

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

In the Matter of the Application of Timber)
Creek Sewer Company, for Permission,)
Approval, and a Certificate of Convenience)
and Necessity Authorizing It to Construct,)
Install, Own, Operate, Control, Manage and)
Maintain a Sewer System for the Public,)
Located in an Unincorporated Area in Platte)
County, Missouri)

Case No. SA-2010-0063

**STAFF RECOMMENDATION AND
RENEWES ITS MOTION FOR A PREHEARING**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through the undersigned counsel, and respectfully submits this *Staff Recommendation* to the Missouri Public Service Commission (Commission) stating the following:

1. On August 20, 2009, Timber Creek Sewer Company (Applicant or Timber Creek) filed an *Application* with the Missouri Public Service Commission (Commission) seeking permission, approval, and a certificate of convenience and necessity authorizing Applicant to install, acquire, build, construct, own, operate, control, manage, maintain and extend a sewer system for the public within the Proposed Service area in Platte County, Missouri.

2. On August 24, 2009, the Commission filed *Notice of Application, and Order Setting Deadline for Intervention and Directing Staff to File Recommendation*. The deadline for invention was Sept 23, 2009. Staff was ordered to file a recommendation no later than October 7, 2009.

3. On September 4, 2009, the Commission filed a *Supplemental Notice of Application and Order Setting Deadline for Intervention*. This order extended the deadline for intervention until October 5, 2009.

4. On September 21, 2009, Platte County Regional Sewer District filed a motion to intervene noting the “area designated by Timber Creek in its Application is presently under the

jurisdiction of the Platte County Regional Sewer District and the District opposes any further extension of the service area of Timber Creek into the Platte County Regional Sewer District's jurisdiction area." *Application to Intervene of Platte County Regional Sewer District*, ¶ 7.

5. On October 1, 2009, Staff filed a *Motion for Prehearing or in the Alternative Extension of Time to File Staff Recommendation*. Staff was granted an extension to file its staff recommendation until November 2, 2009. The *Motion for Prehearing* was not granted, but rather reserved for a later ruling.

6. On October 5, 2009, the Commission granted Platte County Regional Sewer District intervention.

7. At this time, Staff is recommending that the Commission approve the *Application* for a Certificate for Convenience and Necessity. See *Staff Recommendation*, Exhibit 1.

8. According to Section 393.170.3 RSMo (2000), the Commission has the "power to grant [a certificate of convenience and necessity]. . . whenever it shall after due hearing determine that such construction or such exercise of the right, [or] privilege . . . is necessary or convenient for the public service. The Commission may by its order impose such condition or conditions as it may deem reasonable and necessary."

9. The Commission established five criteria in *In re Tartan Energy Company*, 3 Mo. P.S.C. 3d 173, 177 (1994) that should be considered when making a determination in an application case; (1) there must be a need for the service; (2) the applicant must be qualified to provide the service; (3) the applicant must have the financial ability to provide the service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest.

10. In the *Staff Recommendation* attached hereto, Staff has determined that at this time, the Company has met all five criteria set forth in *In re Tartan Energy Company*, thus establishing a need for a CCN for the expanded service area.

11. Staff renews its request for a prehearing conference from its October 1, 2009, *Motion for Prehearing or in the Alternative Extension of Time to File Staff Recommendation*.

WHEREFORE, Staff respectfully requests the Commission accept this Recommendation and further request that the Commission grant a prehearing conference.

Respectfully Submitted,

/s/ Jaime N. Ott

Jaime N. Ott

Missouri Bar No. 60949

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Missouri Public Service Commission
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Recommendation has been provided, either by first-class mail, by electronic mail, by facsimile transmission or by hand-delivery, to each attorney and/or party of record for this case on this 30th day of October 2009.

/s/ Jaime N. Ott

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. SA-2010-0063 (Platte City East)
Timber Creek Sewer Company

FROM: Martin Hummel – Water & Sewer Department
William Harris – Auditing Department

<u>/s/ Martin Hummel</u>	<u>October 30, 2009</u>
Utility Engineering Spec.	Date

<u>/s/ Jaime Ott</u>	<u>October 30, 2009</u>
Staff Counsel's Office	Date

SUBJECT: Staff's Recommendation for Granting a Certificate of Convenience and Necessity

DATE: October 30, 2009

BACKGROUND

On August 21, 2009¹, Timber Creek Sewer Company (TCS or Company) filed an Application for a certificate of convenience and necessity (Certificate) to provide sewer service to the area east of Platte City in Platte County, Missouri.

