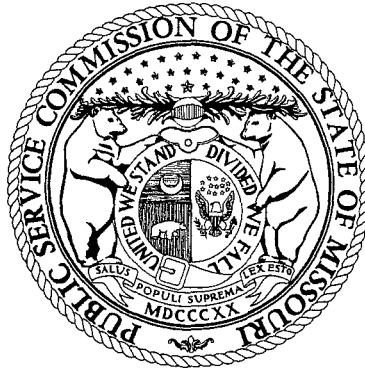


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



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

Case No. SA-99-202

REPORT AND ORDER

Issue Date: September 2, 1999

Effective Date: September 14, 1999

**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 Certificate of Convenience)	
and Necessity Authorizing it to Construct,)	Case No. SA-99-202
Own, Operate, Control, Manage and)	
Maintain a Sewer System for the Public)	
Located in an Unincorporated Area in)	
Platte County, Missouri.)	

APPEARANCES

Jeremiah D. Finnegan, Finnegan, Conrad, & Peterson, L.C., 1209 Penntower Office Center, 3100 Broadway, Kansas City, Missouri 6411, for Timber Creek Sewer Company.

James M. Fischer, James M. Fischer, P.C., 101 West McCarty Street, Suite 215, Jefferson City, Missouri, 65101 and **Robert H. Shaw**, McGinness & Shaw, P.O. Box 168, Marshall Road, Platte City, Missouri 64079, for the Platte County Regional Sewer District.

Mark W. Comley, Newman, Comley, & Ruth, 601 Monroe Street, Suite 301, Jefferson City, Missouri 65101, for the City of Kansas City, Missouri.

Shannon Cook, Assistant Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel.

Keith R. Krueger, Deputy General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REGULATORY LAW JUDGE: Bill Hopkins, Senior Regulatory Law Judge

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REPORT AND ORDER

I. Procedural History

On November 5, 1998, Timber Creek Sewer Company (Timber Creek) filed an Application requesting that the Missouri Public Service Commission (Commission) grant it a certificate of public convenience and necessity to build and operate a sewer system for the public within a specified area of the unincorporated part of Platte County, Missouri (proposed service area).

On November 18, 1998, the Commission issued its Order and Notice, establishing an intervention date of December 18, 1998, for filing applications to intervene in this case. On December 17, 1998, the Platte County Regional Sewer District (Sewer District) and the City of Kansas City, Missouri (Kansas City) each filed timely applications to intervene which were subsequently granted by the Commission on December 29, 1998. The Sewer District and Kansas City both opposed the grant of the certificate to Timber Creek.

On February 18, 1999, the Commission issued an Order Establishing Procedural Schedule, which was corrected on February 19, 1999. Pursuant to the procedural schedule, Timber Creek filed its direct testimony on February 1, 1999. The Staff of the Missouri Public Service Commission (Staff), Sewer District, and Kansas City filed their rebuttal testimony on April 2, 1999. A prehearing conference was held on April 5, 1999. Surrebuttal testimony was filed by Timber Creek, Staff and the Sewer District on May 17, 1999. An evidentiary hearing was held June 14 and 15, 1999. All the parties were represented at the evidentiary hearing.

On July 6, 1999, the Commission entered its order adopting briefing schedule, ordering, *inter alia*, that initial briefs should be filed on July 20, 1999, and reply briefs should be filed on July 30, 1999.

At the hearing, Exhibit Number 15 was reserved for a copy of the license of Timber Creek's CPA, William Everett. (Tr., p. 438). This number was subsequently used for another exhibit. On June 25, 1999, in a letter to the Commission, Timber Creek's attorney stated that "[w]ith respect to Late Filed Exhibit 17 (*sic*), Mr. Everett's CPA license, we have learned that...such [license] expired on September 7, 1997." On July 16, 1999, Timber Creek late-filed several exhibits: Exhibit Number 15 - Timber Creek's 1997 Annual Report; Exhibit Number 16 - Timber Creek's 1998 Annual Report; Exhibit Number 18 - a statement from Timber Creek's accountant; Exhibit Number 19a - a copy of Timber Creek's financial statement dated December 31, 1998; Exhibit Number 19b - a copy of Timber Creek's modified financial statement dated December 31, 1998. All the late-filed exhibits are received and made a part of the record of this matter.

