

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the application of Capital Utilities, Inc. )  
for permission, approval and a certificate of convenience )  
and necessity authorizing it to construct, install, own, ) Case No. SA-90-224  
operate, control, manage and maintain a sewer system for )  
the public in Cole and Callaway Counties, Missouri. )  
)

APPEARANCES: W.R. England, III, Hawkins, Brydon, Swearngen & England, P.C.,  
Post Office Box 456, Jefferson City, Missouri 65102, for Capital  
Utilities, Inc.

B. Allen Garner, City Counselor, City of Jefferson, City Hall,  
320 East McCarty Street, Jefferson City, Missouri 65101, for the City  
of Jefferson, Missouri.

Janet L. Sievert, Assistant Public Counsel, Office of Public Counsel,  
Post Office Box 7800, Jefferson City, Missouri 65102, for the Office  
of Public Counsel and the public.

William K. Haas, Assistant General Counsel, Missouri Public Service  
Commission, Post Office Box 360, Jefferson City, Missouri 65102, for  
the staff of the Missouri Public Service Commission.

HEARING  
EXAMINER: Cecil I. Wright.

REPORT AND ORDER

On March 1, 1990, Capital Utilities, Inc. (Capital) filed an application requesting Commission approval and a certificate of convenience and necessity to construct, operate and maintain a sewer system in certain areas of Cole County and Callaway County, Missouri. The Commission gave notice of the application on March 7, 1990. J.L. Trimble and City of Jefferson, Missouri, were granted intervention in the proceeding and a procedural schedule was established.

On July 6, 1990, J.L. Trimble filed a statement which indicated that he had reached an agreement with Capital and had no further objection to the application. On August 1, 1990, the hearing was convened in this matter and the parties indicated that all issues had been settled. On September 6, 1990, the Stipulation And Agreement was filed.

### 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.

Capital Utilities, Inc. (Capital) is a Missouri corporation formed for the primary purpose of assuming ownership of and operation for the waste water collection and treatment facilities owned by Cole County Regional Sewer District (CCRSB). Capital initially proposed to provide service within an area that included the service area of CCRSD as well as a portion of southern Callaway County from the Missouri River to New Bloomfield.

The testimony of Capital witness Garah F. Helms; Commission Staff witnesses James A. Merciel, Jr., and Thomas M. Imhoff; and City of Jefferson witnesses Robert M. Bates and Edwin H. Rackers, Jr., was prefled in this proceeding. The testimony of these witnesses was received into the record at the hearing. At the hearing the parties indicated that an agreement concerning this application had been reached and that a Stipulation And Agreement concerning this application would be filed which would contain the service area agreed to and other provisions.

The Stipulation And Agreement was filed on September 6, 1990 and is attached to this Report And Order. The Stipulation And Agreement contains an agreed-upon service area for Capital and a metes and bounds description of that area. The agreed-to service area excludes the cities of New Bloomfield, Holts Summit and Russellville, the Mer Mac subdivision, and Lake Carmel Sewer Company's service area. The service area also excludes any area within the City of Jefferson and areas outside the municipal boundary of the City of Jefferson which the city now serves or is planning to serve.

The Stipulation And Agreement states that Capital shall charge the same rates now charged by CCRSD for sewer service. These rates are: \$17.20 per month for residential customers, and \$17.20 per month for treatment up to 7,000 gallons and

\$2.50 for treatment per 1,000 gallons over 7,000 gallons for commercial customers. These rates will be interim pending a review after 18 months of operation.

The Commission has considered the application and the Stipulation And Agreement and finds that it is in the public interest to approve the application. By granting this application there will be a certificated sewer utility authorized to serve those areas of Cole County not served by another sewer corporation or a municipal system. Because of the elimination of the Grays Creek area, Capital should be able to operate the system at a profit. CCRSD was reluctant to continue the operation of the sewer treatment facilities and the evidence indicates that the managers of Capital have experience in maintaining and operating a sewer system and are qualified to provide the service.

#### Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

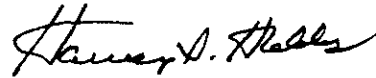
The Commission has jurisdiction over this matter pursuant to the provisions of Section 393.170, R.S.Mo. 1986. The Commission may grant a certificate of convenience and necessity for the provision of sewer service to the public if it determines that the applicant is qualified and financially able to provide the service and the granting of the service is in the public interest.

