

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

**In the Matter of the Small Company Rate)
Increase Request of Mill Creek Sewers, Inc.)**

Case No. SR-2005-0116

STATUS REPORT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and for its Status Report states the following to the Missouri Public Service Commission ("Commission").

1. On September 29, 2005, the Commission issued its **Order Approving Tariff and Agreement**, by which it approved an increase in the Company's monthly sewer rate effective October 12, 2005. The Commission also ordered the Staff to file monthly status reports

2. The Staff filed monthly status reports each month, from January 2006 through March 2007; except that it did not file a report in December 2006, per leave of the Commission.

3. On April 3, 2007, the Commission issued its **Order Regarding Status Reports**, in which it granted a Staff motion to change the frequency of the status report filings from monthly to quarterly. The Staff filed quarterly status reports in June, September, and December 2007.

4. Attached as Appendix A hereto is the *Staff Monitoring Report* dated September 15, 2007, which covers the Company's activities during the months of December 2007 and January and February 2008. Included in this report is information regarding the following matters: (a) the Company's most recent customer billings; (b) the Staff's most recent review of the Company's books and records; (c) the Staff's conclusions regarding the Company's use of its funds; (d) the Company's past-due customer account balances; (e) the Company's efforts regarding collection of certain of the past-due customer accounts; (f) customer service

complaints and/or inquiries; (g) general liability insurance; (h) the Company's DNR operating permit fees; (i) personal property taxes; (j) the Company's 2007 annual report and statement of revenues; and (k) the proposed sale of the Company's sewer system.

5. The principal findings in the attached *Staff Monitoring Report* are the following:

(a) The Company fell behind in the payment of its bills from AmerenUE and from Testing Analysis and Control, because the Company's owner was out of town on business for about two months. The Staff makes recommendations to make sure the Company makes these payments on time in the future.

(b) The Company purchased a cell phone and cell phone service. The Staff believes this expenditure is excessive, inappropriate, and not properly documented.

(c) The Company appropriately increased the monthly compensation of Jim Holmes, Mill Creek's office manager, and properly paid several months' "back pay" to Mr. Holmes.

(d) Part of the compensation paid to Mr. Holmes represented a duplication of other payments, and adjustment will need to be made in the future.

(e) The past-due balances that Mill Creek's customers owe to the Company now total \$4,110.

(f) The Company has received a reasonable quotation for the purchase of a commercial general liability insurance policy, but has not yet purchased this insurance, and should do so soon.

(g) The Company needs to continue to budget for payment of all Department of Natural Resources operating permit fees and of all personal property tax obligations.

(h) The Company's owner has offered to sell all of his stock in the Company to Mr. Holmes. This offer has not been accepted or rejected, and negotiations continue.

(i) Mr. Holmes was hospitalized on March 10, 2008, and was not able to meet with the Staff to discuss some of the items that are covered in this report. The Staff plans to meet with Mr. Holmes for this purpose as soon as possible, and will supplement this Status Report, if necessary.

WHEREFORE, the Staff respectfully submits this Status Report, and the attached *Staff Monitoring Report*, for the Commission's information and consideration in this case.

Respectfully Submitted,

/s/ **Keith R. Krueger**

Keith R. Krueger
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CERTIFICATE OF SERVICE

I hereby certify that copies of this Status Report, and the attached *Staff Monitoring Report*, have been mailed with first-class postage, hand-delivered, transmitted by facsimile, or transmitted via e-mail to all counsel and/or parties of record this 14th day of March 2008.

/s/ **Keith R. Krueger**

APPENDIX A

Staff Monitoring Report

Case No. SR-2005-0116

March 14, 2008

Staff Monitoring Report

Case No. SR-2005-0116

Mill Creek Sewers, Inc.

