

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 16th day of March, 2011.

In the Matter of the Application of)
for a Small Company Rate Increase Request)
Seges Partners Mobile Home Park, LLC)

File No. SR-2011-0133

Tracking No. YS-2011-0442

ORDER APPROVING DISPOSITION AGREEMENT, TARIFF, AND WAIVER OF ANNUAL REPORT

Issue Date: March 16, 2011

Effective Date: April 1, 2011

The Missouri Public Service Commission is approving the:

- *Unanimous Agreement Regarding Disposition of Small Sewer Company Revenue Increase Request* (“agreement”);
- Tariff for the sewer services associated with the agreement; and
- Request for waiver (“request”) of the requirement to file the annual report due on April 15, 2010.

Seges Partners Mobile Home Park, LLC (“the utility”) supplies service to 59 residential customers in Holts Summit, Missouri.

A. Procedure

On November 8, 2010, the utility initiated this action. The Commission's staff ("Staff") filed its *Request for Waiver of Annual Report Filing* on February 9, 2011. The Commission received no response to the request within the time provided by regulation.¹ On

¹ 4 CSR 240-2.080(15).

February 25, 2011, the parties filed a notice of unanimous disposition agreement (“agreement”) to which it attached example tariffs and the executed agreement.

B. Agreement and Tariff

The agreement provides for a full resolution of the utility’s request and includes all parties: the utility, the Staff, and the Office of the Public Counsel (“OPC”). Those facts require the following procedure:

[T]he utility shall file new and/or revised tariff sheets, bearing an effective date that is not fewer than thirty (30) days after they are filed, to implement the agreement. In such a situation, a local public hearing will not be held unless ordered by the commission. [²]

Accordingly, the Commission held no local public hearing and the utility filed the tariff on March 1, 2011, bearing an effective date of March 31, 2011. No party filed a response to the tariff within the time provided by regulation.³

Both the current and proposed rates employ a base charge per customer and a usage charge per 1,000 gallons of metered water usage. The agreement and tariff provide the following increase in rates:

| <i>Charge</i> | <i>Current</i> | <i>Proposed</i> | <i>Increase</i> |
|---------------|----------------|-----------------|-----------------|
| Base | \$19.45 | \$27.53 | \$8.08 |
| Usage | \$2.73 | \$3.86 | \$1.13 |

The rate increase will cause the average customer—a customer using 4,000 gallons of water per month—the following increase in monthly billings:

| <i>Charge</i> | <i>Current</i> | <i>Proposed</i> | <i>Increase</i> |
|---------------|----------------|-----------------|-----------------|
| Base | \$19.45 | \$27.53 | \$8.08 |
| Usage | \$10.92 | \$15.46 | \$4.54 |
| Total | \$30.37 | \$42.98 | \$12.62 |

² 4 CSR 240-3.050(13).

³ 4 CSR 240-2.080(15).

The agreement also addresses recordkeeping matters. Based on the Commission's examination of the verified documents on file, the Commission independently finds and concludes that the agreement and tariff support safe and adequate service, at just and reasonable rates, and are in the public interest.

Therefore, the Commission will approve the agreement and the tariff, direct the parties to comply with the agreement's terms, and incorporate the agreement into this order as if set forth at length.

C. Annual Report

The subject of the request is Seges's duty to file, or seek an extension of time, as set forth at 4 CSR 240-3.640:

(1) All water utilities shall submit an annual report to the commission **on or before April 15** of each year, except as otherwise provided for in this rule.

* * *

(7) A water utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission **prior to April 15**; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.⁴

⁴ Emphasis added.

The annual report requirement is subject to enforcement by a penalty of \$100 plus an additional penalty of \$100 for each day that the report is late.⁵ Seges received a certificate of convenience and necessity for water and sewer services on August 12, 2009. As of the date of this order, Seges has not filed an annual report for 2009 or a pleading for an extension.

Staff seeks a waiver under 4 CSR 240-3.640, as to which 4 CSR 240-3.015(1) provides:

The requirements for filing applications for waivers or variances from commission rules and tariff provisions, as well as those statutory provisions that may be waived, are contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.060.

Regulation 4 CSR 240-2.060(4) provides:

In addition to the requirements of section (1),^[6] applications for variances or waivers from commission rules and tariff provisions, as well as those statutory provisions which may be waived, shall contain information as follows:

(A) Specific indication of the statute, rule or tariff from which the variance or waiver is sought;

(B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and

(C) The name of any public utility affected by the variance or waiver.

Good cause, in this context, means a reasonable request made in good faith.⁷ Staff addresses those matters as follows.

⁵ Section 393.140(6), RSMo 2000.

⁶ The letter initiating this small utility rate action, the request, and the unanimous agreement meet the requirements of 4 CSR 240-2.060(1), except Subsections (K), (L) and (M), which the Commission waives because Staff has supplied the necessary information.

⁷ *American Family Ins. Co. v. Hilden*, 936 S.W.2d 207 (Mo. App. W.D. 1996).

Staff cites Section 393.140(6), RSMo 2000, which authorizes the Commission to set the terms for an annual report, including the period covered and date filed as follows.

The commission shall:

* * *

(6) **Require** every person and corporation under its supervision and it shall be the duty of every person and corporation to file with the commission **an annual report** [.] The report shall show in detail . . . the affairs of such person or corporation **as may be required by the commission. Such reports shall** be in the form, **cover the period and be filed at the time prescribed by the commission** [⁸]

Staff also cites Seges's first tariff's effective date, which was December 31, 2009, so only a single day of operation was subject to the annual report due on April 15, 2010. Those facts describe good cause for a waiver and no party objects. Therefore, the Commission will grant the request. Staff also asks the Commission to direct that this order be attached to Seges's annual report due on April 15, 2011. The Commission will grant that request.

THE COMMISSION ORDERS THAT:

1. The *Unanimous Agreement Regarding Disposition of Small Sewer Company Revenue Increase Request* ("agreement") is approved. The agreement is incorporated into this decision as if set forth at length. All parties shall comply with the agreement.
2. The tariff to which the Commission assigned Tracking No. YS-2011-0442 is approved to become effective on April 1, 2011.
3. The specific tariff sheet approved is:

PSC Mo. No. 1

First Revised Sheet No. 5 Cancelling Original Sheet No. 5

⁸ Section 393.140(6), RSMo 2000; 4 CSR 240-3.640(9).

4. The *Request for Waiver of Annual Report Filing* is granted. The requirement to file the annual report due on April 15, 2010, is waived for Seges Partners Mobile Home Park, LLC. Seges Partners Mobile Home Park, LLC shall attach a copy of this order to its annual report due on April 15, 2011.

5. This order shall become effective on April 1, 2011.

BY THE COMMISSION

(S E A L)



Steven C. Reed
Secretary

Gunn, Chm., Clayton, Davis, Jarrett,
and Kenney, CC., concur.

Jordan, Senior Regulatory Law Judge