

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 1st day of
December, 2010.

In the Matter of the Application of)
KMB Utility Corporation for a)
Water Rate Increase)

File No. WR-2010-0345

Tracking No. YW-2011-0214

**ORDER GRANTING LOCAL PUBLIC HEARING AND
SUSPENDING TARIFF, AND NOTICE OF CONTESTED CASE**

Issue Date: December 1, 2010

Effective Date: December 1, 2010

The Missouri Public Service Commission is granting *The Office of the Public Counsel's Request for Local Public Hearing* ("the request"), granting the motion to suspend the tariff ("motion") that is included in the request, and giving notice that a contested case has begun.

A. Background

The Commission received a letter¹ from KMB Utility Corporation ("the company") under the regulation providing rate relief for small utilities ("the regulation").² Staff filed a notice of disposition agreement³ between Staff and the Company.⁴ The Company filed revised tariff sheets ("the tariff") with an effective date of December 8, 2010.⁵

¹ Filed on May 21, 2010.

² 4 CSR 240-3.050.

³ 4 CSR 240-3.050(11).

⁴ 4 CSR 240-3.050(14).

⁵ On October 22, 2010.

The Office of the Public Counsel [“OPC”] filed the request⁶ seeking a local public hearing. To allow time for a local public hearing, and related procedures, OPC includes the motion to suspend the tariff. The tariff’s effective date arrives after only one scheduled agenda, which is after the Thanksgiving holiday.

Therefore, the Commission will dispense with any further time for responses to the request and motion.⁷

B. Tariff Suspension

Suspending the tariff is within the Commission’s authority under certain conditions.⁸

(1) Reasons for Suspension

The conditions for suspending a tariff include a written statement of the Commission’s reasons for suspending the tariff.⁹ The Commission’s reasons for suspending the tariff include issues that OPC raises in the request: the revenue requirement calculation, departures from earlier proposals, the amount of rate increases, and cross-subsidization of service territories as set forth in the tariff. Those issues are likely to arise during a local public hearing and the Commission will not be able to adequately address them before the tariff’s effective date. For those reasons, the Commission will suspend the tariff.

(2) Notice of Contested Case

The conditions for suspending a tariff also include a full hearing and decision on the tariff’s propriety.¹⁰ The full pre-decision hearing provision signifies that this action, on the

⁶ On November 23, 2010.

⁷ 4 CSR 240-080(15).

⁸ Section 393.150.1, RSMo 2000.

⁹ *Id.*

¹⁰ *Id.*

now-suspended tariff, is a “contested case.”¹¹ A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities¹² and a decision without a hearing,¹³ including by stipulation and agreement.¹⁴ This notice does not require any party to file an answer. The Commission’s discovery regulations are at 4 CSR 240-2.090.

(3) The Suspension’s Duration

The conditions for suspending a tariff include time limits as follows:

1. [T]he commission . . . may suspend the operation of such [tariff] and defer the use of such [tariff,] but not for a longer period than one hundred and twenty days beyond the time when such [tariff] would otherwise go into effect [.]¹⁵
2. If any such hearing cannot be concluded within the period of suspension, as above stated, the commission may, in its discretion, extend the time of suspension for a further period not exceeding six months.

Therefore, the Commission will suspend the tariff for one hundred twenty days and extend the suspension by six months.

C. Local Public Hearing

OPC’s reasons for a local public hearing—the revenue requirement calculation, departures from earlier proposals, the amount of rate increases, and cross-subsidization of service territories—support the request. Having suspended the tariff makes it possible to conduct a local public hearing and related procedures, so the Commission will grant the request. The Commission will set the time and place of the local public hearing by separate order.

¹¹ Section 536.010(4), RSMo Supp. 2009.

¹² Sections 536.060(3) and 536.063(3), RSMo 2000.

¹³ Sections 536.060, RSMo 2000.

¹⁴ 4 CSR 240-2.115.

¹⁵ Section 393.150.1, RSMo 2000.

THE COMMISSION ORDERS THAT:

1. The request for a local public hearing is granted.
2. The tariff to which the Commission assigned tracking no. YW-2011-0214 is suspended until April 7, 2011, and the suspension is extended to October 7, 2011. The specific tariff sheets suspended are:

P.S.C. MO No. 1

**4th Revised Sheet No. 6A Canceling 3rd Revised Sheet No. 6A
6th Revised Sheet No. 6B Canceling 5th Revised Sheet No. 6B
5th Revised Sheet No. 6C Canceling 4th Revised Sheet No. 6C
5th Revised Sheet No. 6D Canceling 4th Revised Sheet No. 6D
4th Revised Sheet No. 6E Canceling 3rd Revised Sheet No. 6E
1st Revised Sheet No. 6F Canceling Original Revised Sheet No. 6F
5th Revised Sheet No. 7 Canceling 4th Revised Sheet No. 7**

3. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

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

Jordan, Regulatory Law Judge