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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 18th
day of March, 1999.

City of Desloge)	
and)	
City of Leadington,)	
)	
Complainants,)	
)	
vs.)	<u>Case No. WC-99-186</u>
)	
City of Park Hills,)	
)	
Respondent.)	

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION

On October 29, 1998, the cities of Desloge and Leadington filed a complaint with the Public Service Commission against the City of Park Hills. The complaint alleges that the City of Park Hills owns and operates a waterworks system that serves the cities of Desloge and Leadington as well as the citizens of Park Hills. It is alleged that on April 6, 1998, the City of Park Hills doubled the water rates for residential customers and tripled the rates for commercial customers who are located outside the city limits of Park Hills. At the same time, Park Hills did not increase the rates charged to its customers who live within its city boundaries. Desloge and Leadington ask the Commission to order Park Hills to file tariffs with the Commission regarding the

rates it charges for water service supplied outside the boundaries of Park Hills.

Park Hills responded to the Complaint on December 2 by filing a combined answer and motion to dismiss, accompanied by suggestions in support of the dismissal of the complaint. On December 14, Desloge and Leadington responded with suggestions in opposition to Park Hills' motion to dismiss. On January 28, 1999, the Commission issued an Order Denying Respondent's Motion to Dismiss.

On February 8, the Respondent, Park Hills, filed a Motion for Reconsideration of Order Denying Respondent's Motion to Dismiss. Suggestions in support of the motion for reconsideration were filed along with the motion. On February 17, Desloge and Leadington filed a motion for extension of time in which to respond to Park Hills' motion for reconsideration. The Commission granted the requested extension of time on February 26. Desloge and Leadington filed their response to Park Hills' motion for reconsideration on February 26.

On March 8, Park Hills filed a motion requesting an extension of time in which to file a reply to the response of Desloge and Leadington to Park Hills' motion for reconsideration. In order to avoid an unending cycle of replies to responses and ensuing responses to replies, the Commission will not consider a reply to a response to a motion. Therefore, Park Hills' Motion for extension of time in which to file a reply is denied.

Park Hills' motion for reconsideration argues that in refusing to dismiss the complaint of Desloge and Leadington, the Commission has

exceeded its jurisdictional authority. Park Hills asserts that the Commission is without authority to exercise any jurisdiction over a municipal water supply system such as that operated by Park Hills.

The Commission's Order Denying Respondent's Motion to Dismiss finds that the Commission's jurisdiction over Park Hills is based on Section 386.250(3), RSMo Supp. 1998. That statute generally provides that the Commission does not have jurisdiction over the services or rates of any municipally owned water plant or system, but then creates an exception when "such services or rates are for water to be furnished or used beyond the corporate limits of such municipality." Park Hills argues that the exception in Section 386.250(3) is unconstitutional for a variety of reasons and that therefore the Commission may not exercise jurisdiction in this matter.

Park Hills' Motion points out that the Public Service Commission is not a court and thus does not have the authority to declare that a statute is unconstitutional. Yet that is what Park Hills' Motion for Reconsideration asks the Commission to do. The Commission is merely attempting to exercise the authority that it is directed to exercise by the provisions of Section 386.250(3). As Park Hills indicates, it is for a court to determine whether or not that statute is constitutional.

Section 386.500, RSMO (1994) provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." Park Hills has, in the judgment of the Commission, failed to establish sufficient reason to grant its Motion for Reconsideration. The Motion for Reconsideration will be denied.

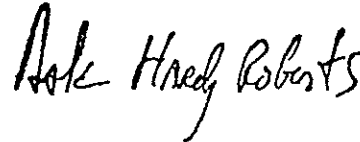
IT IS THEREFORE ORDERED:

1. That the City of Park Hills' Motion for Reconsideration of Order Denying Respondent's Motion to Dismiss is denied.

2. That the City of Park Hills' Motion for Extension of Time in Which to File Reply to Response of Complainants Cities of Desloge and Leadington to Respondent's Motion for Reconsideration of Order Denying Respondent's Motion to Dismiss, is denied.

3. That this order shall become effective on March 30, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Murray, Schemenauer
and Drainer, CC., concur
Crumpton, C., absent

Woodruff, Regulatory Law Judge