

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 23rd day of
October, 2013.

In the Matter of the Cancellation of the Certificate)	
of Convenience and Necessity of Envirowater)	<u>File No. SD-2014-0045</u>
Company, LLC)	Tariff No. YS-2004-1401

**ORDER GRANTING MOTION TO NULLIFY CERTIFICATE OF
CONVENIENCE AND NECESSITY AND CANCEL ACCOMPANYING
TARIFF**

Issue Date: October 23, 2013

Effective Date: November 4, 2013

On February 6, 2004, Envirowater Company, LLC ("Envirowater") was granted a Certificate of Convenience and Necessity ("CCN") to construct and operate a sewer system in an unincorporated area of Lincoln County (File No. SA-2004-0159). The tariff submitted by Envirowater (P.S.C. MO #1, Tracking NO. YS-2004-1401) became effective on June 30, 2004. On April 16, 2013, Envirowater submitted its 2012 Annual Report to the Commission. With the Annual Report, Patrick Nasi, Manager of Envirowater, attached a letter indicating that having no customers or revenue generation in 2012, Envirowater had dissolved on December 31, 2012. After receiving Mr. Nasi's letter, Staff of the Commission conducted a site review of the service area and interviewed Mr. Nasi. The CCN was granted to Envirowater for use in a planned subdivision, with the subdivision developer proposing to construct a wastewater treatment facility that could then be transferred to Envirowater. Prior to a complete sewer system being built however, the developer ended all development of the subdivision without any homes being constructed. Since the time the Commission

granted the CCN in 2004, Envirowater has never had customers, and has never owned, operated, controlled or managed a sewer system. Since neither Mr. Nasi nor Envirowater have an ownership interest in the development of the subdivision the CCN will not be used in the future.

On August 21, 2013, the Staff filed a motion to cancel or deem null and void the CCN and associated tariff for Envirowater. On August 23, 2013, the Commission ordered notice be provided and set a deadline for interested entities to object or intervene. No such requests were received.

Section 393.170.3, RSMo (2000) provides that “[u]nless exercised within a period of two years from the grant thereof, authority conferred by such certificate of convenience and necessity issued by the commission shall be null and void.”

The Commission need not hold a hearing, if, after proper notice and opportunity to intervene, no party requests such a hearing.¹ Therefore, since no requests for a hearing or objections to Staff’s motion were received, the Commission may deem null and void the CCN based on Staff’s motion.

The Commission has reviewed Staff’s motion. The Commission finds that Envirowater’s certificate of convenience and necessity are null and void by operation of section 393.170.3, RSMo, since Envirowater did not exercise the authority conferred within two years of issuance. The Commission will also cancel Envirowater’s tariff.

THE COMMISSION ORDERS THAT:

1. The Staff of the Commission’s *Motion to Cancel or Deem Null and Void Certificate of Convenience and Necessity and Tariff* is granted.

¹ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

2. The certificate of convenience and necessity granted to Envirowater Company, LLC in File No. SA-2004-0159 is null and void.

3. Envirowater Company, LLC's tariff, P.S.C. MO #1, Original Sheet No. 1 through Original Sheet No. 19 (Tracking No. YS-2004-1401) is cancelled.

4. This order shall become effective on November 4, 2013.

5. This file may be closed on November 5, 2013.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

R. Kenney, Chm., Stoll, W. Kenney,
and Hall, CC., concur.

Burton, Regulatory Law Judge