Prepared By:

John Cassidy

Auditing Department

And

James Merciel

Water & Sewer Department

Missouri Public Service Commission

March 14, 2008

ORDER REGARDING STATUS REPORTS

As part of its Order regarding status reports, issued April 3, 2007, the Commission granted the Staff permission to reduce the frequency of filing its Mill Creek Sewers, Inc. ("Mill Creek" or "Company") status reports from a monthly basis to a quarterly basis. Staff's last monthly Mill Creek status report was filed on March 15, 2007 and the first quarterly status report was filed on June 15, 2007. Also, as part of its April 3, 2007 Order, the Commission directed the Staff to immediately notify the Commission if at any time, changes are made regarding the operation or management of Mill Creek Sewers, particularly a change in the management company from Testing Analysis and Control, Inc. to a different entity. Jim Holmes, Mill Creek's office manager indicated that no such changes in operation or management have occurred.

INFORMATION REGARDING CUSTOMER BILLINGS

Since the Staff filed its last status report on December 14, 2007, Company has issued additional customer billings. On or about December 1, 2007, January 1 and February 1, 2008, Mill Creek issued its twenty-fifth, twenty-sixth and twenty-seventh customer billing under its new rates, for service provided during the months of November and December 2007 and January 2008 respectively. On or about March 1, 2008, Mill Creek issued its twenty-eighth customer billing under its new rates, for service provided during the month of February 2008, which will be addressed as part of the Staff's fifth quarterly review of the Company's books and records, scheduled to be filed by June 15, 2008.

STAFF'S REVIEW OF MILL CREEK'S BOOKS AND RECORDS AND CONCLUSIONS REGARDING MILL CREEK'S USE OF ITS FUNDS

On March 5, 2008, John Cassidy of the Auditing Department's St. Louis Office reviewed all available Mill Creek books and records to determine if the Company's use of the funds that were collected from its December 1, 2007, January 1 and February 1,

2008 customer billings complied with the provisions of the Second Supplemental Agreement applicable to that matter.

The Staff notes that Mr. Holmes did not make all of Mill Creek's records available to the Staff during this review. Specifically, Mr. Holmes still needs to provide a copy of the bank statement and canceled checks for February 2008 as well as a copy of the invoices related to the recent purchase of a cell phone and related cell phone service. The Staff scheduled another meeting with Mr. Holmes for March 10, 2008 in order to review these records and also to provide assistance to Mr. Holmes regarding the completion of Mill Creek's 2007 Annual Report and Statement of Revenues. However, Mr. Holmes was hospitalized and could not attend a meeting that day. The Staff asked Mr. Holmes to contact the Staff once he was able to meet again. The Staff will supplement this status report after its next meeting with Mr. Holmes, if necessary.

Based on the Staff's March 5th review of the books and records that the Company made available to the Staff, Mr. Cassidy determined that Mill Creek had appropriately spent the customer funds collected from its December 1, 2007, January 1 and February 1, 2008 customer billings on the following items: (1) payment for operations and maintenance of the wastewater treatment plant; (2) payment for electricity expense; (3) compensation paid to Jim Holmes, Mill Creek's office manager, for customer billing and office manager duties; (4) payment for 2007 real estate taxes to the St. Louis County Collector of Revenue.

Since the time of its last review, the Staff discovered that Mill Creek had fallen behind in making payments to Testing Analysis and Control (TAC), for operation and maintenance services related to Mill Creek's wastewater treatment plant and also to AmerenUE for electric service to its wastewater treatment plant.

On March 10, 2008, Staff contacted AmerenUE and learned that between February 29 and March 10, 2008, AmerenUE received two payments from Mr. Holmes totaling \$449. The \$449 of payments addressed past due amounts owed to AmerenUE for electric service provided during November and December 2007 and a portion of service provided during January 2008. Mill Creek still owes AmerenUE \$174, for electric service received during February 2008 and for part of January 2008.

On March 6, 2008, the Staff contacted TAC and learned that Mill Creek owed them \$2,679 for wastewater treatment plant operation and maintenance fees and miscellaneous repairs dating back to November 2007. On March 11, 2008, the Staff contacted TAC again and learned that they had received a \$2,679 payment that covered all services provided through January 31, 2008. Mill Creek currently owes \$730 to TAC, for February 2008 services, which is not due until March 31, 2008. TAC indicated to the Staff that it continued to provide service to Mill Creek despite the fact that Mill Creek had fallen behind in making payments. Furthermore, based on the Staff's observations of Mill Creek's treatment plant facility and through recent discussions with TAC, Mill Creek's treatment plant operations appear to be adequate.

