

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Braden Park, L.L.C.'s Application )  
for Certificate of Convenience and Necessity to ) **File No. WA-2011-0260**  
Provide Water Service )

# NOTICE AND ORDER ACKNOWLEDGING WITHDRAWAL OF APPLICATION

Issue Date: July 28, 2011

Effective Date: July 28, 2011

On February 14, 2011, Braden Park, L.L.C. filed an application requesting that the Commission grant it a Certificate of Convenience and Necessity (“CCN”) to provide water service to Braden Park Village subdivision located in Benton County, Missouri. The Commission issued notice and set an intervention deadline. No entity sought intervention, and the Commission directed its Staff to file a recommendation regarding the application no later than April 7, 2011. At Staff’s request, the Commission granted Staff extensions of time on April 8, 2011, May 5, 2011 and June 23, 2011 for it to ultimately file an “Agreement” in lieu of a recommendation.

On June 27, 2011, Braden Park withdrew its application stating that withdrawal of its application was in conformity with the Agreement it executed with Staff. And, on June 29, 2011, Staff filed a pleading entitled “Staff's Response to Application and Motion to Withdraw,” wherein Staff states:

Staff, Company, and the Office of the Public Counsel (Public Counsel) have entered into a *Memorandum of Agreement (Agreement)* and stipulated to a method of operation that will allow Braden Park to provide water service to its customers without being required to obtain a Certificate of Convenience and Necessity from the Commission at this time. The *Agreement* also provides that Staff will conduct periodic follow-up reviews of the operation. As a result of entering into the *Agreement*, Braden Park filed a *Motion to Withdraw (Motion)* its *Application* with the Commission on June 27, 2011. Staff has reviewed the Company's *Motion* and

finds it to be in compliance with the *Agreement* and recommends the Commission allow this matter to be withdrawn and closed. Staff further asserts that Public Counsel does not object to the Company's *Motion to Withdraw*.

On July 8, 2011, Staff filed a copy of the Agreement. The terms of the Agreement delineate conditions in which Braden Park may recover the commodity costs of providing water service to its residents without engaging in any regulated activities. No party has responded to, or opposed, the Agreement or the withdrawal of Braden Park's application.

Commission Rule 4 CSR 240-2.116 allows any applicant to dismiss an application without an order of the Commission at any time prior to the filing of prepared testimony, or the offering of oral evidence, simply by serving notice of the dismissal with the Commission and all parties of record. Braden Park satisfied the rule's requirements when it filed its notice of withdrawal in the Commission's Electronic Information and Filing System. Braden Park did not file a motion to withdraw as Staff states, nor is one required.

The Commission emphasizes that by acknowledging that Braden Park has withdrawn its application the Commission is in no way approving the Agreement, or any terms or conditions contained within the Agreement that Braden Park has executed with Staff and Public Counsel. The Commission acknowledges that Braden Park has withdrawn its application for a CCN. The Commission accepts Staff's report that Braden Park is not engaged in any regulated activities that would require the Commission to grant Braden Park a CCN. The Commission expects its Staff to notify the Commission if Braden Park's circumstances change to where Braden Park's activities would fall under the jurisdiction of the Commission.

Because the application has been withdrawn, there is no action required by the Commission in this matter. This file shall now be closed.

**THE COMMISSION ORDERS THAT:**

1. The Commission acknowledges that Braden Park, L.L.C.'s application for a certificate of convenience and necessity is withdrawn.
2. Nothing in this order constitutes express or implied approval of the Agreement executed by Braden Park, L.L.C., the Staff of the Missouri Public Service Commission and the Office of the Public Counsel.
3. This file shall be closed.
4. This order shall be effective immediately upon issuance.

**BY THE COMMISSION**

( S E A L )



**Steven C. Reed  
Secretary**

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

Dated at Jefferson City, Missouri,  
on this 28<sup>th</sup> day of July, 2011.