On September 4, the Commission issued its *Order and Notice* regarding the Company's Application. The *Order and Notice* directed the Commission's Records Department and Information Office to send out their standard public notices regarding the Application and also established a deadline of October 5 for interested parties to submit requests to intervene in the case. Platte County Regional Sewer District filed to intervene. Intervention was granted on October 5. No other requests to intervene in the case were submitted to the Commission. Staff requested a prehearing conference on October 1. The Commission has not granted Staff's request, however reserved the ruling on the prehearing. This Recommendation is based on information known by the Staff at this time.

TCS was incorporated in September 1994 and was granted a certificate to provide sewer service in its first service area in Case No. SA-95-110 on May 18, 1995. Additional areas have been added to TCS's certificated service area in subsequent cases. Currently, the Company's primary certificated service areas are all located in Platte County, near Platte City. TCS also has two noncontiguous subdivision service areas in Clay County.

The Company's Platte City East service area, and the proposed expansion, is north and east of Interstate 29 and near the Kansas City International airport. TCS has a small wastewater treatment plant, 30,000 gallon per day, in this area with capacity to accommodate the initial demand from the proposed expanded area. Long term, the plan is to construct new capacity at a different location that would be more strategically located for future development of the expanded area. The treatment technology is

anticipated to be the same as TCS uses at its 500,000 gallon per day main plant south of Platte City, which has consistently produced effluent that meets the Department of Natural Resources (DNR) environmental requirements. The wastewater collection will primarily use standard gravity piping, though certain areas will require lift stations and force mains.

The proposed area is adjacent to, but does not include the Platte City incorporated area. TCS could treat wastewater from Platte City if need be as it presently does under an agreement with Platte City for treating waste at the south plant.

Staff's Findings and Conclusions

The Company's current Commission-approved rate is \$34.74 per month per customer for its Platte County service areas, along with a one-time Contribution-in-aid-of-Construction charge of \$2650 per customer. As proposed in the Application, the Staff believes that the Company's existing rates, charges and rules should also apply to the Platte City East service area.

Regarding the Company's depreciation rates, the Staff believes that TCS should apply its existing Commission-approved depreciation rates (QS-2007-0008) to this new service area.

Subsequent to the Commission granting TCS a certificate for the subject service area, TCS will need to amend its existing tariff by filing both new and/or revised tariff sheets for the Commission's approval. The new tariff sheets will need to include a map and a written description of the expanded Platte City East service area.

THE TARTAN ENERGY CRITERIA

Is there a need for the proposed services, and is there a need for the Company to provide the proposed services?

There is a general need for sewer service in order for development to occur in the proposed service area, the Company's proposal to provide service is a sound answer to that need, and there is no other sewer system or sewer utility available within the proposed expanded area.

Is the Company qualified to provide the proposed service?

Based on its investigation and its familiarity with TCS, the Staff believes that TCS has the technical, managerial and financial capacities necessary to provide the proposed service. The operations supervisor has several years experience operating the wastewater system near Platte City and this is his full time professional occupation. The owner/manager also has extensive experience with sewer utility service.

Does the Company have the financial ability to provide the proposed services?

TCS's tariff extension rule provides that the developer/customer requesting service will construct and transfer the sewer collection system at no cost to TCS for its perpetual operation and maintenance. The operation, maintenance, and billing will be provided by the same personnel that provide those services

¹ Unless noted otherwise, all dates herein refer to the year 2009.

in TCS's main service area south of Platte City. Currently, TCS provides service to about 1400 customers and is financially sound.

Is the Company's proposal economically feasible?

The Staff believes the proposal to utilize the Company's existing monthly rate of \$34.74 as the initial rate for this new area is reasonable and will not adversely affect the success of the development. While future adjustments of monthly rates will likely occur due to changes in operating expenses and customer growth as is normal for most sewer utilities, the Staff does not expect that those adjustments will be extraordinary based on the information available at this time. It is anticipated that any significant capital expenditures will coincide with significant customer growth and TCS has a CIAC charge of \$2650/connection which will offset investment in new treatment capacity.

