

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Lake Region Water & Sewer) File No. SR-2010-0110
Company's Application to Implement a General) Tariff No. YS-2011-0082
Rate Increase in Water and Sewer Service)

In the Matter of Lake Region Water & Sewer) File No. WR-2010-0111
Company's Application to Implement a General) Tariff No. YW-2011-0081
Rate Increase in Water and Sewer Service)

ORDER APPROVING TARIFF FILINGS IN COMPLIANCE WITH COMMISSION ORDER

Issue Date: August 25, 2010

Effective Date: September 6, 2010

On August 23, 2010, Lake Region Water and Sewer Company filed tariff sheets purported to be in compliance with the Commission's August 18, 2010 Report and Order. The tariffs bear an effective date of September 6, 2010, the maximum operation of law date allowed pursuant to the tariff suspension authorized Section 393.150, RSMo 2000.

While thirty days notice is typically required when a regulated utility files a schedule stating a new rate, charge or practice relating to any rate, charge or service, the Commission may allow changes to any rates, charges or services without thirty days notice for good cause shown.¹ For clarity, when the Commission issued its Report and Order, it set the timeline for filing compliance tariffs contemplating an effective date of September 6, 2010. Because the Commission finds it just and reasonable for Lake Region to have rates providing timely and proper revenue recovery, and because an extended hearing process resulted in this matter and the statutory operation of law date

¹ Sections 393.140 and 393.150; Commission Rules 4 CSR 240-3.340(15) and 4 CSR 240-3.645(6).

is September 6, the Commission finds good cause for expediting the effective date of the tariff sheets.

On August 25, 2010, the Commission's Staff filed a recommendation that the Commission approve the compliance tariffs. On the same day, the Office of the Public Counsel filed an objection to approving the tariff sheets. Public Counsel asserts that because the Commission declared, in its Report and Order, that it has jurisdiction over the availability fees and the revenue derived from the fees, that Lake Region must list the availability charges in its tariff sheets. Public Counsel's objection; however, is based upon a misunderstanding of the Commission's Report and Order. In the Report and Order the Commission stated:

The Commission asserting jurisdiction over revenue derived from availability fees, as now declared in this matter, cannot simply be based on an adjudication on a specific set of accrued facts. What the Commission is announcing today is it is going to prospectively change its statement of general applicability that implements, interprets or prescribes law or policy, or that describes the organization, procedure, or practice requirements before this agency. Agencies cannot engage in this type of rulemaking by an adjudicated order. Pursuing a major change in the Commission's interpretation, implementation and prescription of its definitional statutes and its long-standing policy regarding ratemaking treatment of availability fees, requires compliance with the more stringent and lengthy process of rulemaking as required under section 536.021.

The determination that the Commission made was that it was going to assert jurisdiction over availability fees in future actions after undertaking a formal rulemaking process. The Commission specifically noted that it could not assert jurisdiction based upon the adjudicatory process in this single action. Public Counsel's objection is based upon a misreading of the Commission's order.

The Commission has reviewed the tariff filings and Staff's verified recommendation and memorandum and finds the tariffs should be approved.

THE COMMISSION ORDERS THAT:

1. The Office of the Public Counsel's August 25, 2010 objection to approving Lake Region Water and Sewer Company's compliance tariffs is overruled.
2. The tariff sheets filed by Lake Region Water and Sewer Company on August 23, 2010, Tariff Nos. YS-2011-0082 and YW-2011-0081, are approved to become effective on September 6, 2009. The tariff sheets approved are:

P.S.C. Mo. No. 1

**First Revised Sheet No. 4, Canceling Original Sheet No. 4
First Revised Sheet No. 5, Canceling Original Sheet No. 5
First Revised Sheet No. 7-A, Canceling Original Sheet No. 7-A**

P.S.C. Mo. No. 2

**Second Revised Sheet No. 6, Canceling First Revised Sheet No. 6
Second Revised Sheet No. 7, Canceling First Revised Sheet No. 7
First Revised Sheet No. 8, Canceling Original Sheet No. 8**

3. This order shall become effective on September 6, 2010.
4. This case shall be closed on September 7, 2010.

BY THE COMMISSION

(S E A L)



Steven C. Reed
Secretary

Harold Stearley, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 25th day of August, 2010.