

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 4th day of
May, 2011.

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| In the Matter of |) | <u>File No. HR-2011-0241</u> |
| Veolia Energy Kansas City, Inc. |) | Tracking Nos. YH-2011-0532 |
| for Authority to File Tariffs to Increase Rates |) | and YH-2011-0533 |

**ORDER SUSPENDING TARIFF,
NOTICE OF CONTESTED CASE, AND
ORDER DELEGATING AUTHORITY**

Issue Date: May 4, 2011

Effective Date: May 11, 2011

The Missouri Public Service Commission is suspending the tariff sheets ("tariff"), giving notice of a contested case, and delegating authority to rule on discovery matters. Veolia Energy Kansas City, Inc. ("the company") filed the tariff on April 22, 2011, seeking a revenue increase of \$1,379,000, or 19%, for steam service. The tariff bears an effective date of May 22, 2011.

A. Suspension of Tariff

That effective date does not allow enough time for the Commission to determine whether the tariff is just and reasonable, as the law requires,¹ so the Commission will suspend the tariffs.² The Commission may suspend the tariff for 120 days beyond the tariff's effective date.³ If that period is not enough time to conclude a full hearing on the

¹ Section 393.190.1, RSMo Supp. 2010.

² Section 393.150, RSMo 2000.

³ Section 393.150.1, RSMo 2000.

tariff's propriety, the Commission may extend the suspension for a further six months.⁴ The Commission's experience demonstrates that it cannot conclude a full hearing on the tariff's propriety in 120 days, so the Commission will order a six month extension of the suspension.

B. Notice of Contested Case

Suspension of the tariff may occur only pending a "full" hearing and decision on the tariff's propriety.⁵ The provision for a full pre-decision hearing signifies that this action is now a "contested case."⁶ A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities⁷ and a decision without a hearing,⁸ including by stipulation and agreement.⁹ This order and notice does not require any party to file an answer. Because the "hearing involv[es] a rate sought to be increased, the burden of proof to show that the . . . proposed increased rate is just and reasonable shall be upon the [company] seeking the increase [. ¹⁰]" The Commission's discovery regulations are at Commission regulation 4 CSR 240-2.090.

C. Delegation of Authority

Commission regulation 4 CSR 240-2.090(1) allows discovery according to the same means, conditions, and sanctions as provided for civil actions in circuit court. Commission regulation 4 CSR 240-2.090(2) provides for data requests. The statutes allow the

⁴ Section 393.150.2, RSMo 2000.

⁵ Section 393.150.1, RSMo 2000.

⁶ Section 536.010(4), RSMo Supp. 2010.

⁷ Section 536.060(3), RSMo 2000.

⁸ Section 536.060, RSMo 2000.

⁹ 4 CSR 240-2.115.

¹⁰ Section 393.150.2, RSMo 2000.

Commission to delegate any Commission authority to any Commission employee.¹¹

Pursuant to that authority, the Commission specifically authorizes the regulatory law judge assigned to this case (“RLJ”) as follows. The RLJ may convene any discovery conference and rule on any discovery dispute, including any motion to compel compliance with discovery, notwithstanding the provisions of Commission regulation 4 CSR 240-2.090(8).

THE COMMISSION ORDERS THAT:

1. The steam service tariff sheets assigned under Tracking Nos. YH-2011-0532 and YH-2011-0533 are suspended.
2. The specific tariff sheets (“the tariff”) suspended are:

