

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Four Seasons)
Lakesites Water & Sewer Company for a Certificate)
of Convenience and Necessity Authorizing It to)
Construct, Install, Own, Operate, Control, Manage)
and Maintain Water and Sewer Utility Properties) Case No. WA-95-164
for the Public Located in an Unincorporated Area)
in Camden County and Miller County, Missouri,)
Generally Comprising the Eastern Half of the Area)
Known as "Shawnee Bend.")

ORDER APPROVING TARIFFS FILED IN COMPLIANCE WITH
ORDER APPROVING UNANIMOUS STIPULATION AND AGREEMENT

On July 1, 1997, the Commission issued an Order Approving Unanimous Stipulation And Agreement, Granting Certificate Of Convenience And Necessity, Approving Tariffs, And Denying Application To Intervene. That order approved a Unanimous Stipulation And Agreement entered into by Four Seasons Lakesites Water & Sewer Company (Applicant), the Staff of the Missouri Public Service Commission (Staff), and the Office of the Public Counsel (Public Counsel). The July 1 order also approved the water and sewer tariffs which were attached to the Unanimous Stipulation And Agreement. However, that portion of the order was amended by a Notice Of Correction which was issued on July 2, 1997. The Notice Of Correction provided that the Applicant shall file tariff sheets "identical to those filed with the Unanimous Stipulation And Agreement no later than July 7, 1997, which tariff sheets shall bear an effective date of July 11, 1997."

On July 2 the Applicant filed sewer and water tariffs identical to the tariffs attached to the Unanimous Stipulation And Agreement except that they bore an issue date of July 2 and effective date of July 11. On

July 7 the Applicant filed fifteen substitute tariff sheets. In the cover letter accompanying the July 7 filing, Applicant's counsel states that the tariffs filed with the Unanimous Stipulation And Agreement reflect some mutual mistakes of fact and contain some tariff sheets from an earlier draft version. It appears that Applicant acceded to Staff's conditions applied after issuance of the July 1 order.

On July 8 the Staff filed a memorandum to the official case file in which it recommends that the tariffs filed by Applicant on July 2, as amended by the fifteen substitute tariff sheets filed by Applicant on July 7, be approved for service rendered on and after July 11, 1997.

The Commission has reviewed the Applicant's July 2 tariff filing, the applicant's July 7 tariff filing, and the Staff's July 8 memorandum. The Commission finds that the Applicant's July 2 tariff filing complies with the Commission's July 1 order and the Commission will order that the sewer and water tariffs filed by Applicant on July 2 become effective for service rendered on and after July 11, 1997.

The Commission would note that it is unfortunate if a mutual mistake of fact occurred with respect to the tariffs attached to the Unanimous Stipulation And Agreement. However, the proper procedure to address such a mistake is not to require tariff sheets which do not comply with the Commission's order. Rather, a party could have moved for clarification or correction of the underlying order. The Commission is of the opinion that it would be fundamentally unfair to rescind its July 1 order which granted the certificate to the Applicant. Also, it would be contrary to fundamental procedural due process to implement the tariff revisions suggested by Staff since there has not been adequate notice relating to the revisions and the Applicant does not support the revisions. Finally, the

Commission would observe that the Applicant and Staff could utilize a 30-day tariff filing to make appropriate revisions to the tariffs.

IT IS THEREFORE ORDERED:

1. That the following tariff sheets are approved for sewer service rendered by Four Seasons Lakesites Water & Sewer Company on and after July 11, 1997:

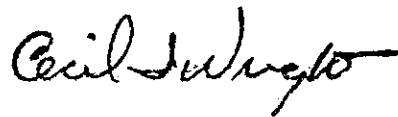
P.S.C. Mo. No. 2
Original Sheets 1 through 28

2. That the following tariff sheets are approved for water service rendered by Four Seasons Lakesites Water & Sewer Company on and after July 11, 1997:

P.S.C. Mo. No. 1
Original Sheets 1 through 31

3. That this order shall become effective on July 11, 1997.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

Thomas H. Luckenbill, Deputy Chief
Administrative Law Judge, by
delegation of authority pursuant to
4 CSR 240-2.120(1) (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 10th day of July, 1997.