On July 20, 1999, Staff, Kansas City, and the Sewer District each timely filed their initial briefs. On July 21, 1999, Timber Creek filed a motion for leave to file its initial brief out of time which is granted. On July 30, 1999, Staff, the Sewer District, and Timber Creek each timely filed their reply briefs.

II. Issues

The authority for the issuance by the Commission of a certificate of convenience and necessity to provide sewer service is contained in

Section 393.170, RSMo¹. Subsection 1 of that statute states in part, "...No...sewer corporation shall begin construction of a...sewer system without first having obtained the permission and approval of the commission." Subsection 3 of that statute states in part, "The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such..." convenience and necessity exists.

The courts have held that "necessity," as used in the term "convenience and necessity," does not mean essential or absolutely indispensable, but rather that an additional service would be an improvement justifying the cost and that the inconvenience to the public occasioned by the lack of a utility is so sufficiently great as to amount to a necessity. See State ex rel. Public Water Supply District No. 8 v. Public Service Commission, 600 S.W.2d 147, 154 (Mo. App. 1980); State ex rel. Intercon Gas v. Public Service Commission, 848 S.W.2d 593, 597 (Mo. App. W.D. 1993), and State ex rel. Beaufort Transfer Co. v. Clark, 504 S.W.2d 216, 219 (Mo. App. 1973).

In Re Tartan Energy, 3 Mo.P.S.C.3d 173, 177 (Sept. 16, 1994) (*Tartan Energy Case*), articulated the legal standard to be met by applicants for a certificate of convenience and necessity: (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

¹ All further statutory references are to the Revised Statutes of Missouri 1994 unless otherwise indicated.

feasible; and (5) the service must promote the public interest. See also Re Intercon Gas, Inc., 30 Mo. P.S.C.(N.S.) 554, 561 (June 28, 1991); State ex rel. Intercon Gas v. Public Service Commission, *loc. cit.* This standard has also been historically applied to sewer certificate cases. See Re M.P.B. Inc., 28 Mo. P.S.C. (N.S.) 55, 73 (November 15, 1985).

As discussed below, the Commission has determined that Timber Creek has met its burden of proof under the legal standards articulated by the Commission and the courts for the grant of a certificate of public convenience and necessity. For the reasons stated herein, the Commission will grant Timber Creek's application for a certificate of public convenience and necessity.

III. Discussion

A. Timber Creek Sewer Company Proposal

Timber Creek is a Missouri corporation duly organized and existing under the laws of the State of Missouri with its principal office and place of business located at 1820 C Prairie View Road, P.O. Box 511, Platte City, Missouri 64079. It is a public utility proposing to render sewer service to the public under the jurisdiction of the Commission in an area adjacent to its presently certificated area. Timber Creek currently holds two certificates of authority issued by the Commission in case numbers SA-95-110 and SA-96-238. Timber Creek has provided service to the customers in those areas over the past few years, and currently serves about 175 customers in its Timber Park service area in Platte County, Missouri.

The proposed service area is within the Prairie Creek Watershed, as more specifically described in Exhibit No. 1, Schedule WCS-2. Timber Creek projects that initially there will be sixty (60) potential homes to be served in its proposed service area. Timber Creek's current service area consists of approximately 900 acres. The proposed service area lies south and west of the current service area, east of Prairie Creek and west of I-435, and is legally described as follows:

All of the following property in Platte County, Missouri, to wit: In Township 52, Range 35: all of the East one-half of the Southeast Quarter of Section 1; all of the East one-half of Section 12 and all of the East one-half of the Southwest quarter of Section 12; and all of Sections 13 and 24; and in Township 52, Range 34: all of the South three quarters of Section 18 lying South of Timber Creek Sewer Company's existing service area and West of Interstate 435 Highway; and all of Section 19 lying West of Interstate 435 Highway.

All of the proposed service area lies within an area that has been designated as the Prairie Creek Watershed and consists of a total of about 10,000 acres. Timber Creek does not seek authority to serve those portions of the Prairie Creek Watershed that lie east of I-435, nor does it propose to serve the southernmost portions of the watershed.