P.S.C. Mo. No. 1

| Original Title Page | |
|---|--------------------------------------|
| 2 nd Revised SHEET No. 1, Cancelling 1 st Revised SHEET No. 1 | 1 st Revised SHEET No. 1 |
| 2 nd Revised SHEET No. 2, Cancelling 1 st Revised SHEET No. 2 | 1 st Revised SHEET No. 2 |
| 2 nd Revised SHEET No. 3, Cancelling 1 st Revised SHEET No. 3 | 1 st Revised SHEET No. 3 |
| 2 nd Revised SHEET No. 4, Cancelling 1 st Revised SHEET No. 4 | 1 st Revised SHEET No. 4 |
| 4 th Revised SHEET No. 5, Cancelling 3 rd Revised SHEET No. 5 | 3 rd Revised SHEET No. 5 |
| 4 th Revised SHEET No. 6, Cancelling 3 rd Revised SHEET No. 6 | 3 rd Revised SHEET No. 6 |
| 3 rd Revised SHEET No. 7, Cancelling 2 nd Revised SHEET No. 7 | 2 nd Revised SHEET No. 7 |
| 4 th Revised SHEET No. 8, Cancelling 3 rd Revised SHEET No. 8 | 3 rd Revised SHEET No. 8 |
| 3 rd Revised SHEET No. 9, Cancelling 2 nd Revised SHEET No. 9 | 2 nd Revised SHEET No. 9 |
| 2 nd Revised SHEET No. 10, Cancelling 1 st Revised SHEET No. 10 | 1 st Revised SHEET No. 10 |
| 2 nd Revised SHEET No. 11, Cancelling 1 st Revised SHEET No. 11 | 1 st Revised SHEET No. 11 |
| 2 nd Revised SHEET No. 12, Cancelling 1 st Revised SHEET No. 12 | 1 st Revised SHEET No. 12 |
| 3 rd Revised SHEET No. 13, Cancelling 2 nd Revised SHEET No. 13 | 2 nd Revised SHEET No. 13 |
| 2 nd Revised SHEET No. 14, Cancelling 1 st Revised SHEET No. 14 | 1 st Revised SHEET No. 14 |
| 2 nd Revised SHEET No. 15, Cancelling 1 st Revised SHEET No. 15 | 1 st Revised SHEET No. 15 |
| 2 nd Revised SHEET No. 16, Cancelling 1 st Revised SHEET No. 16 | 1 st Revised SHEET No. 16 |
| 2 nd Revised SHEET No. 17, Cancelling 1 st Revised SHEET No. 17 | 1 st Revised SHEET No. 17 |
| 2 nd Revised SHEET No. 18, Cancelling 1 st Revised SHEET No. 18 | 1 st Revised SHEET No. 18 |

¹¹ Section 386.240, RSMo 2000.

P.S.C. Mo. No. 2

Original Title Page

2nd Revised SHEET No. 1, Cancelling 1st Revised SHEET No. 1
2nd Revised SHEET No. 2, Cancelling 1st Revised SHEET No. 2
1st Revised SHEET No. 3, Cancelling Original SHEET No. 3
1st Revised SHEET No. 4, Cancelling Original SHEET No. 4
2nd Revised SHEET No. 5, Cancelling 1st Revised SHEET No. 5
1st Revised SHEET No. 6, Cancelling Original SHEET No. 6
1st Revised SHEET No. 7, Cancelling Original SHEET No. 7
2nd Revised SHEET No. 8, Cancelling 1st Revised SHEET No. 8
3rd Revised SHEET No. 9, Cancelling 2nd Revised SHEET No. 9
1st Revised SHEET No. 10, Cancelling Original SHEET No. 10
2nd Revised SHEET No. 11, Cancelling 1st Revised SHEET No. 11
2nd Revised SHEET No. 12, Cancelling 1st Revised SHEET No. 12
1st Revised SHEET No. 13, Cancelling Original SHEET No. 13
1st Revised SHEET No. 14, Cancelling Original SHEET No. 14
2nd Revised SHEET No. 15, Cancelling 1st Revised SHEET No. 15
1st Revised SHEET No. 16, Cancelling Original SHEET No. 16
2nd Revised SHEET No. 17, Cancelling 1st Revised SHEET No. 17
1st Revised SHEET No. 18, Cancelling Original SHEET No. 18
2nd Revised SHEET No. 19, Cancelling 1st Revised SHEET No. 19
1st Revised SHEET No. 20, Cancelling Original SHEET No. 20
2nd Revised SHEET No. 21, Cancelling 1st Revised SHEET No. 21
2nd Revised SHEET No. 22, Cancelling 1st Revised SHEET No. 22
2nd Revised SHEET No. 23, Cancelling 1st Revised SHEET No. 23
1st Revised SHEET No. 23a, Cancelling Original SHEET No. 23a
1st Revised SHEET No. 24, Cancelling Original SHEET No. 24
2nd Revised SHEET No. 25, Cancelling Original SHEET No. 25
1st Revised SHEET No. 26, Cancelling Original SHEET No. 26
2nd Revised SHEET No. 27, Cancelling 1st Revised SHEET No. 27
1st Revised SHEET No. 28, Cancelling Original SHEET No. 28
2nd Revised SHEET No. 29, Cancelling 1st Revised SHEET No. 29
2nd Revised SHEET No. 30, Cancelling 1st Revised SHEET No. 30
2nd Revised SHEET No. 31, Cancelling 1st Revised SHEET No. 31

The specified tariff sheets are suspended for 120 days, from April 22, 2011, to August 20, 2011.

3. The suspension period ordered in paragraph 2 is extended an additional six months beyond August 20, 2011, to February 16, 2012.

4. The regulatory law judge assigned to this case shall have the authority delegated in the body of this order.

5. This order shall become effective on May 11, 2011.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. Reed', written over a horizontal line.

Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Clayton, Davis,
Jarrett, and Kenney, CC., concur.

Jordan, Senior Regulatory Law Judge