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MARK S. RUBIN

October 26, 1999

**FILED**

OCT 29 1999

**VIA TELEFAX & REGULAR MAIL**

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
Truman Building  
301 W. High Street, Room 530  
Jefferson City, Missouri 65101

Missouri Public  
Service Commission

SR-  
2000-302

Re: Motion of House Springs Sewer Company, Inc. for Waiver from Requirements that It be  
Current in the Payment of PSC Assessments and Filing of PSC Annual Reports

Dear Judge Roberts:

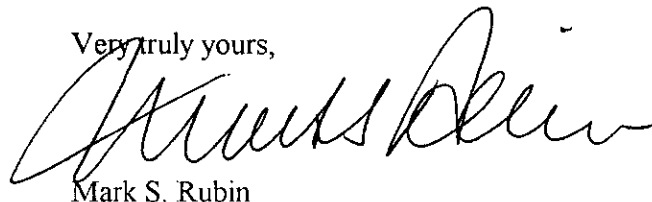
Patricia A. Fribis, court-appointed receiver of House Springs Sewer Company, Inc., sent a letter request to the Public Service Commission for a rate increase under the Small Company Rate Increase Procedure on or about September 24, 1999. Her letter was returned to her with a memorandum citing the Company's failure to file its PSC Annual Report and delinquency in the payment of PSC Annual Assessments, as required under 4 CSR 240-2.200, as the reasons for the return of the request.

I am enclosing herewith an original and fourteen copies of the above-referenced Motion seeking a waiver from the requirements that House Springs Sewer Company, Inc. be current in the payment of PSC Assessments and in the filing of PSC Annual Reports for the reasons set forth in the Motion.

Please file the original Motion and distribute the copies in accordance with law. We ask you and the Commission to consider the extraordinary circumstances of House Springs Sewer Company in reaching a decision as to whether or not to sustain this Motion.

Thank you for your courtesy and cooperation.

Very truly yours,



Mark S. Rubin

MSR:dce

cc: Mr. David Stueven  
Ms. Shannon Cook

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
OCT 29 1999  
Missouri Public  
Service Commission

In the matter of the request of House Springs )  
Sewer Company, Inc. for a rate increase under )  
the Small Company Rate Increase Procedure )

Case No. SR  
00-2000-302

MOTION OF HOUSE SPRINGS SEWER COMPANY, INC. FOR WAIVER FROM  
REQUIREMENTS THAT IT BE CURRENT IN THE PAYMENT OF  
PSC ASSESSMENTS AND FILING OF PSC ANNUAL REPORTS

COMES NOW, Patricia A. Fribis, court-appointed Receiver of Respondent, House Springs Sewer Company, Inc., by and through counsel, and respectfully moves the Public Service Commission ("PSC") for its order waiving the requirements under the procedure for small utility companies to obtain a rate increase that the applicant be current in the payment of PSC assessments and the filing of its PSC annual report, on the basis of the following:

1. House Springs Sewer Company, Inc. ("HSSC") is a corporation duly organized and existing under the laws of the State of Missouri with its principal office and place of business located at 3800 Jeffco Boulevard, Arnold, Missouri 63010. It is a "public utility" and a "sewer corporation" under the jurisdiction of the Missouri Public Service Commission ("Commission") and has less than fifteen hundred (1,500) customers, thus qualifying as a "small company" under 4-CSR 240-2.200.

2. HSSC, by and through its receiver, Patricia A. Fribis, submitted an original letter, dated September 24, 1999, to the Honorable Dale Hardy Roberts, Secretary/Chief Regulatory Judge of the Missouri Public Service Commission requesting a rate increase for HSSC under the Small Company Rate Increase Procedure set forth in 4-CSR 240-2.200, a copy of said letter is attached hereto as Exhibit A.

3. On or about October 6, 1999, the letter was returned to HSSC with a checklist that indicated that it was being returned because "small companies must be current on their PSC Annual Assessments and PSC Annual Report before a small company rate increase can be requested."

