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**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of the Application of West     )  
Elm Place Corporation for permission to     )  
sell certain assets used and useful by it     )  
in the provision of sewer services to the     ) Case No. SM-99-193  
public to Rock Creek Public Sewer District     )  
and to cancel its certificates of public     )  
convenience and necessity.                     )

**ORDER AND NOTICE**

On November 2, 1998, West Elm Place Corporation (West Elm or Applicant) filed an application with the Commission requesting an order authorizing the sale of certain assets used and useful in the provision of sewer services to the public to Rock Creek Public Sewer District (Rock Creek) and to cancel its certificates of public convenience and necessity. West Elm also filed a Motion for Expedited Treatment and Motion for Issuance of Protective Order.

The Applicant stated that West Elm is a Missouri corporation duly organized and existing under the laws of the State of Missouri with its principal place of business located at Arnold, Missouri. The application stated that West Elm is a public utility and a sewer corporation subject to the jurisdiction of the Public Service Commission. West Elm stated that it received certificates of public convenience and necessity to provide sewer service in Case No. 16,489, Case No. 17,456, Case No. SA-90-274, and Case No. SA-93-331. West Elm proposes to sell substantially all of its assets used in the provision of public utility service to Rock Creek, a political subdivision of the State of Missouri.

These assets include all sewer lines, easements, real estate, treatment plants, vehicles, office and storage buildings, and related equipment and supplies. West Elm stated that, as part of the transaction, Rock Creek requested that the Applicant's certificates of public convenience and necessity be canceled. West Elm stated it will discontinue sewer service.

The Applicant stated that the proposed sale is not detrimental to the public interest because Rock Creek is a political subdivision of the State of Missouri presently operating a sewer system and thus having experience in the public utility business. Applicant further stated that under Rock Creek's ownership, the rates, terms and conditions of service provided to Applicant's current customers will be developed and administered by a publicly-elected board of directors. The Applicant stated that Rock Creek operates in a not-for-profit status and is tax exempt, and therefore, may be able to operate West Elm's sewer system at a lower cost. In addition, West Elm stated that Rock Creek's not-for-profit status and ability to issue tax-exempt bonds may permit Rock Creek to finance improvements more economically. Based upon the most recent tax bills paid by the Applicant, the sale of Applicant's assets under the proposed contract to the Rock Creek is expected to effect the political subdivision of Jefferson County by reducing revenues in the amount of \$52,617 per year.

Proper parties should be given notice and an opportunity to intervene in this matter. The Records Department of the Commission shall send a copy of this order to the county commissions of Jefferson County, as these entities are listed in the current Official Manual of the State of Missouri. In addition, the Information Office of the Commission shall

send notice of this application to the members of the General Assembly who represent customers in Jefferson County, and to the newspapers located in Jefferson County, as listed in the newspaper directory of the current Official Manual of the State of Missouri.

The requirement of a hearing has been fulfilled when all those having a desire to be heard are offered an opportunity to be heard. If no proper party is granted intervention and neither the Commission's Staff nor the Office of the Public Counsel requests a hearing, the Commission may determine that a hearing is not necessary and that the applicants may submit their evidence in support of the application by verified statement. State ex rel. Deffenderfer Enterprises, Inc. v. P.S.C., 776 S.W.2d 494, 496 (Mo. App. 1989).

In its Motion for Expedited Treatment, West Elm stated that the funds available to Rock Creek has been allocated by the political subdivisions involved for December 1998, and the funding is time limited. The application states that in order to receive the funding for this purchase Rock Creek must complete this transaction no later than December 31, 1998. Further, the Applicant stated the substantial delay and increase in costs will occur if the transaction is not completed by December 31, 1998. For good cause shown, the Commission finds it appropriate to shorten the time for intervention.

**IT IS THEREFORE ORDERED:**

1. That the Information Office and the Records Department of the Missouri Public Service Commission shall provide notice as set out herein.

2. That any interested party wishing to intervene in this case shall file an application to do so no later than November 27, 1998, with:

Dale Hardy Roberts, Secretary  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102

and send copies to:

Gary W. Duffy  
Brydon, Swearengen & England, P.C.  
312 East Capitol Avenue  
Post Office Box 456  
Jefferson City, Missouri 65102

and

Office of the Public Counsel  
Post Office Box 7800  
Jefferson City, Missouri 65102

3. That this order shall become effective on November 24, 1998.

BY THE COMMISSION



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

(S E A L)

Shelly A. Register, Regulatory 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 13th day of November, 1998.

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COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION