

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

In the matter of the Application of Wilden)
Heights Water Company for an Order)
Authorizing its Sale to the Wilden Heights)
Homeowners Association.

Case No. WO-2003-0086

**MOTION TO CANCEL
CERTIFICATE OF SERVICE AUTHORITY AND ACCOMPANYING TARIFF**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and moves that the Commission cancel the Certificate of Convenience and Necessity to provide water service it granted to Wilden Heights Water Company in Case No. WA-87-67, as well as its tariff, P.S.C. MO. No. 1. In support of its Motion, Staff respectfully states as follows:

1. In its recommendation in this matter filed on October 22, 2002, Staff requested the Commission issue an order in this case that:

1. Approves the sale of WHWC's water utility assets to the Wilden Heights Homeowners Association;
2. Directs that notice of the closing on the sale of WHWC's water utility assets be provided to the Commission; and
3. Recognizes that WHWC's certificate and tariff will be canceled subsequent to receipt of the notice of the closing on the sale of WHWC's water utility assets.

(emphasis supplied).

2. The Commission approved the sale of assets in this case to the Wilden Heights Homeowners Association on November 27, 2002, and subsequently directed the company to notify the Commission when the transfer of assets was complete. The company complied with the *Order Directing Filing* issued on June 16, 2003 by submitting a letter on July 2, 2003 stating that the transfer of assets had been completed. The Judge issued an Order Closing Case on July 3, 2003, but did not cancel the company's certificate or tariff.

3. Staff now recommends that the Commission cancel the Certificate of Convenience and Necessity to provide water service it granted to Wilden Heights Water Company in Case No. WA-87-67, as well as its tariff, P.S.C. MO. No. 1. On November 12, 2002, the owners of Wilden Heights Water Company filed an affidavit indicating that after the proposed sale, they believed their company would no longer be subject to Commission jurisdiction. Moreover, the company no longer is providing water service to customers as its assets have been transferred according to the July 3, 2003 letter on file in this case. Although the Commission's authority to cancel a water certificate is not specifically set out in Chapter 393 of the Missouri statutes, the Commission has previously allowed regulated entities to discontinue operations in cases where cancellation was sought by the service provider and also where the service provider had ceased to exist.¹ Such is the situation in this case.

4. The Commission need not hold a hearing, since after the process of inviting intervenors and notifying customers was accomplished early in this case, the Commission has already authorized Wilden Heights Water Company to transfer its assets and cease providing water service, and Wilden Heights Water Company subsequently did, in fact, transfer its assets, and no longer provides utility service. The Commission also need not hold a hearing, if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. 1989).

WHEREFORE, the Staff requests that the Commission take notice of the previous filings in this case and grant Staff's Motion and cancel the Certificate of Convenience and Necessity to

¹ See 16 Mo. P.S.C. (N.S.) 142, *Burma Builders*; also see *In the Matter of Ozark Shores Water Company's Application for an Order Canceling the Certificate of Public Convenience and Necessity*, Case No. WD-2001-701; *In the Matter of the Cancellation of the Certificate of Convenience and Necessity and Tariff of the Lake Hannibal Sewer Corporation*, Case No. SD-2004-0144.

provide water service it granted to Wilden Heights Water Company in Case No. WA-87-67, as well as its tariff, P.S.C. MO. No. 1.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 3rd day of October, 2006.

/s/ David Meyer