The Staff asked Mr. Holmes to explain why he has not made payments to these vendors in a timely manner. Mr. Holmes explained to the Staff that since he is not named on Mill Creek's checking account, he is unable to issue payments without the signature of Mill Creek's owner, Mr. Joseph Afshari. Mr. Afshari was out of town for over two months for other business and also for other personal matters. As a result, Mr. Holmes was required to wait until Mr. Afshari returned to St. Louis in order to issue payments for these bills.

The Staff requested that Mr. Holmes speak to Mr. Afshari about making acceptable arrangements to ensure that in the future Mill Creek's bills are paid in a timely manner. The Staff explained to Mr. Holmes that Mill Creek must pay its bills in a timely fashion, regardless of Mr. Afshari's travel schedule.

In the meantime, the Staff will stay in contact with Mr. Holmes, in between quarterly reviews, to discuss any problems that he may be having related to paying Mill Creek's bills in a timely fashion. The Staff also spoke to Tim Allgire, the individual who oversees Mill Creek's treatment plant operations for TAC, and requested that Mr. Allgire contact the Staff if Mill Creek should fall behind in making payments to TAC again in the future. The Staff believes, based on observation and contact with TAC, that even though a past-due bill exists, TAC is and has been continuing to satisfactorily provide operations services at the treatment plant.

During the March 5, 2008 review, the Staff learned that Mill Creek paid \$423 for a new cell phone. Mr. Holmes indicated to the Staff that, as part of the purchase, a rebate check of \$300 is due to Mill Creek; however Mr. Holmes was unable to provide any documentation for such a rebate. Mr. Holmes assures the Staff that when the rebate check is received he will make a copy for the Staff and will deposit this payment separately from other deposits that represent customer payments, so the Staff will be able to identify this deposit on a future Mill Creek checking account bank statement.

The Staff maintains that this phone purchase is: (1) excessive; (2) unnecessary for the provision of safe and adequate service; and (3) an inappropriate use of the customer funds. Mr. Holmes should not incur \$423 to obtain a new cell phone for this utility. Mr. Holmes had more affordable cell phone options to select from and the Staff expects Mr. Holmes to hold Mill Creek operating expenses to a minimum. The Staff will investigate the cost of other phone replacement options. As part of its next review, the Staff will follow up on this expenditure, as well as any rebate received, and require Mr. Holmes to make appropriate restitution to Mill Creek, if deemed necessary.

The Staff discovered during its December 5, 2007 review, that effective September 1, 2007, Mr. Holmes increased his salary from \$290 to \$325 per month. The Staff believes that this increase for Mr. Holmes' salary, on a monthly basis, is reasonable. However, during the March 5, 2008 review the Staff noted a payment of \$176, during December 2007, made to Mr. Holmes as compensation for time that he spent handling

matters related to sewer main backup issues that occurred earlier in 2007. The Staff explained to Mr. Holmes that in his role as Mill Creek office manager, he is expected to occasionally devote additional time to address these types of issues. The Staff also explained to Mr. Holmes that he is not an hourly employee and that his salary takes into consideration these types of events. The Staff will discuss how Mill Creek should handle this payment as part of another payroll issue that is discussed below.

Mr. Holmes was never paid for his completion of the first four customer billings under the new interim rates, specifically for customer billings that occurred on November 1, 2005, December 1, 2005, January 1, 2006 and February 1, 2006. During October 2007, Mr. Holmes issued an \$870 payment to himself for “back pay” that related to his completion of the December 1, 2005, January 1, 2006 and February 1, 2006 billings as well as for his other office managerial duties. Mr. Holmes had previously not been compensated for these billing services and therefore this payment was appropriate. Therefore, upon receipt of this \$870 payment, Mr. Holmes was only owed an additional \$290 for his completion of Mill Creek’s first customer billing that was issued on November 1, 2005.

