

**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**

**Petition for Interim Receiver and for an Order Directing the General Counsel  
to Petition the Circuit Court of Saint Louis County for the Appointment of  
a Receiver for Mill Creek Sewers, Inc., and Motion for Expedited Treatment**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), and for its  
Petition to appoint an interim receiver for Mill Creek Sewers, Inc. (Mill Creek or Company),  
authorize a circuit court action, and motion for expedited treatment states:

1. Pursuant to Section 393.145.1 RSMo (Supp. 2008)<sup>1</sup>, in the event a sewer corporation that regularly provides service to less than eight thousand customers is unable or unwilling to provide safe and adequate service or has been actually or effectively abandoned, the Commission may, after hearing, order its General Counsel to petition the circuit court for the appointment of a receiver. Further, Section 393.145.2 RSMo allows the Commission to appoint an interim receiver to serve until such time as the circuit court determines whether to appoint a receiver.

2. Mill Creek is a “sewer corporation” and a “public utility” as Section 386.020 (49) and (43) RSMo respectively, defines those terms. The Commission granted Mill Creek a Certificate of Convenience and Necessity on May 7, 1973. As indicated on Mill Creek’s 2009 Annual Report filed with the Commission, and the 2009 Annual Registration Report submitted to the Secretary of State, the Company’s principal place of business is located at 1208 Mead Drive, St. Louis, MO 63137, and its registered agent is Charles L. Stroud. Mr. Stroud’s registered office is Mill Creek’s principal place of business, however, Staff’s recent

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<sup>1</sup> All statutory references are to the Missouri Revised Statutes as currently supplemented.

certified correspondence to that address was unclaimed and returned. Staff has successfully sent notice to Mill Creek at P.O. Box 38787, Saint Louis, MO 63138, the mailing address listed on the Company's 2009 Annual Report filed with the Commission.

3. Mill Creek currently serves approximately seventy-five (75) residential customers in Castlereagh Estates, Saint Louis, Saint Louis County, Missouri.

4. In March 2009, Staff received notice that Mr. Stroud and Joseph Afshari, the former President and owner of Mill Creek, reached a sale agreement for the purchase of the Company. Mr. Afshari did not file a transfer of assets case with the Commission. However, after review of the agreement for sale, property certificate of value, and a general warranty deed, Staff is of the opinion that Mill Creek still holds the assets of the Company, and as the assets remain with the entity certificated by the Commission, the transfer did not necessitate the filing of a case prior to the sale.

5. Based on the information the Staff obtained from the Missouri Department of Natural Resources (DNR), Mill Creek is delinquent in the payment of DNR's assessment sent in May 2009.

6. Mill Creek is delinquent in the payment of the Commission's fiscal year 2010 assessment in the amount of \$3,286.68.

7. Mill Creek filed its 2008 annual report on August 19, 2009. Mr. Stroud, the Company's current President and owner, verified total 2008 operating expenses in the amount of \$38,815.49, and annual revenues of \$29,282.35, for a loss of \$9,533.14 in 2008.

8. Mill Creek failed to bill customers during the months of March, April, and May 2009. While billing resumed thereafter, Staff's recent contacts with customers of the system verify the Company has failed to send bills to customers during October 2009,

through the date of this filing. Therefore, Mill Creek has not received income for that same period to manage its service costs.

9. The current operator of the sewer system is Testing-Analysis & Control, Inc (TAC). The last payment received by TAC for service was on September 11, 2009. Mill Creek currently owes TAC \$4,800.00, and the account is past due.

10. Mill Creek receives electric service from Union Electric Company d/b/a AmerenUE. The Company has not paid the electric bill for several months, forwarding the last payment on September 14, 2009. The account is considered past due, with a balance of \$348.84. Due to non-payment, service may be disconnected at any time.

11. As reported by the Staff in the last status report filed September 15, 2009, Staff met with Mr. Stroud in late August to discuss various aspects of Mill Creek's operations. Additionally, the Staff's St. Louis Auditing Department met with Mr. Stroud again on September 8, 2009. The Staff requested the Company to provide further documentation to assist the Staff in the filing of the September status report, which the Company has failed to provide to date.

12. Since September 8, 2009, Staff has attempted to contact Mr. Stroud through the email address and telephone numbers provided to the Staff during the August meeting. However, neither Mr. Stroud nor Mill Creek have responded to the calls and inquires, and Staff asserts the sewer system has been effectively abandoned.

13. On October 23, 2009, the undersigned sent certified correspondence to Mill Creek Sewer, Inc., and Mr. Stroud asserting the position that the system is no longer providing safe and adequate service, and is abandoned due to the lack of communication with not only the Staff of the Commission, but the system's customers. The Staff provided a demand date of November

13, 2009, for Mr. Stroud to contact the Staff's counsel, to discuss a plan for timely addressing and resolving the provision of account receivable information to the Staff, as well as the maintenance, billing, and general operational concerns discussed with the Company in August. It was made clear that failure to acknowledge receipt of this letter and to contact Staff would result in the Staff Counsel's Office filing receivership proceedings with the Commission.

14. Tracking of the October 23, 2009 certified correspondence shows it successfully arrived at the United States Postal Service (USPS) unit for Mr. Stroud's mailing address, and the USPS left notice for Mr. Stroud on October 24, 2009. On December 2, 2009, the USPS returned the correspondence to Staff as unclaimed. Further, tracking shows the correspondence successfully arrived at the USPS unit for Mill Creek's P.O. Box mailing address on October 24, 2009, and was delivered on October 27, 2009. To date, Mr. Stroud and Mill Creek have failed to contact the Staff.

15. Mill Creek and Mr. Stroud have effectively abandoned the sewer system, and the owner is unwilling and/or unable to operate the system. Safe and adequate service is in jeopardy. The Staff will provide the Commission with the names and contact information of potential receivers upon a determination that they are willing to serve.

#### **Motion for Expedited Treatment**

16. The Staff respectfully requests the Commission expedite this case and set a hearing as soon as possible, but no later than January 21, 2010. Mill Creek and Mr. Stroud have effectively abandoned the sewer system, and Mr. Stroud is unwilling and/or unable to operate the system. Safe and adequate service is in jeopardy without proper management of the sewer system. The Staff filed this pleading as soon as it determined that Mill Creek appeared to be effectively abandoned.

**WHEREFORE,** the Staff prays for the Commission to enter an order 1) expediting this matter and directing the General Counsel to petition the Circuit Court of Saint Louis County for the appointment of a receiver for Mill Creek Sewers, Inc.; and 2) appointing an interim receiver to control and be responsible for Mill Creek Sewers, Inc., until the circuit court makes its determination.

Respectfully submitted,

**/s/ Jennifer Hernandez**

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