In this case the Commission has found that based upon the agreements reached in the Stipulation And Agreement and the supporting testimony, Capital is qualified and financially able to provide sewer service in the area proposed. The Commission has also found that it is in the public interest for there to be a certificated utility responsible for sewer service in the proposed area. Based upon these findings the Commission concludes that Capital will be granted a certificate of convenience and necessity and the Stipulation And Agreement will be approved.

IT IS THEREFORE ORDERED:

1. That Capital Utilities, Inc., be hereby granted a certificate of convenience and necessity to provide sewer service in an area as described in the Stipulation And Agreement attached to this Report And Order.
2. That the Stipulation And Agreement filed in this matter is approved.
3. That Capital Utilities, Inc. shall, within thirty (30) days from the issue date of this Report And Order, file tariffs for the provision of sewer service.
4. That this Report and Order shall become effective on the 18th day of October, 1990.

BY THE COMMISSION



Harvey G. Hubbs  
Secretary

(S E A L)

Steinmeier, Chm., Mueller, Rauch,  
McClure and Letsch-Roderique, CC.,  
concur.

Dated at Jefferson City, Missouri,  
on this 18th day of September, 1990.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the application of )  
CAPITAL UTILITIES, INC. for permission, )  
approval and a certificate of convenience )  
and necessity authorizing it to construct, ) Case No. SA-90-224  
install, own, operate, control, manage )  
and maintain a sewer system for the )  
public in Cole and Callaway Counties, )  
Missouri. )

STIPULATION AND AGREEMENT

On July 31, 1990, representatives of Capital Utilities, Inc. (Applicant), the Staff of the Missouri Public Service Commission (Staff), the Office of the Public Counsel (Public Counsel), and Jefferson City, Missouri (City) attended and participated in a prehearing conference in the above-captioned matter. As a result of said prehearing conference, the undersigned Parties stipulate and agree as follows:

1. Applicant shall be granted a certificate of public convenience and necessity to construct, install, own, operate, manage and maintain a sewer system for the public in portions of Cole and Callaway Counties, more specifically described as followed:

LEGAL DESCRIPTION OF SERVICE AREA

ALL OF COLE COUNTY, Missouri, more particularly described as follows:

Beginning at the southwest corner of Section 32, in Township 43, in Range 14; thence in a direct line to the Missouri River, to a point where the subdivisional line between Fractional Sections 12 and 13, Township 46, Range 14, intersects the Range Line between Ranges 13 and 14; thence in a direct line to the nearest point in the middle of the main channel of the Missouri River; thence down the middle of the main channel thereof to a point where the middle of the main

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PUBLIC SERVICE COMMISSION

channel of the Osage River intersects the same; thence up the middle of the main channel of the Osage River to the mouth of Profit's Creek; thence up said creek to the Range Line between Ranges 11 and 12; thence south with the said Range line to the southeast corner of Township 42 of Range 12; thence west with the Township Line between Townships 41 and 42 to the middle of the main channel of the Osage River thence up the same in the middle of the main channel thereof, to a point where the Township Line between Townships 41 and 42 crosses the same a second time; thence west with said Township line to the southwest corner of Township 42 in Range 13; thence north to the northwest corner of said Township; thence west with Township Line between Townships 42 and 43 to the place of beginning;

ALSO A PART OF CALLAWAY COUNTY, Missouri, more particularly described as follows:

Beginning at a point in the center of the Missouri River where said center intersects with the westerly line of Range 11 in Township 45 North; thence northerly along said Range Line to the intersection with the center of Cedar Creek; thence northerly up and along the center of Cedar Creek to the Township Line between Townships 45 and 46, thence easterly along said Township Line to intersect with the easterly line of Range 10 West; thence southerly along the easterly line of said Range 10, to the center of the Missouri River; thence westerly up and along the center of the Missouri River to the point of beginning;

WITH THE EXCEPTION OF THE AREA WITHIN CALLAWAY COUNTY which includes the present City Limits boundary of Holts Summit, Missouri, Mer Mac subdivision, and Choctaw Ridge subdivision, more particularly described as follows is hereby excluded:

Beginning at the point 1,000 feet west of the intersection of west right-of-way line of Route AC and the Township Line between Townships 44 and 45; thence east along said Township Line to the northwest corner of the northeast quarter of the northeast quarter of Section 2, Township 44 North, Range 11 West; thence south to the southwest corner of said northeast quarter of the northeast quarter of Section 2; thence east to the west right-of-way line of U.S. Route 54; thence northeast along said right-of-way line to the Township Line between Townships 44 and 45; thence east along said Township Line to the intersection with the Range Line between Ranges 11 and 10; thence north along said Range Line to the southwest corner of the northwest quarter of Section 30, Township 45 North, Range 10 West; thence east along the quarter line 3820 feet more or less to the southeast corner of said northwest quarter of Section 30; thence north along the quarter section lines to the northeast corner of the southwest quarter of Section

19 in Township 45 North, Range 10 West; thence west along the quarter lines to the intersection with the west Section Line of Section 23, in Township 45, in Range 11; thence south along said Section Line to the south right-of-way line of Route 00; thence east along said south right-of-way line to the northwest corner of the northeast quarter of the northeast quarter of Section 26, Township 45 North, Range 11 West; thence south 1300 feet more or less to the southwest corner of said northeast quarter of the northeast quarter of Section 26; thence southeast 1900 feet more or less to the southwest corner of the southwest quarter of Section 25, Township 45 North, Range 11 West; thence east to a point 1000 feet west of the west right-of-way line of Route AC; thence in a southwesterly direction parallel to and 1000 feet west of the west right-of-way line of Route AC to the point of the beginning.

AND THE AREA WITHIN COLE AND CALLAWAY COUNTIES which includes the present City Limits boundary of City of Jefferson, Missouri and surrounding area, more particularly described as follows, is hereby excluded:

**CITY OF JEFFERSON, MISSOURI  
SANITARY SEWER SERVICE AREA**

All of sections 1 thru 15, 18, 23, and 24, and part of Sections 16, 17, 20, 21, 22, 25, 26 and 27, all in Township 44 North, Range 12 West, Cole County, Missouri; all of Sections 1, 2, 3, and 12, and part of Sections 4, 11, and 13, all in Township 44 North, Range 13 West, Cole County, Missouri; and all of Sections 6 thru 9, 15 thru 20, and part of Sections 14, 21 thru 23, 28 thru 30, and 32, all in Township 44 North, Range 11 West, Cole County, Missouri, all of Sections 27, and 34 thru 36, and part of Sections 22 thru 26, 28 and 33, all in Township 45 North, Range 13 West, Cole County, Missouri; all of Sections 29, and 31 thru 36, and part of Sections 19 thru 23, 26 thru 28, and 30, all in Township 45 North, Range 12 West, Cole County, Missouri; and all of Sections 8, 15 thru 17, and 22 thru 24, and part of sections 4, 5, 9 thru 11, 13 and 14, all in Township 44 North, Range 11 West, Callaway County, Missouri; being more particularly described as follows:

BEGINNING at the Southwest corner of Section 18, Township 44 North, Range 12 West, Cole County, Missouri; thence east along the south line of said Section 18, and along the south line of Section 17, Township 44 North, Range 12 West, to the intersection of said south line with the center of County Park Road; thence leaving the south line of said Section 17 and southeasterly along the center of said County Park Road and the southerly extension thereof to a point 200 feet southeasterly of the intersection of said County Park Road and

