

**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, 2011.

In the Matter of the)
Rate Increase for)
Whiteside Hidden Acres, LLC)

File No. WR-2011-0024

Tracking No. YW-2011-0336

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

Issue Date: February 4, 2011

Effective Date: February 4, 2011

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

Whiteside Hidden Acres, LLC (“the Company”) filed a letter¹ under the regulation for small utility rate relief.² Staff filed a notice of disposition agreement³ between Staff and the Company.⁴ The Company filed revised tariff sheets (“the tariff”).⁵ The Office of the Public Counsel [“OPC”] filed the request⁶ seeking a local public hearing. The Commission will dispense with responses to the request and motion.⁷

¹ Filed on July 28, 2010.

² 4 CSR 240-3.050.

³ 4 CSR 240-3.050(11).

⁴ 4 CSR 240-3.050(14).

⁵ On December 30, 2010.

⁶ On January 27, 2011.

⁷ 4 CSR 240-080(15).

B. Request for Local Public Hearing

OPC's reasons for a local public hearing are that this is the first increase the company has had, the increase is over 100%, and about two-thirds of the customers have made comments. Those reasons support the request. Therefore, the Commission will grant the request, convene a local public hearing, and set the time and place of the local public hearing by separate order.

C. Motion to Suspend Tariff

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. Those issues are likely to arise during a local public hearing. Adequately address those issues, conducting a local public hearing, and related procedures cannot occur before the tariff's effective date of February 15, 2011. Therefore, the Commission will grant the motion and 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 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

⁸ Section 393.150.1, RSMo 2000.

⁹ *Id.*

¹⁰ *Id.*

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

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

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 also 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 until June 28, 2011, because that is the date by which the Commission will issue its decision.¹⁶

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-2011-0336 is suspended for 120 days, and the suspension is extended until June 28, 2011. The specific tariff sheets suspended are:

P.S.C. MO No. 1
Original Sheet No. 5;
First Revised Sheet No. 6, cancelling Original Sheet No. 6.

¹³ Sections 536.060, RSMo 2000.

¹⁴ 4 CSR 240-2.115.

¹⁵ Section 393.150.1, RSMo 2000.

¹⁶ 4 CSR 240-3.050(24).

3. This order shall become effective immediately upon issuance.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. C. Reed', written in a cursive style.

Steven C. Reed
Secretary

(S E A L)

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

Jordan, Senior Regulatory Law Judge