During the March 5, 2008 review, the Staff discovered that during December 2007, Mr. Holmes had issued a payment for \$905 for billing services that he had described on the memo line of the applicable check as pertaining to January and February 2006 billings as well as payment for the recent December 2007 customer billing (\$290 for January 2006 + \$290 for February 2006 + \$325 for December 2007). However, payment for January 2006 and February 2006 would represent a double payment for Mr. Holmes’ billing services. The Staff agrees that \$325 of the \$905 payment is appropriate compensation for the December 2007 billing. The Staff believes that an additional \$290 of the \$905 payment would also be appropriate, because it would compensate Mr. Holmes for Mill Creek’s first customer billing that was issued on November 1, 2005. However the remaining \$290 of this \$905 total payment is inappropriate because Mr. Holmes was made whole for all previous billing services upon receipt of payment for the November 1, 2005 billing and therefore this \$290 portion represents a duplicate payment. The Staff has requested that Mr. Holmes apply the aforementioned \$176 payment as well as the \$290 duplicate payment as a credit toward future payments for customer billings during 2008. During the next quarterly review, the Staff will follow up on this issue to ensure that Mr. Holmes has handled this matter appropriately.

During its review, the Staff noted that no customer deposits were shown on the January 2008 bank statement. Mr. Holmes indicated that he made the deposits after the cutoff date for the January 2008 bank statement. As discussed previously, the Staff still needs to review the February 2008 bank statement to verify this, once Mr. Holmes is able to meet again.

**INFORMATION REGARDING PAST-DUE ACCOUNT BALANCES AND
COLLECTION EFFORTS PERTAINING TO CERTAIN OF THOSE
ACCOUNTS**

As of February 29, 2008, Mill Creek's customer account past-due balances totaled approximately \$4,110. During the review, Mr. Holmes reported that five of Mill Creek's customers are responsible for \$2,710 (approximately 66%) of this total. Additionally, there are two accounts that are responsible for approximately \$1,005 (approximately 24%) of the total, for which the current customers did not create the past-due balances. Mill Creek is still attempting to collect the past-due balances for these two accounts from real estate title companies. Mr. Holmes has been in contact with a title company with regard to one of these two accounts but still has been unable to reach a resolution with the title company. Mr. Holmes also reported that two additional customers (not previously discussed above) continue to pay extra amounts as part of a special billing arrangement. These two customers are responsible for approximately \$150 (approximately 4%) of the past due total. The remaining \$245 of past due amounts (approximately 6%) pertain to small past due balances owed by various customers.

A historical summary of Mill Creek's total past-due account balances, which include the outstanding balances related to title company matters, is set out below, with the amounts shown being rounded to the nearest \$5 increment.

Balance at October 31, 2005	\$10,445
Balance at November 30, 2005	\$8,775
Balance at December 31, 2005	\$7,100
Balance at January 31, 2006	\$7,185
Balance at February 28, 2006	\$6,825
Balance at March 31, 2006	\$6,535
Balance at April 30, 2006	\$6,260
Balance at May 31, 2006	\$4,995
Balance at June 30, 2006	\$4,670
Balance at July 31, 2006	\$4,875
Balance at August 31, 2006	\$4,945
Balance at September 30, 2006	\$5,010
Balance at October 31, 2006	\$5,030
Balance at November 30, 2006	\$5,615
Balance at December 31, 2006	\$6,455
Balance at January 31, 2007	\$6,100
Balance at February 28, 2007	\$5,720
Balance at March 31, 2007	\$4,745
Balance at April 30, 2007	\$5,110
Balance at May 31, 2007	\$5,500
Balance at June 30, 2007	\$5,740
Balance at July 31, 2007	\$5,970
Balance at August 31, 2007	\$4,990
Balance at September 30, 2007	\$4,915

Balance at October 31, 2007	\$5,050
Balance at November 30, 2007	\$4,890
Balance at December 31, 2007	\$4,980
Balance at January 31, 2008	\$3,850
Balance at February 29, 2008	\$4,110

The Staff will continue to monitor the progress of Mill Creek's collection efforts regarding its past-due customer accounts, will assist the Company in those efforts as deemed appropriate and will include updates regarding this matter in its future quarterly status reports.