The purpose of Timber Creek's application is twofold: (1) to provide sewer service under the regulation of the Commission in the proposed service area, which currently has no sewer service, regulated or unregulated; and (2) to expand its existing sewer treatment facilities by locating a new facility at the base of the watershed in order to provide treatment service for anticipated growth in Timber Park, to provide treatment service for development in Platte City under an

agreement being negotiated with Platte City, and to serve anticipated customers in the proposed service area.

In its original Application and feasibility study, Timber Creek proposed moving a portion of its existing treatment plant to a new location in its proposed service area together with the construction of new equipment to initially provide 150,000 gallons per day (gpd) treatment capabilities and designed to allow expansion to 400,000 gpd. Under the original proposal, a portion of the existing treatment plant would remain in place and be converted into a wetwell and extraneous flow basin for a new pumping station to be built at the current location. The estimated cost of the new facilities and conversion was \$675,000.

Timber Creek modified its proposal in its surrebuttal testimony. Instead of recycling its existing 50,000 gpd plant and building a new 150,000 gpd plant, Timber Creek proposed to construct a 100,000 gpd treatment plant and to continue utilizing its existing plant, thus being able to treat 150,000 gpd. Willis C. Sherry (Sherry), the President and Chairman of the Board of Timber Creek, testified that the \$675,000 figure for construction costs was still "valid and adequate...." (Tr., p. 52) Timber Creek did not amend its Application or submit a modified feasibility study to support its modified proposal.

B. Is there a need for service?

In the Hearing Memorandum filed on June 3, 1999 (Memorandum), Timber Creek, Staff, and the Office of the Public Counsel (OPC) all agreed that there was a public need for sanitary sewer service in the proposed service area. The Sewer District and Kansas City both agreed

that there was no public need for sanitary sewer service in the proposed service area.

In his direct testimony for Timber Creek, Sherry stated that there was a public need for sanitary sewer service in the proposed service area. (Sherry, Direct Test., p. 6) The proposed service area is ripe for development and in order to tap the proposed service area's potential as a quality residential and commercial area, such development would need adequate sewer service. (*Loc. cit.*)

Sherry stated that developers are building and planning to build residential homes and other establishments in the proposed service area and have contacted Timber Creek, requesting that Timber Creek provide sewer service in the proposed service area. (*Loc. cit.*) Sherry stated that presently there were about 25 single family dwellings with a population density of about 75 residents in the proposed service area. (Sherry, *Id.*, Sch. WCS 3, p. 3) Sherry stated that Timber Creek had a request from D. R. Sherry Construction for service to about fifty single family residences to be built over the next three years in the proposed service area. (*Loc. Cit.*)

Martin Hummel, in his rebuttal testimony for the Staff, stated that there was a need for sewer service in the proposed service area and that he knew of no other entities ready and willing to provide such service. (Hummel, Rebuttal Test., p. 2)

William C. Carter, Jr. (Carter), the engineer for Timber Creek, in his surrebuttal testimony, stated that without the construction of the treatment plant and collecting facilities by Timber Creek, the proposed

service area will not see much development. (Carter, Surrebuttal Test., p. 8) Carter noted that all utility services except sewer service are available in the proposed service area and, because of this lack, the area has not been developed. (*Loc. cit.*)

Michael P. Kalis (Kalis), the engineer for the Sewer District, in his rebuttal testimony, did not specifically testify concerning the public need for sanitary sewer service in the proposed service area. However, he cited the Sewer District's master plan prepared for the Sewer District in 1995 by Burns and McDonnell Engineering Company, which "sets forth a conceptual long-term framework for the orderly development of sanitary sewers in the unincorporated [portions] of Platte County" by the Sewer District. (Kalis, Rebuttal Test., p. 2) In other words, Kalis testified that the Sewer District and not Timber Creek was the proper party to build the sewer service. For example, Kalis stated that Timber Creek's plans for the proposed service area were inadequate in that Timber Creek's plan to build a treatment plant with an initial capacity of 150,000 gpd would be unable to handle Timber Creek's projected customer load in the years 2000 and 2001. (*Id.*, p. 5) Kalis stated that Timber Creek estimated 512 connections by the year 2000 and, at the average daily flow of 300 gpd, there would be a total 153,600 gpd flow. (*Loc. cit.*) Kalis stated that Timber Creek estimated 665 connections by the year 2001, with a total 199,500 gpd flow.