Rockridge Road, said intersection being situated in the Northeast Quarter of the Northeast Quarter of Section 20, Township 44 North, Range 12 West; thence easterly and southerly along a line 200 feet south of and parallel to the center of said Rockridge Road to a point on the west line of Section 22, Township 44 North, Range 12 West; thence north along the west line of said Section 22 to the northwest corner of said Section 22; thence east along the north line of said Section 22 to the northeast corner of the West Half of the Northwest Quarter of said Section 22; thence south along the east line of the West Half of the Northwest Quarter of said Section 22 to a point 200 feet south of the center of the aforementioned Rockridge Road; thence easterly and southerly along a line 200 feet south of and parallel to the center of said Rockridge Road to a point in the center of Missouri State Highway "C"; thence east along the center of said Missouri State Highway "C" to the intersection of the centerlines of Missouri State Highways "C" and "CC", said intersection being situated in the Northeast Quarter of the Southeast Quarter of Section 22, Township 44 North, Range 12 West; thence southerly along the center of said Missouri State Highway "CC" to a point on the south line of the Northeast Quarter of Section 27, Township 44 North, Range 12 West; thence east along said south line and along the south line of Northwest Quarter of Section 26, Township 44 North, Range 12 West to the center of U.S. Highway 54; thence leaving said south line of the Northwest Quarter of Section 26 and northerly along the center of said U.S. Highway 54 to a point at the intersection of the southerly extension of the center of Idlewood Road and the center of said U.S. Highway 54; thence leaving the center of said U.S. Highway 54 and northerly along the said southerly extension of the center of Idlewood Road and along the center of Idlewood Road to a point on the north line of said Section 26; thence leaving the center of said Idlewood Road and east along the north line of said Section 26 and the north line of Section 25, Township 44 North, Range 12 West to the North Quarter corner of said Section 25; thence south along the west line of the Northwest Quarter of the Northeast Quarter of said Section 25 to the southwest corner thereof; thence east along the south line of said Quarter Quarter Section to the southeast corner thereof; thence south along the west line of the Southeast Quarter of the Northeast Quarter of said Section 25 to a point 475 feet south of the northwest corner of said Quarter Quarter Section; thence east on a line 475 feet south of and parallel to the north line of said Quarter Quarter Section to the east line of said Section 25, also the Range Line between Ranges 11 West and 12 West; thence north along the Range Line to the east line of Missouri State Highway "B", thence leaving the Range Line and southerly along the east line of said Missouri State Highway "B" to the center of the Moreau River; thence easterly and northerly along the center of the Moreau River and crossing parts of Sections 30, 32, and



29, in Township 44 North, Range 11 West, to a point on a line 660 feet south of the north line of said Section 29; thence leaving the center of the said Moreau River and east along a line 660 feet south of and parallel to the north line of said Section 29 to the east line of the Northwest Quarter of the Northwest Quarter of said Section 29; thence north along the east line of the said Northwest Quarter of the Northwest Quarter of Section 29 and along the east line of the West half of the fractional Southwest Quarter of Section 20, Township 44 North, Range 11 West to the south line of Seven Hills Road as constructed in 1990; thence east along the south line of said Seven Hills Road to the west line of Bald Hill Road; thence north along the west line of said Bald Hill Road to the north line of the Southeast Fractional Quarter of said Section 20; thence east along said north line to the east line of said Section 20, said east line also being the west line of Section 21, Township 44 North, Range 11 West; thence continuing east along a line 525 feet north of and parallel to the south line of the Northwest Quarter of the Southwest Quarter of said Section 21, 410 feet; thence southeasterly in a direct line, 528.42 feet to a point on the south line of said Quarter Quarter Section, said point being 500 feet east of the southwest corner of said Quarter Quarter Section; thence east along the north lines of the South Half of the Southwest Quarter and the South Half of the Southeast Quarter of said Section 21 to a point 5418.61 feet east of the southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 21; thence deflecting 114 degrees 22 minutes 13 seconds left with said north line, 47.13 feet; thence deflecting 15 degrees 38 minutes 03 seconds right, 124.39 feet; thence deflecting 21 degrees 09 minutes 55 seconds left, 131.06 feet; thence deflecting 13 degrees 17 minutes 11 seconds left, 125.22 feet; thence deflecting 43 degrees 23 minutes 42 seconds left, 614.70 feet; thence deflecting 34 degrees 33 minutes 13 seconds right, 602.81 feet; thence deflecting 62 degrees 40 minutes 00 seconds right, 206.80 feet to the south line of U.S. Highway 50; thence easterly along the south line of said U.S. Highway 50 to a point on the south line of U.S. Highway 50 at Station 225+00 [MO Project F-1 (12)]; thence continuing easterly along the south line of said U.S. Highway 50 to the center of the Moreau River; thence leaving the said south line of U.S. Highway 50 and northerly along the center of the said Moreau River to the center of the Missouri River; thence westerly along the center of the said Missouri River to a point on the southerly extension of the Range line between Ranges 10 West and 11 West of Township 44 North in Callaway County, Missouri; thence north along the southerly extension of the Range Line and along the Range Line to the north line of the Katy Trail (formerly the Missouri-Kansas-Texas Railroad); thence northwesterly along the north line of the Katy Trail to a point on the southerly extension of the east line of the West Half of the East Half of the West

