

Dawn Bartel

From: Brian Helminger
Sent: Friday, June 2, 2023 11:50 AM
To: Dawn Bartel
Subject: FW: HOVMSD/Kaukauna PSC Investigation
Attachments: PSC - Notice of Investigation 6-1-23 (04712591x9D882).PDF

Fyi

From: Brian Helminger
Sent: Friday, June 2, 2023 11:49 AM
To: Beau Bernhoft (beau@littlechutewi.org) <beau@littlechutewi.org>; mmahoney@vokimberlywi.gov; Racquel Giese (gieser@combinedlocks.org) <gieser@combinedlocks.org>; mkawula@darboysanitary.com; William Cole <WCole@axley.com>
Cc: Tony Penterman <mayor@kaukauna-wi.org>; Dave Casper (djc3xx@gmail.com) <djc3xx@gmail.com>
Subject: HOVMSD/Kaukauna PSC Investigation

Good morning:

I'm writing to inform you about recent happenings related to the PSC case and complaint filed regarding sewage rates specific to debt service on HOVMSD's Interceptor Rehabilitation project. I received correspondence yesterday from the District's legal counsel at Axley in Madison and pasted it below for your review. Attorney Nelson specifically mentions a 14 day window in the event that member communities want to intervene in the matter. The timeline for any action is fairly short and would be June 14th. I share this with you so that you can timely inform community leadership and legal counsel and determine what, if any, action is appropriate for your community. The District intention is to both fully cooperate with the PSC and all parties, as well as, defend its position in this matter.

The District's Attorney is William Cole and his contact information is pasted below. Bill can be contacted for specific legal questions regarding the PSC complaint and/or the process and timeline for resolution of the complaint. Thank you.

William Cole
Attorney

AXLEY ATTORNEYS
2 E. Mifflin St. Ste 200 | Madison, WI 53703
P.O. Box 1767 | Madison, WI 53701-1767
Phone: 608.283.6766 | Fax: 608.257.5444
Email: WCole@axley.com | bio | axley.com

Brian Helminger
District Director

Heart of the Valley
Metropolitan Sewerage District
801 Thilmany Road
Kaukauna, WI 54130
Phone: 920-766-5731
www.hvmsd.org

Hi Brian,

The PSC met today and approved the attached notice of investigation regarding Kaukauna's Complaint, which will commence the PSC's review of the matter. Importantly, interested parties have 14 days from today to intervene in the matter, so if HOVMSD other member municipalities want to participate in this process, they will need to intervene at this time. Additionally, the PSC is statutorily permitted to assess costs of its investigation to HOVMSD (Wis. Stat. § 196.85), and these costs must be paid by HOVMSD within 30 days of mailing.

Please let me know if you have any questions regarding the proceeding today and the attached notice of investigation.

Sincerely,

Christopher Nelson

Attorney

AXLEY ATTORNEYS

2 E Mifflin St #200 | Madison, WI 53703

P.O Box 1767 | Madison, WI 53701-1767

Phone: 608.283.6707 | Fax: 608.257.5744

Email: CNelson@axley.com | bio | axley.com

<p>SERVICE DATE Jun 01, 2023</p>

PUBLIC SERVICE COMMISSION OF WISCONSIN

Complaint of City of Kaukauna against Heart of the Valley Metropolitan
Sewerage District Concerning Sewer Rates

9300-SI-126

NOTICE OF INVESTIGATION

THIS IS AN INVESTIGATION to consider the April 4, 2023 complaint by City of Kaukauna (Complainant, Kaukauna) against Heart of the Valley Metropolitan Sewerage District (Respondent, HOVMSD) concerning sewer rates. Kaukauna states: (1) HOVMSD's volumetric rate is unreasonable and unjustly discriminatory as applied to Kaukauna because over 25 percent of Kaukauna's wastewater does not enter HOVMSD's interceptor, (2) HOVMSD adopted cost allocation methodology for its interceptor project that is unreasonable and unjustly discriminatory as applied to Kaukauna because Kaukauna uses only a small portion of HOVMSD's interceptor, and (3) HOVMSD's rates violate Wis. Stat. § 200.13(3)(b) as they are not based on cost of service rendered. (PSC REF#: 463518.) HOVMSD answered the Complaint on May 8, 2023. (PSC REF#: 467472.)

The Commission opens this docket by its authority under Wis. Stat. ch. 196 and Wis. Stat. § 66.0821(5).

DOCUMENTS. All documents in this docket are filed on the Commission's Electronic Records Filing (ERF) system. To view these documents: (1) go to the Commission's E-Services Portal at <https://apps.psc.wi.gov>, (2) enter "9300-SI-126" in the box labeled "Quick Single Docket Search," and (3) select "Documents." To receive electronic notifications when new documents are filed in this docket, go to ERF - [EZ Subscriptions](#) and follow the instructions to subscribe to this docket.

INTERVENTION. Kaukauna and HOVMSD are parties to this investigation and do not need to intervene. Any other person desiring to become a party shall file a request for party status, known as a request to intervene, under Wis. Stat. § 227.44(2m) and Wis. Admin. Code § PSC 2.21 no later than 14 days from the date of service of this notice using the ERF system.

To file such a request, go to the Commission's E-Services Portal at <https://apps.psc.wi.gov>, click on the "ERF Upload Documents" link on the left side menu bar. On the next page, log on if you are a registered ERF user, create a new account if you do not have an existing account, or contact PSC Records Management staff at (608) 261-8521 or via e-mail at PSCRecordsMail@wisconsin.gov for assistance.

A person desiring to become a party who lacks access to the internet shall make a request to intervene by U.S. mail addressed to:

Docket 9300-SI-126

Docket 9300-SI-126 Intervention Request
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854

At the time of filing, the person making the request to intervene shall serve a copy of the request on existing parties. An existing party may respond to the request within 5 days of service. A party wishing to request intervenor compensation should do so as soon as practicable.

WISCONSIN ENVIRONMENTAL POLICY ACT. This is a Type III action under Wis. Admin. Code § PSC 4.10(3). The Commission will review the potential environmental effects of the project. Type III actions normally do not require the preparation of an environmental impact statement under Wis. Stat. § 1.11 or an environmental assessment.

ASSESSMENT. The Commission considers it necessary, in order to carry out its duties, to investigate all books, accounts, practices, and activities of the applicant. The expenses incurred or to be incurred by the Commission that are reasonably attributable to such an investigation will be assessed against and collected from the applicant in accordance with the provisions of Wis. Stat. § 196.85 and Wis. Admin. Code ch. PSC 5.

AMERICANS WITH DISABILITIES ACT. The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this docket or who needs to obtain this document in a different format should contact the docket coordinator listed below. Any hearing location is physically accessible to individuals with disabilities. The Public Service Commission is located in the Hill Farms State Office Building that is also physically accessible to individuals with disabilities through the entrances on the first floor. Parking for people with disabilities is available on the ground floor of the parking garage. There is also limited, free handicap visitor parking at the front of the Hill Farms State Office Building.

CONTACT. Please direct questions about this docket or requests for additional accommodations for the individuals with disabilities to the Commission's case coordinator, Stephen Kemna, at (608) 266-3768 or Stephen.Kemna@wisconsin.gov.

Dated at Madison, Wisconsin, the 1st day of June, 2023.

By the Commission:



Cru Stubleby
Secretary to the Commission

Docket 9300-SI-126

CS:SPK:krl:hmy DL:01943266