4. On or about October 2, 1998, the Staff of the PSC filed a complaint before the PSC against HSSC for nonpayment of PSC annual assessments in Case No. SC-99-135 wherein the parties thereto entered into a Stipulation and Agreement, which included, among other matters, the following: (1) a confirmation that HSSC and Imperial Utility Corporation ("IUC") were owned and operated by the same entity, EPCO, Incorporated, all of which were under receivership in Division 39 of the Circuit Court of St. Louis County, Missouri, Cause No. 98CC-002202; (2) an acknowledgment that the sale of substantial assets of IUC to Rock Creek Public Sewer District had been approved by the PSC in Case No. SM-99-287; (3) an admission by HSSC that it owed \$41,093.52 in delinquent assessments; (4) an agreement that the assessments, which IUC (which have already been paid in full) and those of HSSC would be paid before the net proceeds of the IUC sale may be distributed to the owners; and (5) HSSC's agreement to pay its assessments "immediately upon the closing of the sale of the HSSC assets or at such time as the net proceeds from the IUC sale are distributed to the owners of IUC, whichever occurs first."

5. In a separate lawsuit filed by the Missouri Attorney General on behalf of the State of Missouri against Eugene A. Fribis, EPCO, Incorporated, IUC and HSSC, the parties entered into a Consent Judgment whereby the defendants, and HSSC, in particular, agreed, among other things, that substantially all of the assets of HSSC would be sold prior to January 1, 2001 or substantial monetary penalties would be due and owing from HSSC.

6. HSSC is actively pursuing a buyer of its assets in compliance with the Consent Judgment and intends to pay all delinquent PSC assessments upon the closing of said sale.

7. Further, HSSC acknowledges that it was a party to the stipulation and agreement entered in Case No. SC96-427 before the PSC, which prohibited either IUC or HSSC from requesting a rate increase from the PSC for a period of three (3) years from the date of the stipulation

and agreement therein on March 20, 1997, "absent some extraordinary event," but HSSC respectfully states that extraordinary events have occurred which make it imperative that HSSC be granted a rate increase as soon as possible, for the following reasons:

a. the PSC treated EPCO, Incorporated, IUC and HSSC as one entity and the utility that produced positive cash flow, IUC, has been sold and the net proceeds are in escrow pending a protracted trial on the interpretation of the initial stock purchase agreement by and between the Fribis' and Henry Collins, Jr., who has asserted a substantial interest in said proceeds.

b. Byrnes Mill 206 Corporation, the owner of Byrnes Mill Farms Mobile Home Park, has failed to pay for service to more than 330 pads for a period of more than a year and a half creating a tremendous cash flow problem for HSSC. The balance due and the contract by which HSSC had been providing service are the subject matter of a pending lawsuit in the Circuit Court of Jefferson County, Missouri.

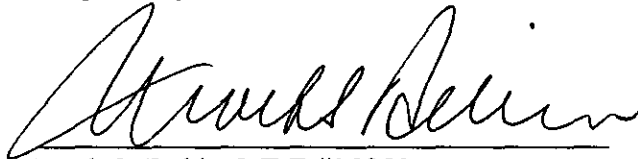
c. the facilities, including, but not limited to the collection lines, lagoons and treatment facilities of HSSC must be adequately maintained, as is required by any prospective buyer of the assets of the Company, and HSSC simply lacks the financial resources to properly so maintain said facilities and lines without the additional revenue that would be generated from a rate increase.

d. HSSC cannot survive on its own as a stand alone private sewer company so that the assets of the Company can be sold at fair market value without a rate increase.

8. In the event that the PSC sees fit to grant HSSC the requested waivers and a rate increase in accordance with HSSC's letter request for same, HSSC will have sufficient revenue to pay all prospective assessments in a timely manner and to have prepared by qualified professionals its PSC Annual Reports.

WHEREFORE, HSSC respectfully requests that the Public Service Commission enter an order waiving the requirements that HSSC shall be current in the payment of its PSC assessments and that in the filing of its PSC annual reports as a precondition to being eligible for a rate increase; that the PSC grant HSSC its requested increase under the Small Company Rate Increase Procedure; and for such further orders as the PSC deems appropriate in these circumstances.

Respectfully submitted,



Mark S. Rubin, MBE #25859  
FRANKEL, RUBIN, BOND & DUBIN, P.C.  
231 S. Bemiston, Suite 1111  
Clayton, Missouri 63105  
(314) 725-8000  
(314) 726-5837 facsimile

Attorneys for the Court-Appointed Receiver of,  
House Springs Sewer Company, Inc.,  
Patricia A. Fribis

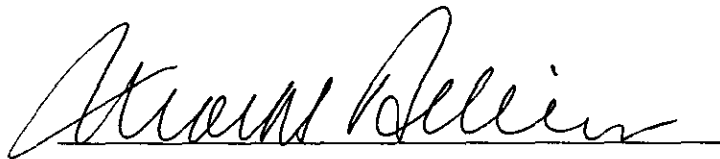
#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing motion was mailed, postage prepaid, and transmitted via telefax, on this 27<sup>th</sup> day of October, 1999 to:

Office of the Public Counsel  
301 East High Street  
P.O. Box 7800  
Jefferson City, MO 65102  
ATTN: Ms. Shannon Cook  
facsimile: (573) 751-5562

and .