Half of Section 11, Township 44 North, Range 11 West, Callaway County, Missouri; thence leaving the said north line of the Katy Trail and north along said east line and the southerly extension thereof to the northeast corner of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter of said Section 11; thence northwesterly in a direct line to a point on the west line of said Section 11, said point being the intersection of said west line and the center of U.S. Highway 54; thence southwesterly along the center of said U.S. Highway 54 to the intersection of the center of said U.S. Highway 54 with the south bank of the Halifax Diversion Channel, said intersection being situated in Section 10, Township 44 North, Range 11 West, Callaway County, Missouri; thence leaving the centerline of said U.S. Highway 54 and northwesterly along the south bank of said Halifax Diversion Channel to the intersection of said south bank with the south bank of Turkey Creek; thence west along the south bank of said Turkey Creek to the intersection of said south bank and the northerly line of the aforementioned Katy Trail; thence northwesterly along the north line of the said Katy Trail and crossing parts of Sections 9, 4, and 5, of Township 44 North, Range 11 West, Callaway County, Missouri, to the Township line between Townships 45 North and 44 North, in Callaway County, Missouri; thence leaving the north line of the said Katy Trail and west along the Township Line to the easterly line of East Cole Junction Road as situated on the south line of Section 31, Township 45 North, Range 11 West, Cole County, Missouri; thence leaving the Township Line and southwesterly along the easterly line of said East Cole Junction Road to a point on the northerly extension of a line approximately 350 feet east of the west line of the East Half of Section 27, Township 45 North, Range 12 West, Cole County, Missouri; thence southerly on said northerly extension and along a line approximately 350 feet east of said west line to the south line of the Missouri Pacific Railroad main line; thence northwesterly along the said south line of the Missouri Pacific Railroad to the northwest corner of "Rio Vista Heights Subdivision" as per plat of record in Plat Book 8, Page 9, of the Cole County Recorder's Office; thence southerly along the westerly line of said subdivision to the southwest corner of Lot 1 of said subdivision; thence continuing south along the southerly extension of the west line of said Lot 1 to the center of Missouri State Highway "179"; thence northwesterly along the center of said Missouri State Highway "179" and crossing part of Sections 27, 28, 21, 20, and 19 in Township 45 North, Range 12 West, to a point on the east line of the West Half of the Southeast Quarter of said Section 19; thence leaving the center of said Missouri State Highway "179" and southwesterly in a direct line to a point on the west line of the Southeast Quarter of said Section 19, said point being the intersection of said west line and the center of "Wade Road"; thence westerly and along the center of said "Wade Road" to a point,

said point being the intersection of the center of said "Wade Road" and the center of Missouri State Highway "T"; thence northwesterly in a direct line to the southeast corner of the West Half of the Southwest Quarter of the Southwest Quarter of Section 23, Township 45 North, Range 13 West; thence north along the east line of the West Half of said Quarter Quarter Section to the northeast corner thereof; thence west along the north line of said Quarter Quarter Section to northwest corner thereof; thence northwesterly to the northeast corner of the West Half of the Southeast Quarter of Section 22, Township 45 North, Range 13 West; thence west along the north line of said West Half to the northeast corner of the West Half of the Northwest Quarter of the Southeast Quarter of said Section 22; thence south along the east line of said West Half of the Northwest Quarter of the Southeast Quarter to the southeast corner thereof; thence west along the south line of said West Half to the southwest corner thereof; thence south along the east line of the Southwest Quarter of Section 22, to the southeast corner thereof; thence west along the south line of said Section 22, to the southeast corner of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of said Section 22; thence north along the east line of said Quarter Quarter Quarter Section to the northeast corner thereof; thence west along the north line of said Quarter Quarter Quarter Section to the northwest corner thereof; thence south along the west line of said Quarter Quarter Quarter section to the northeast corner of Section 28, Township 45 North, Range 13 West; thence west along the north line of said Section 28, to the northeast corner of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter of said Section 28; thence south along the east line of said Quarter Quarter Quarter section, to the southeast corner thereof; thence west to the southwest corner of said Quarter Quarter Quarter section; thence south along the east line of the Northwest Quarter of the Northeast Quarter of said Section 28, to the southeast corner thereof; thence west along the south line of said Quarter Quarter section, to the southwest corner thereof; thence south along the west line of the Northeast Quarter of said Section 28, to the southwest corner of the Northwest Quarter of the Southwest Quarter of the Northeast Quarter of said Section 28; thence southwesterly to the northeast corner of the West Half of the Southwest Quarter of said Section 28; thence west along the north line of the Southwest Quarter of said Section 28, to the northwest corner thereof; thence south along the west line of said Section 28, to the southwest corner thereof, said corner also being the northwest corner of Section 33, Township 45 North, Range 13 West; thence east along the north line of said Section to the northeast corner of the West Half of the Northwest Quarter of said Section 33; thence south along the east line of said West Half to the southerly line of U. S. Highway 50; thence southeasterly along said southerly line to

