

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 2nd day of
June, 2015.

The Office of the Public Counsel,)	
)	
Complainant,)	
)	
v.)	
)	
Ridge Creek Development, LLC,)	
Ridge Creek Water Company, LLC,)	
Mike Stoner, Denise Stoner,)	
)	
Respondents.)	

File No. WC-2015-0290

ORDER DENYING MOTIONS

Issue Date: June 2, 2015

Effective Date: June 2, 2015

On May 5, 2015, the Office of the Public Counsel ("OPC") filed a complaint with the Missouri Public Service Commission ("Commission") against Ridge Creek Development, LLC, Ridge Creek Water Company, LLC, Mike Stoner and Denise Stoner (collectively, "Ridge Creek"). On May 22, 2015, OPC filed a Motion for Order Directing Respondent to File Interim Tariffs and Motion for Expedited Consideration ("Motions"). The Commission's Staff filed a response to the Motions on May 27, 2015. These same parties are also participating in two related cases- a complaint case brought by Staff against Ridge Creek (WC-2015-0011) and an application filed by Ridge Creek Water Company, LLC for a certificate of convenience and necessity for authorization to operate the water system (WA-2015-0182).

OPC requests that the Commission act in an expedited manner to order Ridge Creek to file interim rate tariffs with the Commission at the rate the Ridge Creek

customers are already paying to become effective on July 1, 2015. OPC alleges that Ridge Creek is a “water corporation” under Missouri law¹ that is illegally providing water services to customers, billing for those services, and collecting payments without authorization from the Commission. OPC asserts that the Commission’s approval of interim tariffs “will stop further violations of Missouri law and will curtail the accrual of any refunds, penalties or other damages which may apply”.

Staff opposes the Motions. Staff argues that approving an interim rate tariff in this situation would be contrary to Missouri law, in that Chapters 386 and 393, RSMo, do not provide authority for the Commission to approve tariffs filed by an uncertificated entity such as Ridge Creek. While the Commission has the power to grant interim rate increases in certain circumstances, that power has only been exercised where a properly certificated utility is facing a financial emergency, which is clearly distinguishable from Ridge Creek’s situation. Moreover, Staff states that since both a certificate of convenience and necessity and approved tariffs are required by law, granting OPC’s request would not stop any alleged violations of law by Ridge Creek. Staff also argues that granting expedited treatment would be inappropriate. The establishment of initial rate tariffs by a new water company is, in effect, a general rate case. Staff’s recommendation for a just and reasonable rate for such a new company normally occurs in the application case leading to a certificate. The Commission cannot yet determine a just and reasonable rate for Ridge Creek before it has established an appropriate rate base and revenue requirement.

The Commission finds Staff’s arguments to be persuasive. The Commission has the authority to grant interim rate relief, which is implied from the “file and suspend” statutes,

¹ Section 386.020(59), RSMo. All statutory references are to the Revised Statutes of Missouri as cumulatively supplemented.

Sections 393.140 and 393.150, RSMo.² However, this authority presupposes that the entity requesting an interim rate tariff possesses a certificate of convenience and necessity at the time the tariff becomes effective. While Ridge Creek has applied for a certificate, OPC requests that an interim tariff become effective before Ridge Creek is certificated. In addition, granting the Motions would require the Commission to make a determination that the proposed rate is just and reasonable.³ In deciding whether a proposed rate is just and reasonable, the Commission must consider all relevant factors.⁴ There has not been sufficient time for the Commission to consider relevant factors and determine a just and reasonable rate, so OPC's request to impose an interim rate tariff now is premature and should be denied.

THE COMMISSION ORDERS THAT:

1. The Office of the Public Counsel's Motion for Order Directing Respondent to File Interim Tariffs and Motion for Expedited Consideration are denied.
2. This order shall be effective when issued.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

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

Bushmann, Senior Regulatory Law Judge

² *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n*, 535 S.W.2d 561, 566 (Mo. Ct. App. 1976).

³ Section 393.150, RSMo.

⁴ *State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 49 (Mo. banc 1979).