notice and call.

Ms. Bowser called the roll.

Mr. Toenjes stated we have a quorum and this is an official meeting.

Ms. Harris provided corrections typographical errors that were noted on the July 12, 2007 minutes. Motion made by Mr. Tomazi, seconded by Mr. Allen that the amended minutes be approved. Mr. Toenjes called for a voice vote; 10 ayes, no nays – motion passed.

(Mr. Sullivan was not available during this vote)

The Chair indicated that under other business the commission would discuss the next step in the process.

Mr. Peick arrives.

Mr. Hayman indicated that the District provided their letter outlining some concerns about issues that the Rate Commission was considering.

Mr. Toenjes opened discussion on Question 8G) Does the Rate Commission wish to consider whether increasing the working capital/operating reserve from 45 to 60 days result in rates that impose a fair and reasonable burden on all classes of ratepayers? Mr. Tomazi moved that the Rate Commission improve the increase in the working capital reserve from 45 to 60 days. Mr. Schoedel seconded this motion. Mr. Toenjes called for a voice vote; 11 ayes, no nays – motion passed.

Mr. Toenjes opened discussion on Questions 8H & 8I) Does the Rate Commission wish to consider whether the use of the resistance factor in addition to an increase in the working capital/operating reserved from 45 to 60 days results in rates that impose a fair and reasonable burden on all classes of ratepayers? Does the Rate Commission wish to consider whether the billing lag adjustment in addition to an increase in the working capital/operating reserve from 45 to 60 days results in rates that impose a fair and reasonable burden on all classes of ratepayers? Mr. Arnold indicated that MSD has issued a letter on their position on billing lag, resistance factor and the unbundling of stormwater impervious rate to fund enhanced services. He commented that the interveners have an opportunity to respond by 3:30 p.m. on July 25, 2007. However, all three matters discussed by MSD relate to issues between MSD and the Rate Commission. Mr. Hayman indicated that the District would be happy to answer any questions related to the letter. No questions were noted. Mr. Toenjes requested that the letter be admitted to the record. Ms. Harris noted that the commission had already indicated their intent to receive the letter at the last meeting and motioned that the commission accept the District's letter into the record. Mr. Allen seconded this motion. Mr. Toenjes called for a voice vote; 9 ayes, no nays – motion passed. (Messrs. Schoedel and Sullivan were not online during this vote.)

Mr. Allen indicated that based on the District's position letter, he moved that the Rate Commission approve the billing lag adjustment and the resistance factor adjustment as being fair and reasonable. Ms. Harris seconded the motion. Mr. Stein indicated that he can support the billing lag adjustment, but cannot support the resistance factor. He also pointed out that the resistance factor was not needed for the last four years in the current rate proposal. Mr. Tomazi asked how much in dollars was being collected for the resistance factor. Mr. Arnold indicated that \$471,600 is being collected for the resistance factor. Mr. Allen indicated that if MSD did not need the resistance factor that it could be used for CIRP. Mr. Murphy asked that questions 8H and 8I be divided and that billing lag be voted on separately from resistance factor. There was a consensus of the commission to divide the questions. Mr. Toenjes called for a vote on whether the billing lag adjustment is considered fair and reasonable. Eleven ayes, no nays – motion passed. Mr. Toenjes called for a vote of hands on whether the resistance factor adjustment is considered fair and reasonable; 5 ayes, 6 nays – motion failed. Mr. Toenjes indicated that all items have been completed for the checklist. He moved the discussion to other issues.

Mr. Stein asked if the commission ever resolved the issue of billing for impervious area versus using an OMCI tax for enhanced services. Mr. Arnold pointed out that both MSD and the Rate Commission have the same approach for the base service with the only differences being the enhanced services. Ms. Harris indicated that the governing charter

of MSD provides for ad valorem taxes but does not address the use of impervious area charge. Mr. Stein reiterated his position that the flow of stormwater does not differentiate whether it came from a parcel of land that is owned by a non-profit organization or anyone else. Consequently, he believes the best matching of costs to the contributor of run-off is an impervious area fee that is levied across the board. Mr. Toenjes summarized the Rate Commission's position by noting that the Rate Commission would recommend one impervious area charge for both basic and enhanced services. Mr. Stein motioned that the Rate Commission recommend a single impervious charge structure for both basic and enhanced services. Ms. Harris seconded the motion. Messrs. Tomazi and Peick asked staff to again detail what is covered by enhanced services. Mr. Hayman indicated that enhanced service would consist of erosion control, water detention, and elimination of ponding that is to be carried out in addition to the day-to-day operations. Ms. Bowser asked what would happen if the sub district elections for enhanced services failed. Ms. Zimmerman indicated that the work would either not be performed or the work would be tailored to smaller sub-areas. Mr. Peick asked if there are any estimates on the value of work to be performed. Ms. Zimmerman noted that the amount of work is considerably greater than the amount shown in the rate proposal because the taxing sub districts are capped at a 10¢ max per the District charter. Ms. Harris questioned how soon the District would begin work on the enhanced service projects. Ms. Zimmerman indicated that the first enhanced service area would be addressed in November, 2008. Ms. Harris questioned if all the community planned activity would be in place by November, 2008. Ms. Zimmerman replied that the entire community planning activity would take approximately two years, but the very first area would be started by November, 2008. Ms. Harris asked what the costs of the elections would be. Ms. Zimmerman indicated that she didn't know. Ms. Harris commented that she would be concerned about going to the voters too often. Mr. Toenjes restated the motion proposed by Mr. Stein and confirmed that the motion and the second were still valid. Ms. Harris questioned what the range in dollars would be for the enhanced services during the rate period. Ms. Zimmerman indicated that they would start at \$8.6 million and go to \$27 million in year five. Mr. Allen questioned if an impervious charges were imposed without a vote, if it would create a Hancock issue. Mr. Arnold indicated that in his opinion, it would not. Mr. Toenjes indicated that was for both basic and enhanced services. Mr. Toenjes called for a voice vote; eleven ayes, no nays – motion passed.

Mr. Toenjes asked if there are any other items that the commission would like to discuss. Mr. Reeves indicated that he was unclear as to how the commission felt the District was not unfair with respect to the assessment of economic impact and not approve a resistance factor adjustment. Mr. Toenjes indicated that the billing lag adjustment was approved, but the resistance factor was not. Mr. Toenjes asked if there were any other issues to be brought forth to the commission regarding the checklist. No other issues were noted.

Mr. Toenjes opened discussion on agenda item 5B) Rate Report. Mr. Arnold discussed the format of the report. Mr. Toenjes indicated that it appears that the commission will have two minority reports based on the close votes. Those reports would be dealing with the resistance factor, where the vote was 6-5 against inclusion of a resistance factor; and a discussion on the use of bonding, where the vote was 7-4 for the use of pay-go. Mr.

Tomazi requested that any other discussion and/or minority reports be provided to Mr. Arnold before 5PM on Friday, July 27, 2007. Ms. Harris indicated that she felt that a minority report might be in order dealing with the enhanced services. Mr. Arnold indicated that he would draft the language for their consideration. Mr. Toenjes indicated that the report should include the combining of the basic and enhanced services into one impervious rate and that some other structure would be the subject of a minority report. Mr. Toenjes asked if there was any other discussion. No comments were noted.

Motion made by Mr. Tomazi, seconded by Mr. Peick to adjourn. Eleven ayes, no nays – motion passed. Meeting adjourned at 10:37 a.m.

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