At the hearing, Kalis testified that the Sewer District had plans to build, by September 2000, a 250,000 gpd sewage treatment plant to serve the proposed service area. Kalis said that the Sewer District

would not be trying to construct such a plant unless it thought there was a need for service in the proposed service area. (Tr., pp. 370 - 371, 375)

Sewer District witness Charles Reineke (Reineke), Executive Director of the Sewer District, at the hearing unequivocally testified on this issue that "[t]here is a need there if someone has put a plan together and has requested service, obviously there is a need." (Tr., p. 318)

Mary A. Lappin (Lappin), in her rebuttal testimony for Kansas City, testified that there was no need for sewer service in the proposed service area. Lappin stated that "...it appears from the application and feasibility study [submitted by Timber Creek] that most, if not all, of the residences contemplated have yet to be constructed." (Lappin, Rebuttal Test., p. 5, footnote omitted) Thus, concludes Lappin, if there are no residences, then "...it appears there are not sufficient customers to warrant expanding the certificated area [of Timber Creek]." (*Loc. cit.*)

The Commission finds that there is a need for sewer service in the proposed service area.

C. Is the applicant qualified to provide the service?

In the Memorandum, this issue was not addressed. The issue, however, was addressed in other pleadings and at the hearing.

Sherry testified in his direct testimony that he had been involved in the sewer business for eight years. (Sherry, Direct Test., p. 1) According to Sherry, the principal owners and operators of Timber

Creek are primarily in the real estate business, developing residential subdivisions. (Tr., p. 73) Mr. Sherry is licensed as a real estate broker and his wife is licensed as a real estate salesperson. (Id., pp. 74-75) Sherry developed the Chez la Terra Subdivision and the Timber Creek Subdivision and is now actively planning the Timber Park subdivision. (Id., p. 73) Darrin Sherry, a son of Sherry's, is a part-owner of Timber Creek and also owns D. R. Sherry Construction, a real estate development company which is planning to develop the new D. R. Sherry Homes located in the proposed service area. (Id., pp. 79-80)

In 1995, Sherry stated, he formed Timber Creek due to the growth of the number of outlets on the sewer system serving Timber Creek Subdivision to more than twenty-five, and, in that same year, filed for the first certificate of convenience and necessity to operate a regulated sewer corporation. (Sherry, Direct Test., p. 1) On May 18, 1995, in case number SA-95-110, Timber Creek was granted authority to serve two areas in Platte County, and on June 11, 1996, in case number SA-96-238, Timber Creek was granted additional authority to serve another area in Platte County adjacent to one of the areas previously authorized to serve. (Id., pp. 2-3) Timber Creek's sewer system in its presently certificated areas meets all requirements of the Department of Natural Resources (DNR). (Id., p. 6) Sherry stated that all extensions or other plants required to serve the proposed service area would also be designed and built to meet all requirements of the DNR, as well as the requirements of the Commission, and the requirements contained in Timber Creek's rules and regulations on file with the Commission. (Loc. cit.)

Timber Creek, which presently serves approximately 175 customers, is the only sewer company that Sherry owns. (Tr., p. 75) Based upon the record, it is clear that Sherry and his family are principally involved in the development of real estate, and operate Timber Creek on an ancillary basis to the Sherry family's real estate businesses.

