

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 4th day of
February, 2009.

In the Matter of West 16 th Street Sewer)	<u>Case No. SR-2008-0389</u>
Company's Small Company Rate Increase)	Tariff No. YS-2009-0335

ORDER DISMISSING APPLICATION

Issue Date: February 4, 2009

Effective Date: February 14, 2009

Syllabus: This order dismisses West 16th Street Sewer Company's application for a rate increase.

On June 9, 2008¹, West 16th Street Sewer Company (hereafter West 16th Sewer) filed a rate increase request letter. West 16th Sewer asked the Commission to allow it to increase its rates by \$52,945.68.

On November 6, the Staff of the Commission (hereafter "Staff") filed an *Agreement Regarding Disposition of Small Company Rate Increase Request*. The Agreement was between Staff and West 16th Sewer only, and it stated that those parties agreed West 16th Sewer should be allowed to increase its rates \$6,031. West 16th Sewer also filed a tariff bearing an effective date of December 22 to effectuate that increase.

On December 9, the Office of the Public Counsel (hereafter "OPC") filed a request for a local public hearing. The Commission set a local public hearing, and suspended the tariff until January 21, 2009, to allow time for parties to comment after the hearing. OPC

¹ All calendar references are to 2008 unless otherwise noted.

later requested an evidentiary hearing, and the Commission further suspended the tariff until May 9, 2009.

On January 22, 2009, West 16th Sewer withdrew its request for a rate increase. OPC objects to West 16th Sewer's withdrawal. OPC claims that West 16th Sewer may actually be overearning, and that proceeding with this rate case is the most efficient use of resources. Staff responded, stating that Commission rules allow an applicant to withdraw a rate increase request.

Commission Rule 4 CSR 240-3.050(23) states that, "[i]f at any time after a case is opened the utility . . . advises the staff that it no longer wishes to pursue an increase, the staff shall file a verified statement to that effect in the case file, whereupon the regulatory law judge *shall issue a notice closing the case.*" Further, Commission Rule 4 CSR 240-2.116(1) allows an applicant to withdraw a request for relief before testimony is filed or oral evidence is offered.

Staff filed the verified statement required by Commission Rule 4 CSR 240-3.050(23). The parties have not filed testimony or offered oral evidence. Therefore, the Commission will close the case.

As OPC admits, OPC may pursue a complaint against West 16th Sewer if it believes the company is overearning. OPC will not be prejudiced, as any discovery it has received will not vanish once this case is closed. If OPC is concerned about the length of time needed to pursue a complaint, it may request expedited treatment.

The Commission will not, indeed cannot, force a company to continue to pursue a rate increase that the company no longer wants. OPC's objection is overruled, and this case will be dismissed.

THE COMMISSION ORDERS THAT:

1. The Office of the Public Counsel's Objection to Applicant's Withdrawal of Sewer Utility Small Company Rate Increase Request is overruled.
2. That the following tariff sheet filed by West 16th Street Sewer Company, and assigned Tariff File No. YS-2009-0335, is rejected:

P.S.C. MO No. 1

2nd Revised Sheet No. 4, Canceling 1st Revised Sheet No. 4

3. West 16th Sewer Company's request for a rate increase is dismissed.
4. This order shall become effective on February 14, 2009.
5. This case shall be closed on February 15, 2009.

BY THE COMMISSION



Colleen Dale
Secretary

(S E A L)

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

Pridgin, Senior Regulatory Law Judge