a point, said point being the intersection of said southerly line and the center of "Kaylor Bridge Road" and situated in the Southwest Quarter of the Southwest Quarter of Section 34, Township 45 North, Range 13 West; thence leaving said southerly line and southerly along the center of said "Kaylor Bridge Road" to a point on the southerly corporate limits of St. Martins, Missouri, said point also being on the north line of the Southeast Quarter of the Southeast Quarter of the Northeast Quarter of Section 4, Township 44 North, Range 13 West; thence east along said north line to the east line of said Section 4, said east line also being the west line of Section 3, Township 44 North, Range 13 West; thence south along the west line of said Section 3 to the southwest corner of the North Half of the North Half of the Southwest Quarter of said Section 3; thence east along the south line of said North Half of the North Half of the Southwest Quarter of Section 3 to the southeast corner thereof; thence south along the east line of said Southwest Quarter to the south quarter corner of said Section 3; thence east along the south line of said Section 3 to the southeast corner thereof, said corner also being the northwest corner of Section 11, Township 44 North, Range 13 West; thence continuing east along the north line of said Section 11 to the northwest corner of the East Half of the West Half of said Section 11; thence south along the west line of said East Half of the West Half of Section 11 to the south line of said Section 11; thence east along said south line to the southeast corner of said Section 11, said corner also being the northwest corner of Section 13, Township 44 North, Range 13 West; thence south along the west line of Section 13, Township 44 North, Range 13 West, to the northwest corner of the South Half of the South Half of said Section 13; thence east along the north line of said South Half of the South Half of said Section 13 to the northeast corner thereof; thence south along the east line of said Section 13, to the point of beginning.

AND THE AREA WITHIN COLE COUNTY which includes the present City Limits boundary of Russellville, Missouri, more particularly described as follows is hereby excluded:

Beginning at the southwest corner of the northeast quarter of Section 3, in Township 43, in Range 14; thence northly in a direct line to the northwest corner of the southeast quarter of section 34, in Township 44, in Range 14; thence easterly in a direct line to the northeast corner of the southwest quarter of Section 35, in Township 44, in Range 14; thence southerly in a direct line to the southeast corner of the northwest quarter of Section 2, in Township 43, in Range 14; thence westerly in a direct line to the place of beginning.

AND THE AREA WITHIN COLE COUNTY which includes the present service area of the Lake Carmel Development Company, Inc.,

more particularly the area described as follows is hereby excluded:

Part of the Southeast Quarter of the Southwest quarter and part of the Southwest quarter of the Southeast quarter of Section 28; the Northeast quarter of the Northwest quarter and part of the Northwest quarter of the Northeast quarter of Section 33; all in Township 43 North, Range 13 West, Cole County, Missouri, and all of which is more particularly described as follows:

Beginning at the southeast corner of the Northwest quarter of the Northeast quarter of said Section 33; thence South 85 degrees 36 minutes 31 seconds west, along the south line of said quarter quarter and along the south line of the Northeast quarter of the Northwest quarter 2,643.64 feet, to the southwest corner of the said Northeast quarter of the Northwest quarter, thence North 4 degrees 28 minutes 26 seconds west, along the west line of said quarter quarter and along the west line of the Southeast quarter of the Southwest quarter of Section 28, 2,682.88 feet, to the northwest corner of the said Southeast quarter of the Southwest quarter of Section 28; thence North 85 degrees 33 minutes 34 seconds east, along the quarter quarter section line, 923.21 feet, more or less, to the northwesterly corner of a tract conveyed to Fred C. Nichols and wife, by deed of record in Book 224, page 628, Cole County Recorder's Office; thence South 25 degrees 34 minutes 20 seconds east, along the westerly line of the said Nichols tract, 674.40 feet, to the southwesterly corner thereof; thence North 56 degrees 48 minutes east, along the southerly line of the said Nichols tract, 216.69 feet, to the centerline of a County Road; thence South 42 degrees 30 minutes 19 seconds east, along the centerline of said road, 50 feet; thence continuing along the said centerline of the road, South 39 degrees 00 minutes 26 seconds east, 779.48 feet, thence continuing along the said centerline of the road, South 28 degrees 53 minutes 26 seconds east, 587.95 feet, to the northwesterly corner of a tract described in deed of record in Book 224, page 383, Cole County Recorder's Office, thence leaving the centerline of said County Road, North 61 degrees 04 minutes 34 seconds east, along the northwesterly line of said tract, 352.65 feet; thence South 46 degrees 29 minutes 26 seconds east, along the northeasterly line of said tract, 366.0 feet, to the quarter quarter Section line; thence South 4 degrees 44 minutes 26 seconds east, along the quarter quarter Section line, 817.32 feet, to the point of beginning. Containing 118.72 acres, more or less. Bearings are Magnetic.

2. Applicant will be permitted to charge the following rates for sewer service: Residential: \$17.20 per customer per month

and Commercial: \$17.20 per customer per month for treatment of sewage up to 7,000 gallons and \$2.50 per 1,000 gallons for treatment of sewage over 7,000 gallons. These rates will be interim in nature and remain in effect for a period of at least 18 months at which time they will be reviewed and permanent rates will be established.

3. Applicant will maintain its books and records in accordance with the Uniform System of Accounts as adopted by the Missouri Public Service Commission.

4. Applicant will, within thirty days of the effective date of a Report and Order approving this Stipulation and Agreement, file an initial tariff which will contain the aforementioned rates for sewer service as well as rules and regulations for the conduct of its business.

5. The prepared testimonies and exhibits sponsored by Applicant witness Garah F. Helms; Staff witnesses James A. Merciel, Jr. and Thomas M. Imhoff; and City witnesses Robert M. Bates and Edwin H. Rackers, Jr., will be received into evidence without the necessity of those witnesses taking the witness stand.

6. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the Parties waive their right to cross examine the witnesses named in paragraph 5 above with respect to their prepared testimonies and exhibits.

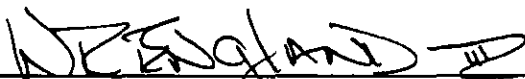
7. This Stipulation and Agreement represents a negotiated settlement for the purpose of disposing of the instant case, and none of the Parties to this Stipulation and Agreement shall be

prejudiced or bound by the terms of this Stipulation and Agreement in any future proceedings, or in this proceeding, in the event the Commission does not approve this Stipulation and Agreement in its entirety.

8. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the Parties waive their rights 1) to present oral argument and written briefs pursuant to Section 536.080 RSMo. 1986; 2) pertaining to the reading of the transcript by the Commission pursuant to Section 536.080 RSMo. 1986; and 3) to judicial review pursuant to Section 386.510 RSMo. 1986.

9. The agreements in this Stipulation and Agreement have resulted from extensive negotiations among the signatory Parties and are interdependent; in the event the Commission does not approve and adopt this Stipulation and Agreement in its entirety and in the event the certificate of public convenience and necessity is not issued to Applicant in accordance with the terms hereof, the Parties agree that this Stipulation and Agreement shall be void and no Party shall be bound by any of the agreements or provisions hereof.

Respectfully submitted,

  
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Dated this 6<sup>th</sup> day of September, 1990