At the hearing, Carter testified that Timber Creek had adequate capacity to serve its current and projected needs in its existing service area. (*Id.*, pp. 163-64) In fact, Timber Creek projects that it will have more than adequate capacity to serve its existing service area, at least through the year 2001. (*Id.*, p. 164) According to Carter, at the current rate of development, Timber Creek would not reach its current plant capacity until sometime in the year 2001. (*Loc. Cit.*; Ex. No. 3, p. 2) Carter pointed out that the present 50,000 gpd treatment plant is averaging only 24,000 to 30,000 gpd, so Timber Creek has "another 20,000 gpd to go before it reaches capacity." (*Id.*, p. 153) As a result, Timber Creek could add at least eighty (80) more homes in its existing service area before it exceeded its existing treatment plant capacity. (*Id.*, p. 153) In addition, Timber Creek could expand its existing capacity, if necessary, within its presently certificated area without obtaining additional authority from the Commission. (*Id.*, p. 203)

No witness from the Sewer District or Kansas City testified directly on this issue. In fact, Kalis stated that the existing sewage treatment facilities at Timber Park were not undersized, that he had never known of DNR citing Timber Creek for any deficiencies, and that he

had no reason to doubt that Timber Creek would add treatment capacity when it becomes necessary. (*Id.*, p. 367)

The Commission finds that Timber Creek is qualified to provide the service.

D. Does the applicant have the financial ability to provide the service?

In the Memorandum, Timber Creek, Staff, and OPC all agreed that Timber Creek had the financial ability to provide the service. The Sewer District and Kansas City both agreed that Timber Creek did not have the financial ability to provide the service.

The feasibility study that Timber Creek filed with its Application in this case revealed that Timber Creek expected to lose \$28,680 in 1998, and that it expected to lose money for each of the first three years during which it sought to serve the proposed service area. (Feasibility Study, Appendix 3) The projected losses shown in the feasibility study ranged from nearly \$11,000 per year to nearly \$16,000 per year. (*Loc. cit.*)

Timber Creek presently charges its residential customers a monthly service fee of \$16.50 per month (Tr., p. 69), which is substantially lower than the monthly service fees that the Sewer District would charge its customers in the same area, i.e., \$24.50 per month (Kalis, Rebuttal Test., p. 4)

Timber Creek subsequently filed with the Commission its revised annual reports for the most recent two years. Even though Timber Creek has sustained net losses in recent years, it appears that it has sufficient financial resources to carry out this project. According to

the revised annual reports that Timber Creek filed with the Commission, Timber Creek had \$83,885 of cash on hand at the end of 1997 and slightly more -- \$92,441 -- at the end of 1998. Timber Creek sustained a net loss of \$2,699 during 1997 and a net loss of \$2,491 during 1998.

Timber Creek's small losses in recent years do not pose a serious threat to the financial ability of Timber Creek to serve the proposed service area. The Commission notes that Timber Creek has at its discretion regulatory avenues to correct this situation whenever it deems necessary.

The Commission finds that Timber Creek has the financial ability to serve the proposed service area.

E. Is the applicant's proposal economically feasible?

The Sewer District's master plan includes the construction of treatment facilities to serve the Prairie Creek Watershed, a portion of which Timber Creek is seeking to serve in this proceeding. Likewise, Reineke testified that the Sewer District has plans to provide service in all of the Prairie Creek Watershed (Tr., p. 349), including the area that Timber Creek proposes to serve. (Ex. No. 9, Sch. MPK-2)

The Sewer District's proposed sewage plant is somewhat larger than but similar in concept to the plant Timber Creek proposes. The Sewer District, by advancing this proposal, necessarily implies that it finds the construction of its 250,000 gpd sewage treatment plant feasible. In Kalis' rebuttal testimony, the Sewer District stated that this plant would cost \$1,700,000, i.e., \$6.80 per gpd. (Kalis, Rebuttal Test., p. 5) Timber Creek's proposal, as stated above, was for building

a 150,000 gpd sewage treatment plant at the cost of \$675,000, i.e., \$4.50 per gpd. If the Sewer District's proposal is feasible, then there is no basis for concluding that Timber Creek's proposal to construct a smaller plant, at a lower cost per gpd, is not also feasible.

The Commission finds that Timber Creek's proposal is economically feasible.

F. Does the applicant's proposal promote the public interest?

The foregoing discussion demonstrates that the Timber Creek application in this case satisfies the requirements of each of the first four tests in the *Tartan Energy Case*.

"Generally speaking, positive findings with respect to the other four standards will in most instances support a finding that an application for a certificate of convenience and necessity will promote the public interest." *Tartan Energy Case*, 189.

