

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 21st day of
May, 2014.

In the Matter of Roy-L Utilities)
Request for an Increase in Water System)
Operation Revenue)

File No. WR-2013-0543
Tariff Tracking No.: YW-2014-0401

In the Matter of Roy-L Utilities)
Request for an Increase in Sewer System)
Operation Revenue)

File No. SR-2013-0544
Tariff Tracking No.: YS-2014-0402

**ORDER APPROVING UNANIMOUS DISPOSITION AGREEMENT IN
SMALL COMPANY RATE CASE, WAIVING 30 DAY FILING
REQUIREMENT, GRANTING MOTION FOR EXPEDITED TREATMENT,
AND APPROVING TARIFF**

Issue Date: May 21, 2014

Effective Date: May 23, 2014

On June 26, 2013, Roy-L Utilities, Inc. ("Company") submitted a written request to the Commission for an increase in its water and sewer revenues. Company requested an increase of \$10,378 in its annual sewer system revenues and an increase of \$8,072 in its annual water system revenues. Staff of the Missouri Public Service Commission then proceeded to handle the requests as set out under the guidelines of Commission Rule 4 CSR 240-3.050 for small utility rate case procedures. On January 17, 2014, Company filed an application pursuant to Sections 393.180, 393.190, and 393.200, RSMo 2000, for Commission approval to issue up to \$73,000 of secured indebtedness for physical and operational improvements of its facilities (WF-2014-0211). On March 5, 2014, the Commission issued an order granting the application. On April 1st, Staff filed a notice of an

agreement between Staff and Company for a disposition of the case. On April 7th, Company filed tariff sheets with an effective date of May 23rd. On that same day, the Office of the Public Counsel filed a request for a local public hearing.

A local public hearing was held on April 12, 2014.¹ On May 9th, Staff filed a *Notice of Unanimous Agreement Regarding Disposition and Small Water & Sewer Company Revenue Increase Request*, acknowledging a unanimous agreement amongst the parties ("Agreement"). Staff, Company and the Office of the Public Counsel joined in the Agreement, which supports an increase in Company's annual water operating revenue by \$1,514 and an increase in its annual sewer operations by \$7,393. The Agreement also required Company to file substitute tariff sheets with an effective date at least 30 days from the date of filing.

On May 12th, Company filed substitute tariffs sheets P.S.C. MO 3 Original Sheet 4, to replace the original sheet filed on April 7th (Tariff Tracking Nos.: YW-2014-0401 and YS-2014-0402). The substitute sheets maintained the May 23rd effective date. On May 13th, the Commission issued an order giving interested parties until May 16th to file comments on Company's substitute tariff sheets and for Staff to indicate if the substitute tariff sheets were in compliance with the terms of the Agreement.

On May 13th, Staff filed *Staff's Motion to Amend the Notice of Unanimous Agreement, Recommendation to Approve Tariffs, and Motion for Expedited Treatment* ("Staff's Motion"). Staff's Motion indicates the Agreement inadvertently stated Company should file substitute tariff sheets with at least 30 days before the effective date. Staff's Motion requests the Commission approve Company's substitute tariff sheets with the May

¹ All dates referenced are in 2014, unless otherwise indicated.

23rd effective date. Staff states that a review of the substitute tariff sheets found them to be in compliance with the terms of the Agreement.

Staff's Motion also indicates that the Agreement inadvertently omitted a request for expedited treatment. Staff requests expedited treatment in order for the tariff sheets to go into effect on May 23rd. On May 13th the Office of the Public Counsel filed its response to Staff's Motion. The Office of the Public Counsel stated it had no objections to Staff's request for expedited treatment and affirmed that the Agreement inadvertently included a 30-day effective date requirement for Company's substitute tariff sheets. Company did not file a response to Staff's Motion.

Commission Rule 4 CSR 240-2.080(14) requires a motion for expedited treatment explicitly identify it as such in the title of the pleading. Consistent with the requirement of the Commission's rule, a party requesting expedited treatment must also identify the date by which the Commission is requested to act, the harm avoided by an expedited decision, and an explanation as to the timeliness of the request. Many of Company's customers are seasonal customers, whose peak usage begins around the Memorial Day holiday. In order for Company to collect sufficient revenue to avoid defaulting on its loan payments for capital borrowed for service improvements, it is critical for Company to begin billing the amounts established in the Agreement. This need to avoid defaulting on the loan is good cause for the Commission to approve the Agreement on an expedited basis. The Commission finds the Agreement reasonable and shall approve it.²

² The Commission has legal authority to accept stipulations and agreements as offered by the parties pursuant to Section 536.060, RSMo 2000. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. *State ex rel. Rex Deffenderfer enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

The Commission has authority to approve tariff sheets pursuant to Section 393.140(11) and 393.150, RSMo 2000. The Commission finds good cause exists for Company to be excused from the requirement in Section 393.140(11) that tariffs have a 30-day effective date. To constitute good cause, the reason or legal excuse given, "...must be real not imaginary, substantial not trifling, and reasonable not whimsical."³ The Commission finds and concludes that good cause is present in this situation to prevent the Company from defaulting on its scheduled loan payments. Furthermore, since a local public hearing was held on April 12th, customers were provided over 30 days' notice of a rate increase, as detailed in the Agreement.

The Commission has reviewed the Agreement, substitute tariff sheets, Staff's recommendation, and the Office of the Public Counsel's comments. The Commission finds that the tariff sheets conform to the terms of the Agreement as intended by the parties, and should be approved to become effective on May 23rd.

THE COMMISSION ORDERS THAT:

1. Staff's motion to amend the Notice of Unanimous Agreement and request for expedited treatment is granted.
2. The terms of the Unanimous Agreement Regarding Disposition of Small Company Revenue Increase Request, in the matter of Roy-L Utilities, Inc.'s request for an increase in water and sewer systems operating revenue, File Nos. WR-2013-0543 and SR-2013-0544, as entered into by Roy-L Utilities, Inc., the Staff of the Missouri Public Service Commission and the Office of the Public Counsel, is approved.

³ *Belle State Bank v. Indus. Comm'n*, 547 S.W.2d 841, 846 (Mo. App. 1977). See also *Barclay White Co. v. Unemployment Compensation Bd.*, 50 A.2d 336, 339 (Pa. 1947) (to show good cause, reason given must be real, substantial, and reasonable).

3. The signatories shall comply with the terms of the Unanimous Agreement Regarding Disposition of Small Company Revenue Increase Request Disposition Agreement. A copy of the Agreement is attached to this order as Appendix A.

4. The following water service tariff sheets filed by Roy-L Utilities, Inc. on April 7, 2014 for P.S.C. MO No. 3, canceling P.S.C. MO No. 2, with a substitute sheet No. 4, as submitted on May 12th, and assigned Tariff Tracking No. YW-2014-0401, are approved to become effective on May 23, 2014.

5. The following sewer system tariff sheets filed by Roy-L Utilities, Inc. on April 7, 2014 for P.S.C. MO No. 4, canceling P.S.C. MO No. 2, with a substitute sheet No. 4, as submitted on May 12th, and assigned Tariff Tracking No. YS-2014-0402, are approved to become effective on May 23, 2014.

6. Roy-L Utilities, Inc. shall file the information required by Section 393.275, RSMo 2000, and Commission Rule 4 CSR 240-10.060 no later than May 30, 2014.

7. This order shall become effective on May 23, 2014.

BY THE COMMISSION



A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

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

Burton, Regulatory Law Judge