Does the Company's proposal promote the public interest?

TCS's proposed sewer service fulfills one of the requirements that make development possible in this portion of unincorporated Platte County. As such, it is in the public interest. Additionally, the presumption in these types of cases is that if the other four criteria are met then this criterion is also met.

ADDITIONAL INFORMATION

The Staff has reviewed TCS's compliance history regarding the submittal of its Commission annual reports and the payment of its Commission assessments. Based on that review, the Staff notes that TCS has historically been and is now current on the submission of its annual reports and the payment of its assessments.

The Staff notes that TCS currently has SA-2010-0100 pending before the Commission. This case contemplates an additional service area in Clay County, and the Staff believes that this case will have no impact upon the subject case.

Extensive tariff revisions is not be necessary to approve this Application.

The Staff has reviewed TCS's current operations and found it to be operating its facilities diligently. The Company has a record of cooperation with the Staff and the DNR regarding its operations, and the DNR has not issued any notices of violations to TCS for any of its systems. The Staff has contacted the DNR personnel at their Kansas City Regional Office about TCS current status.

STAFF'S RECOMMENDATIONS

Based upon the above, the Staff recommends that the Commission issue an order that:

- 1) Grants TCS a certificate for the provision of sewer service to the Platte City East area as requested in its Application;
- 2) Approves the Company's existing monthly customer rate of \$34.74, general service charges and depreciation rates to be applicable to the proposed service area;

¹ Unless noted otherwise, all dates herein refer to the year 2009.

- 3) Approves TCS's existing contribution-in-aid-of construction (CIAC) charge for the Company's Platte County service area to apply to the proposed service area,
- 4) Directs TCS to submit new and revised tariff sheets for its existing tariff within 60 days after the date the Commission issues its order granting the certificate, with the tariff sheets to bear an effective date that is at least 30 days from the date the tariff sheets are submitted to the Commission;
- 5) Directs TCS to submit proof to the case file for this case that it has obtained clear title to new treatment facilities and the land upon which the treatment facilities are located, and that easements providing for the necessary access for the operation and maintenance of the collection system have been provided;
- 6) Directs TCS to note the number of customers in each of its service areas separately in the annual reports it submits to the Commission;
- 7) Directs TCS to maintain its books and records in a manner sufficient to allow for area-specific cost-of-service analyses to be performed for the proposed service area and the existing service area so that area-specific rates can be developed if needed in the future; and,
- 8) Makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the requested certificate, including future expenditures by TCS, in any later proceeding.

In addition to the above, the Staff notes this case should remain open for receipt of the tariff filing discussed in item 4 above, the receipt of the Staff recommendation regarding the tariff filing and the issuance of the Commission's order regarding approval of the tariff filing.

¹ Unless noted otherwise, all dates herein refer to the year 2009.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

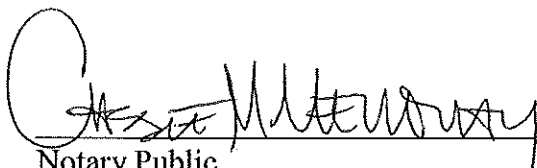
AFFIDAVIT OF MARTIN HUMMEL

STATE OF MISSOURI)
) ss CASE NO. SA-2010-0063
COUNTY OF COLE)

COMES NOW Martin Hummel, being of lawful age, and on his oath states the following: (1) that he is a Utility Engineering Specialist in the Missouri Public Service Commission's Water & Sewer Department ; (2) that he participated in the preparation of the foregoing Staff's Recommendation for Granting a Certificate of Convenience and Necessity; (3) that he has knowledge of the information presented in the foregoing Recommendation; and (4) that the information presented in the foregoing Recommendation is true and correct to the best of his knowledge, information and belief.


Martin Hummel

Subscribed and sworn to before me this 30th day of October, 2009.


Notary Public



CASSIE M. MELLOWAY
My Commission Expires
October 30, 2011
Cole County
Commission #07337959