

STAFF RECOMMENDATION FOR APPROVAL OF APPLICATION

APPENDIX A

Official Case File Memorandum and Attachments

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Official Case File Memorandum

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. SA-2004-0470
Central Rivers Wastewater Utility, Inc. (Private Gardens subdivision)

FROM: Dale Johansen – Project Coordinator
Phil Williams – Auditing Department
Lisa Kremer – Engineering & Management Services Department
Jim Merciel – Water & Sewer Department
Martin Hummel – Water & Sewer Department

<u>/s/ Dale W. Johansen</u>	<u>10/25/04</u>
Project Coordinator	Date
<u>/s/ Cliff E. Snodgrass</u>	<u>10/25/04</u>
General Counsel's Office	Date

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

DATE: October 25, 2004

BACKGROUND

On March 16, 2004¹, Central Rivers Wastewater Utility, Inc. (CRW or Company) filed an Application for a Certificate of Convenience and Necessity (Certificate) to provide sewer service to the Private Gardens subdivision in Clay County, Missouri.

On March 19, 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 April 8 for interested parties to submit requests to intervene in the case. No requests to intervene in the case were submitted to the Commission.

CRW was incorporated in December 1997 and was granted a certificate to provide sewer service in its first service area, known as Countryside Meadows, in Case No. SA-98-530 on May 25, 1999. Three additional subdivisions have been added to CRW's certificated service areas in subsequent cases. Three of the Company's existing service areas are in Clay County and one is in Ray County. The subdivisions comprising CRW's current service areas, and current number of customers are: Countryside Meadows – 8; Fox Run – 34; Wilmar Estates – 29; and Barr-B Acres – 32.

¹ Unless noted otherwise, all dates herein refer to the year 2004.

The proposed Private Gardens service area has 61 lots. Home construction started on a couple lots in August of 2004. The wastewater will be treated using a recirculating sand filter facility, which can consistently deliver treated water that meets environmental requirements. This is the same technology that CRW uses at its other four locations. The construction of this system is complete and the system is ready to provide service.

The Staff requested extensions of time to file a recommendation in this case because construction necessary to serve existing residents in the Barr-B Acres subdivision had not been completed, and the Staff believes that CRW should be able to complete this project before taking on an additional service area. The Barr-B Acres certificated area was approved to become effective on January 4, 2002, in Case Number SA-2001-304. While construction of the sewer system, and the provision of service in this subdivision, was complicated by various issues including land acquisition, the Staff expected the system to be constructed and in place at least by the end 2003. It was not completed by that time, however construction of the Barr-B Acres recirculating sand filter treatment facility has now been completed, and customers will officially be receiving service utilizing that plant as of November 1.

STAFF'S INVESTIGATION

As noted at the beginning of this memorandum, Staff members from the Auditing, Engineering & Management Services, and Water & Sewer Departments participated in the Staff's review of the subject Application. All Staff participants, as well as their up-line supervisors, were afforded the opportunity to review and comment on this Memorandum prior to it being filed. Martin Hummel of the Water & Sewer Department created the initial draft of this Memorandum and comments received from the reviewers were incorporated therein for creation of this final version of the Memorandum.

Items reviewed during the Staff's investigation of CRW's Application included the Company's overall plans for providing service to the area, the appropriateness of the proposed customer rates for the system, the applicability of the Company's existing depreciation rates to the system and the Company's technical, managerial and financial capacities.

The Staff has also spoken by phone with both the Missouri Department of Natural Resources Kansas City Regional Office and the Clay County Planning and Zoning to verify that other government requirements are being met. There are no unresolved issues between CRW and these agencies.

Additionally, the Staff analyzed the Company's ability to meet the "Tartan Energy Criteria", as slightly modified by the Staff, which are the criteria historically used by the Commission in evaluating service area certificate applications. The Tartan Energy Criteria, with criterion (1) modified by the Staff, are set out below.

- (1) Is there a need for the proposed service, and is there a need for the applicant to provide the proposed service?
- (2) Is the Company qualified to provide the proposed service?
- (3) Does the Company have the financial ability to provide the proposed service?
- (4) Is the Company's proposal economically feasible?
- (5) Does the Company's proposal promote the public interest?

STAFF'S FINDINGS AND CONCLUSIONS

The Company's current \$32 per month rate is based on pro forma estimates developed during the Company's previous certificate cases. As is proposed in the subject Application, the Staff believes that the Company's existing \$32 per month rate, which was approved for its other service areas, should also be used for the Private Gardens service area.

