

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of)
KMB Utility Corporation for a)
Sewer Rate Increase)

File No. SR-2010-0346

Tracking No. JS-2011-0294

ORDER WAIVING SECOND NOTICE

Issue Date: December 14, 2010

Effective Date: December 14, 2010

The Missouri Public Service Commission is granting the request (“motion”) to waive the mailing of the second notice.

A. Procedure

This action commenced on May 21, 2010, when KMB Utility Corporation (“the utility”) filed a letter asking the Commission for rate relief. Such action is subject to 4 CSR 240-3.050. That regulation provides for the filing of a disposition agreement between Staff and the utility, and of tariff sheets to implement the agreement.¹ Staff filed the disposition agreement on December 9, 2010, and the utility filed revised tariff sheets² (“the tariff”)³ on December 13, 2010.

Those filings required the Office of Public Counsel (“OPC”) to make a filing among which its options included:

a pleading stating its position regarding the utility/staff agreement and the related tariff revisions [.]⁴

OPC made such filing on December 13, 2010: *The [OPC]’s Position Statement*, which included the motion.

¹ 4 CSR 240-3.050(14).

² The tariffs bear an effective date of February 1, 2010.

³ To which the Commission assigned tracking no. JS-2011-0294.

⁴ 4 CSR 240-3.050(15).

The motion seeks waiver of a notice that must otherwise issue on December 20, 2010, so the time for instructing the utility as to its obligations is short. Also the Commission perceives no prejudice to any party in waiving a procedure that constitutes an expense to the utility. Therefore, the Commission will dispense with responses to the motion.⁵

B. Second Notice

The motion seeks a waiver of the following notice and other procedures (“second notice”):

. . . No later than five (5) working days after it makes its tariff filing, the utility shall mail written notice of the proposed tariff revisions, including a summary of the proposed rates and charges and the impact of the rates on an average residential customer's bill, to each of its customers. The notice must be approved by the staff and the public counsel prior to being mailed, shall invite customers to submit comments on the proposed tariff changes within twenty (20) days after the date of the notice, and shall include comment submission instructions as described in section (7). When the utility mails the notice to its customers, it shall also send a copy to the staff and the staff shall file a copy in the case file.^[6]

The motion is subject to 4 CSR 240-3.015(1):⁷

The requirements for filing applications for waivers . . . from commission rules . . . are contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.060 [;]

which sets the following standard:

. . . a complete justification setting out the good cause for granting the . . . waiver [⁸]

Good cause, in this context, means a reasonable request made in good faith.⁹

⁵ 4 CSR 240-2.080(15).

⁶ 4 CSR 240-3.050(14), second, third and fourth sentences.

⁷ Because this action is subject to 4 CSR 240-3.050.

⁸ 4 CSR 240-2.060(4)(B).

C. Good Cause

OPC's reason for the waiver is that the disposition agreement and the tariff vary significantly from an earlier proposal, so OPC does not oppose the disposition agreement and the tariff. The disposition agreement and the tariff are the subject of the second notice. Therefore, the second notice—including the other parties' approval of the content, mailing to all customers, and awaiting the customer's comments—constitute unnecessary expense and delay. That position constitutes good cause to waive the second notice, so the Commission will grant the motion.

THE COMMISSION ORDERS THAT:

1. The request set forth in *The Office of the Public Counsel's Position Statement* is granted.
2. The notice requirement in the second, third, and fourth sentences of 4 CSR 240-3.050(14) is waived.
3. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Daniel Jordan, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 14th day of December 2010.

⁹ *American Family Ins. Co. v. Hilden*, 936 S.W.2d 207 (Mo. App. W.D. 1996).