CUSTOMER SERVICE COMPLAINTS AND INQUIRIES

A review of the Consumer Quality data base in the Commission's electronic filing and information system (EFIS) revealed that there were no customer complaints or inquiries since the time of the last quarterly review that was conducted in September 2007.

COMMERCIAL GENERAL LIABILITY INSURANCE

During the last quarterly review, Mr. Holmes provided the Staff a copy of a quote that he obtained from the Associated Insurance Group, Inc. to provide commercial general liability insurance coverage for Mill Creek. The cost for this insurance coverage was approximately \$1,075 annually. As the Staff indicated in the previous report, this cost is comparable to what other small utilities must pay for similar types of insurance coverage. During the review conducted on March 5, 2008, Mr. Holmes indicated to the Staff that he has not yet obtained this commercial general liability insurance coverage for Mill Creek's operations. The Staff again recommended to Mr. Holmes that he should obtain this insurance coverage for Mill Creek as soon as possible.

DNR OPERATING PERMIT FEES

The Missouri Clean Water Law requires that all sewer companies pay an annual operating permit fee to DNR for each wastewater treatment plant that discharges to the waters of the State, with that permit fee normally being based on the design flow of each particular treatment plant. Mill Creek is assessed \$2,500 annually for this permit fee based on the design flow of its wastewater treatment plant. As recently as August 2006, Mill Creek owed DNR approximately \$10,000 for past due operating permit fees and related late fees. Since that time Mill Creek has made significant progress towards paying for this past due balance owed.

The Staff contacted DNR on Friday, February 29, 2008 and learned that Mill Creek currently owes the DNR \$3,000 for previous years' operating permit fees and also

for other applicable late fees. DNR indicated that in early March 2008, it will bill Mill Creek an additional \$2,500 for its 2008 operating permit fee. This bill must be paid by the end of May; otherwise, penalties will begin to accrue on this balance. Mill Creek needs to continue to budget its expenses in order to timely pay the amounts owed to DNR for its current and past due annual operating permit fees.

PERSONAL PROPERTY TAXES

During October 2007, Mill Creek received from the St. Louis County Collector of Revenue, a personal property tax bill in the amount of approximately \$6,590. On March 3, 2008, the Staff contacted the St. Louis County Collector of Revenue to obtain the current balance that Mill Creek owed and discovered that this past due balance continues to accrue interest and penalties and has increased to a \$6,884 past due balance. This \$6,884 past due balance reflects amounts owed for the current year's assessment, as well as delinquent amounts owed from prior years' assessments, for taxes pertaining to Mill Creek's sewage treatment plant facilities. Mill Creek will need to budget its expenses in order to pay the outstanding balance that is owed to St. Louis County Collector of Revenue for the personal property taxes, much in the same way as it has previously done to address its large past due balances owed to DNR.

2007 ANNUAL REPORT AND STATEMENT OF REVENUES

Mill Creek has requested the Staff's assistance in the completion of its 2007 Annual Report and Statement of Revenues. The Staff will meet with Mr. Holmes, when he is available, and assist him with the completion of these two items.

PROPOSED SALE OF SYSTEM

On January 15, 2008, Mill Creek's owner, Mr. Joseph Afshari, tendered a proposal to sell Mill Creek Sewer Company, Inc. to Mill Creek's office manager, Mr. Jim Holmes. Mr. Afshari currently maintains 100% ownership of the stock in Mill Creek Sewer Company. Mr. Afshari's proposal contemplates the sale of all of this stock to Mr. Holmes for the sum of \$100,000 with no down payment, zero percent interest, with a yearly payment of \$5,000 per year payable in one lump sum on or before December 31st of each calendar year for a period covering 20 years until said balance is paid in full. Mr. Holmes indicated to the Staff that he and Mr. Afshari are still engaged in negotiations and that no agreement has been reached yet. The Staff requested that Mr. Holmes contact the Staff regarding any new developments with regard to these negotiations.