

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of a Working Docket to Investigate Appropriate)
Methods for Ratemaking Treatment of Fees or Other) **File No. SW-2011-0042**
Mechanisms used for Capital Recovery of Sewer and) **File No. WW-2011-0043**
Water Infrastructure Investment)

ORDER REGARDING WORKING DOCKET

Issue Date: August 24, 2010

Effective Date: August 24, 2010

On August 23, 2010, the Commission direct notice in these dockets. The dockets resulted from the recent ratemaking proceeding for Lake Region Water and Sewer Company, where the Commission announced its intention to change, on a prospective basis, its practices and policies with how it treats revenue derived through the use of fees for capital recovery of infrastructure investment in sewer and water companies. The issue depends, in part, on whether these fees constitute a utility “service” as defined in Section 386.020(48), Cum. Supp. 2009.

“Sewer Service,” as currently defined in Commission Rules 4 CSR 240-300(3) and 4 CSR 240-60.101(3)(M) is the “removal and treatment of sewage.”¹ The definition does not appear to encompass any type of fee levied for anything other than the actual physical removal and treatment of sewage. Consequently, the Commission will direct

¹ These definitions further support the Commission’s decision in the rate case that significant deviations from past statements of general applicability that implement, interpret or prescribe law or policy (**such as these definitional rules**) or that describes the organization, procedure, or practice requirements before this agency require compliance with the more stringent and lengthy process of rulemaking as required under section 536.021. Changes in Commission rules cannot be done improperly through adjudication. See *Greenbriar Hills Country Club v. Director of Revenue*, 47 S.W.3d 346, 357 (Mo. banc 2001).

its Staff, as part of these dockets, to conduct an exhaustive review of all of the Commission's regulations on water and sewer utilities and determine a comprehensive proposal for the pertinent definitions that will be applicable in any new water or sewer rules, and make recommendations for any required revisions in any existing Commission rules to bring all regulations into conformity with each other and the statute.

THE COMMISSION ORDERS THAT:

1. The Commission's Staff shall follow the directives in the body of this order during the workshop dockets and subsequent rule making proceedings.
2. This order shall become effective immediately upon issue.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 24th day of August, 2010.