

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

The Office of the Public Counsel)	
)	
Complainant,)	
)	
v.)	<u>File No. SC-2013-0332</u>
)	
West 16 th Street Sewer Company, Inc.,)	
)	
Respondent.)	

ORDER DENYING REQUEST FOR DEFAULT, GRANTING LEAVE TO LATE FILE ANSWER, AND SUSPENDING REQUIREMENT TO FILE A PROCEDURAL SCHEDULE

Issue Date: January 17, 2013

Effective Date: January 17, 2013

On December 12, 2012, Public Counsel filed a complaint against West 16th Street Sewer Company alleging that the company is overearning. The Commission provided notice of the filing of the complaint to West 16th Street Sewer and directed the company to file an answer to that complaint by January 14, 2013. The Commission also held a prehearing conference regarding the complaint on January 3. At that proceeding, the presiding officer ordered the parties to file a proposed procedural schedule by January 17.

West 16th Street Sewer failed to file its answer on January 14 and on January 16, Public Counsel filed a request for an order granting default. West 16th Street Sewer responded later on January 16 by filing its answer along with a motion requesting leave to late file. The company explained that it failed to timely file its answer due to an oversight by its counsel. Finally, on January 17, Public Counsel filed a motion asking the Commission to suspend the requirement to file an agreed upon procedural schedule to allow time for the

Commission's Staff to complete and file an audit of the utility to assist the parties in determining whether the company is overearning. Public Counsel represents that no party objects to its motion.

The Commission finds that the company's one-day delay in filing its answer was due to excusable neglect and will grant leave to late file that answer. Since the company has now filed its answer, default is no longer appropriate and the Commission will deny Public Counsel's motion for default. Finally, the Commission will suspend the requirement to file a procedural schedule to allow time for Staff to complete and file an audit of the company.

THE COMMISSION ORDERS THAT:

1. Public Counsel's Request for Order Granting Default is denied.
2. West 16th Street Sewer Company's Motion for Leave to Late File Answer is granted.
3. The requirement that the parties file a proposed procedural schedule by January 17, 2013 is suspended.
4. The parties shall file a report by April 17, 2013 indicating the status of Staff's audit of West 16th Street Sewer Company and indicating when the parties will file a proposed procedural schedule.
5. This order shall become effective upon issuance.

BY THE COMMISSION

(S E A L)

A handwritten signature in cursive script that reads "Shelley Brueggemann".

Shelley Brueggemann
Acting Secretary

Morris L. Woodruff, Chief Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 17th day of January, 2013.