

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of West 16th Sewer Company's)
Small Company Rate Increase.) **Case No. SR-2008-0389**

**OFFICE OF THE PUBLIC COUNSEL'S OBJECTION TO APPLICANT'S
WITHDRAWAL OF SEWER UTILITY SMALL COMPANY RATE INCREASE
REQUEST**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Objection to Applicant's Withdrawal of Sewer Utility Small Company Rate Increase Request states as follows:

1. On June 9, 2008, West 16th Street Sewer Company, Inc. (West 16th) initiated a small company revenue increase request for its sewer services in Pettis County, Missouri.
2. On November 6, 2008, the Staff of the Missouri Public Service Commission (Staff) filed a Notice of Company/Staff Agreement Regarding Disposition of Small Sewer Company Rate Increase Request indicating an agreement between Staff and West 16th for a sewer rate increase of \$6,031 annually (approximately 12.9%). Public Counsel did not join in the agreement.
3. On January 21, 2009, Public Counsel requested that the Missouri Public Service Commission (Commission) schedule an evidentiary hearing in this matter. In its request, Public Counsel stated that it had met with and informed Staff of its concern that much of the plant listed in the utility/staff disposition agreement is not plant-in-service but in fact is actually contribution in aid of construction (CIAC) and therefore, should not be included in the utility's rate base. Public Counsel informed the Commission that it had been contacted by Staff who indicated that it would be modifying the accounting run to incorporate a portion of the plant in question as CIAC. However, no changes to the utility/staff disposition agreement had been filed.

4. On January 22, 2009, West 16th filed a letter with the Commission indicating its desire to withdraw this pending sewer utility small company rate increase request.
5. Public Counsel opposes the withdrawal of the West 16th small company rate increase request at this time. In support of its opposition, Public Counsel states that the effect of its concern that much of the plant listed in the utility/staff disposition agreement is actually CIAC and therefore, should not be included in the utility's rate base is that West 16th may potentially be in an overearning situation with the rates that are currently in effect.
6. Proceeding with an evidentiary hearing in this case will allow the parties to make an adequate record, including submitting sworn expert testimony and other competent and substantial evidence on the central issue of what is the proper rate base value of the property of West 16th as well as on the issues of plant maintenance and billing.
7. Significant time and expense has been devoted to the West 16th rate increase request. Since this case was initiated in June of 2008, an audit of the company has been completed and Staff accounting schedules were prepared and reviewed by the parties. The parties have engaged in discovery, public hearings have been held and customers have been notified that a rate increase request is proceeding. Therefore, Public Counsel believes it is unjust and an inefficient use of public resources to allow an applicant for a rate increase to withdraw its request once it is determined that there is a possibility that the utility is actually overearning and rates may be decreased.
8. Public Counsel is also concerned that allowing West 16th to withdraw its request may indefinitely subject the ratepayers to rates that are not just and reasonable given the information gleaned in the case thus far. The complaint process is available to Public Counsel; however a complaint has no set timelines for customers to obtain relief. It is unreasonable for the

Commission to allow a withdrawal in a pending rate case and require a complaint rather than determining just and reasonable rates in the timeline set in the pending rate case.

WHEREFORE, Public Counsel hereby objects to the West 16th withdrawal of its small company rate increase request and renews its request that an evidentiary hearing be held in this matter.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 23rd day of January 2009:

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