However, there are other factors to consider in determining whether granting the certificate will promote the public interest, because the Sewer District is also offering to provide its services to the customers in the proposed service area.

The Sewer District and Kansas City contend that Timber Creek cannot be trusted to remain in the sewer collection business because it is affiliated with a real estate developer and that it will exit the sewage treatment business as soon as its real estate development objectives are achieved. (Sewer District, Initial Brief, pp. 8-10; Kansas City, Initial Brief, p. 1) There is no evidence to support this claim. Sherry directly contradicted the contention when he testified that he

expects to continue to serve as president of Timber Creek for "five, ten or 15 years," and that he expects his sons to continue to operate the business after that. (Tr., p. 78)

Timber Creek recognized the need for sewage treatment services in the area more rapidly than the Sewer District did, and filed applications to serve the area more than three years ago. The Sewer District has been indecisive on whether there was a need for service at all. The Sewer District stated in the Hearing Memorandum and in its briefs that there is no need for service, even though one of its witnesses, Kalis, testified that there is a need for service and that the Sewer District therefore plans to complete construction of a new sewage treatment plant for the area by September of the year 2000. (*Id.*, pp. 370-371)

Timber Creek has also been able to provide service to its customers at a lower monthly fee, and with lower connection fees than those charged by the Sewer District. This is because, as discussed above, the construction of the Sewer District's treatment facilities costs approximately \$6 per gpd, whereas the construction of Timber Creek's facilities costs approximately \$4 per gpd. Kalis attributes the Sewer District's higher construction costs to redundancy of equipment, materials of construction, and a number of other items. (*Id.*, p. 403)

The Commission finds that Timber Creek's proposal promotes the public interest.

IV. Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

1. The Commission finds that there is a need for sewer service in the proposed service area.

2. The Commission finds that Timber Creek is qualified to provide the service.

3. The Commission finds that Timber Creek has the financial ability to serve the proposed service area.

4. The Commission finds that Timber Creek's proposal is economically feasible.

5. The Commission finds that Timber Creek's proposal promotes the public interest.

V. Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law:

1. Timber Creek is a public utility and a sewer corporation subject to the Commission's jurisdiction under section 386.250, RSMo, and section 393.170, RSMo.

2. There is a need for sewer service in the service area that Timber Creek proposes to serve.

3. Timber Creek is qualified to provide the proposed service.

4. Timber Creek has the financial ability to provide the service.

5. Timber Creek's proposal to serve the proposed service area is economically feasible.

6. Timber Creek's plan to serve the proposed service area will promote the public interest.

7. Timber Creek's proposal satisfies all of the criteria enunciated in the *Tartan Energy Case* as set forth above, and the proposal should be granted.

IT IS THEREFORE ORDERED:

1. That late-filed Exhibits 15, 16, 17, 18, 19a, and 19b are hereby received into the record.

2. That Timber Creek Sewer Company's motion for leave to file its initial brief out of time is granted.

3. That the Application filed by Timber Creek Sewer Company for a certificate of public convenience and necessity authorizing Timber Creek to construct, own, operate, control, manage, and maintain a sewer system for the public located in an unincorporated area of Platte County, Missouri, as more fully described in its Application, is hereby granted.

4. This Report and Order shall become effective on September 14, 1999.

5. That this case may be closed on September 15, 1999.

BY THE COMMISSION

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Schemenauer, and Drainer, CC.,
concur and certify compliance with the
provisions of Section 536.080, RSMo 1994.
Murray, C., dissents with opinion
Crumpton, C., absent

Dated at Jefferson City, Missouri,
on this 2nd day of September, 1999.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

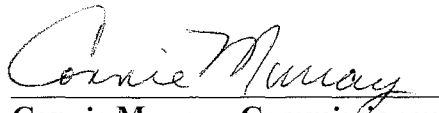
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in an unincorporated area in Platte County,)
Missouri.)

Case No. SA-99-202

DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY

I would deny the Application. Applicant has not met its burden to show financial capacity. Furthermore, I am unpersuaded by Applicant's allegation of need for service.

Respectfully submitted,


Connie Murray, Commissioner

Dated at Jefferson City, Missouri,
on this 2nd day of September, 1999.