Office of the General Counsel  
Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
ATTN: Mr. David Stueven  
facsimile: (573) 751-9285



**HOUSE SPRINGS  
SEWER COMPANY, INC.**

3800 JEFFCO BOULEVARD  
ARNOLD, MISSOURI 63010  
(314) 464-1220

RECEIVED

SEP 27 1999

Records  
Public Service Commission

EXHIBIT A

September 24, 1999

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

RE: Request for Increase in Annual Operating Revenues  
Small Company Rate Increase Procedure

Dear Mr. Roberts:

House Springs Sewer Company (Company) holds a certificate of public convenience and necessity granted by the Missouri Public Service Commission (Commission), under which the Company provides sewer collection and treatment services in Jefferson County, Missouri. As you may or may not know, the Company is currently being operated under receivership pursuant to an order of the St. Louis County Court, with the undersigned acting as court appointed receiver.

Pursuant to 4 CSR 240-2.200, the Commission's Small Company Rate Increase Procedure, I am hereby requesting on behalf of the Company a permanent increase of \$41,040.00 in its annual operating revenues. This represents an increase of \$5.00 per month per billing unit over the Company's current rates (the rate for single-family dwellings would go from \$20.00 to \$25.00 per month and the rate for apartments and mobile homes would go from \$18.00 to \$23.00 per month).

In addition, on the Company's behalf I am requesting authority to file revised tariff provisions providing for an interim increase in the Company's monthly rates of \$5.00 per billing unit, with that increase being subject to refund pending the outcome of the request for the referenced permanent increase.

Mr. Dale Hardy Roberts  
Re: Rate Increase Request  
September 24, 1999  
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The reason for the requested increase in rates is that the operation of House Springs Sewer Company has changed substantially over the last few months. In the past, Imperial Utility Corporation and House Springs Sewer Company shared many operating expenses such as utilities, workers, tools, testing, etc. Imperial Utility Corporation was sold to Rock Creek Public Sewer District in May of this year and since that time House Springs has struggled to pay its on-going expenses, much less earn a return on its utility plant investments. In fact, House Springs could not even cover its payroll during the last payroll period.

House Springs Sewer Company is struggling to offer good sewer service with two full-time employees and two part-time employees. Before the sale of Imperial, House Springs shared a chemist with Imperial who completed all of the testing for the monthly monitoring reports. Since the sale, House Springs has had to have an outside laboratory complete the testing, which is yet another additional expense. House Springs has also had an abundance of vandalism and breakage to its plant and equipment, adding even more expenses that were not in its budget.

Due to the receivership situation mentioned above, the Company is not now current on its annual report filings with the Commission, as is required as a condition to utilizing the small company rate increase procedure. In fact, much of the information needed to complete the annual report filings is not even available to me in my capacity as receiver for House Springs Sewer Company. Because of the unusual situation facing the Company, I am asking that the annual report-filing requirement be waived in this instance.

Additionally, the Company is not now current on the payment of its annual PSC assessments, as is also required as a condition of utilizing the small company rate increase procedure. However, the Company is a party to a Commission-approved Stipulation and Agreement that provides for the payment of its past due assessments, which was entered in Case No. SC-99-135. As a result, I believe the spirit, if not the letter, of the requirement regarding payment of the Company's PSC assessments has been satisfied in this instance. The requested increase in operating revenues will also allow House Springs to make payments on the current year's assessments.

Mr. Dale Hardy Roberts  
Re: Rate Increase Request  
September 24, 1999  
Page 3 of 3

Please contact me at your convenience if you need additional information regarding this request. I truly believe that if this rate increase is not granted the House Springs Sewer Company will not be able to operate and provide its services to the public.

Sincerely,

HOUSE SPRINGS SEWER COMPANY

*Patricia A. Fribis*

Patricia A. Fribis  
Court Appointed Receiver

Copy: Shannon Cook-Office of the Public Counsel  
P. O. Box 7800  
Jefferson City, MO 65102