Although CRW's first service area was granted in 1999, this is still essentially a "start-up" company. The Company's growth, which is totally a function of new home construction, has generally been slow, and the growth in the first subdivision to be served has been particularly slow. The Staff originally, in Case No. SA-98-530, recommended that a rate review be conducted 24 months after that certificate was granted. However, as noted above, CRW did not have a good start with regard to the number of homes being constructed and needing service, and thus the contemplated rate review was postponed several times. The Staff has, however, informally reviewed CRW's financial information to be assured that CRW was not over earning, and to explore the issue of when a formal rate review should be done. Since CRW is expected to have just over 100 customers and treatment plant construction in all of CRW's service areas will have been completed by the end of 2004, the Staff believes that the records for calendar year 2005 should provide a reasonable basis for a rate evaluation based on cost of service. As a result, the Staff now believes that a rate review should be conducted for all service areas after January 2006, with that review to be based on CRW's cost of service records for a 2005 test year.

Regarding the Company's depreciation rates, the Staff believes that CRW should apply its existing Commission-approved depreciation rates to this new service area.

Subsequent to the Commission granting CRW a Certificate for the subject service area, CRW will need to amend its existing tariff by filing both new and revised tariff sheets with the Commission for its approval. The new tariff sheets will need to include a map and a written description of the Private Gardens service area. Also, the revised tariff sheet(s) will need to show that the Company's existing customer rates apply to that 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?

The Staff believes that a need for the proposed service clearly exists. The proposed new service area is a new subdivision with construction of the first homes started in August 2004. There is no other sewer system available proximate to Private Gardens. The proposed service utilizes small diameter pressure collector pipe, which is well suited for service to the large platted lots. The wastewater will be treated using a Recirculating Sand Filter, which can consistently deliver treated water that meets environmental requirements. This is the same technology that CRW uses at its other four locations. The construction of this system is complete and ready to provide service.

Is the Company qualified to provide the proposed service?

Based on its investigation and its familiarity with CRW, the Staff believes that CRW has the technical, managerial and financial capacities necessary to provide the proposed service. The operations supervisor has several years experience operating water and wastewater utilities, and is a certified operator in both fields. The owner/manager also has several years experience in utility construction.

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

CRW's arrangements with the developers of the various subdivisions in which it provides service provides that the developers pay for operations until there are a significant number of customers. Additionally, the developers also provide the initial investments in the systems' treatment facilities, and then receive partial reimbursements as customers hook on to the system. As a result, CRW is assured of staying financially sound while in a start-up mode, and has the operational capability to sustain itself as the business matures.

Is the Company's proposal economically feasible?

The current pro forma estimates by the Staff and by CRW for the necessary monthly rate when the developers are no longer supporting operations is in the range of \$29 to \$35. This is for sewer service for homes most of which are valued over \$300,000. While a future adjustment of monthly rates is quite likely, the Staff still expects that those adjustments will be nominal. The treatment facilities that have been installed have a long life and have the capability to meet significantly more stringent environmental limits than are presently required.

Does the Company's proposal promote the public interest?

CRW's proposed sewer service fulfills one of the requirements that make new home construction possible in this portion of unincorporated Clay County. As such, it is in the public interest.

RESPONSES TO STAFF'S PROPOSALS

On September 24, the Staff sent a letter summarizing its position on the Application to CRW and requested a written response regarding CRW's agreement with the Staff's proposed recommendations (see Attachment 1). The Staff also sent a copy of that letter to the Office of the Public Counsel (OPC).

On September 30, CRW sent the Staff a letter stating the Company's agreement with the Staff's proposed recommendations (see Attachment 2). As of the date of this Memorandum, the OPC has not yet responded either in favor of or in opposition to the Staff's proposals.

ADDITIONAL INFORMATION

The Staff has reviewed CRW's compliance history regarding the submittal of its Commission annual reports and the payment of its Commission assessments by reviewing the Commission's records back to 1999, which is when the Commission first issued a certificate to the company. Based on its review of those records, the Staff notes that CRW has submitted all of its required annual reports and is current on the payment of its assessments.

Additionally, the Staff notes that CRW currently has no other matters pending before the Commission, and that approval of the Application in this case will thus not affect any other matter before the Commission with regard to the Company.

The Staff has also reviewed CRW's current operations and found that the Company's efforts in properly operating its facilities are diligent. As with all small sewer companies, deficiencies and facility problems will become apparent from time to time; however, what is critical is the company's response. On September 23, CRW was informed of deficiencies at one of their facilities, which were observed during a DNR inspection. By October 11, CRW had made all corrections needed to remedy those deficiencies and communicated with the DNR staff regarding the corrective measures taken. Overall, CRW does a very good job of operating its facilities and responding to operational problems. Additionally, there has thus far been very little activity with regard to customer inquiries concerning the Company's operations. In that regard, most of what has occurred have been inquiries as to the provision of service to the existing homes in the Barr-B Acres service area, and CRW has responded promptly and satisfactorily to such inquiries.

STAFF'S RECOMMENDATIONS

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

- Grants CRW a Certificate for the provision of sewer service to the Private Gardens subdivision as requested in its Application, with the Certificate to be effective on the same date as the effective date of the Company's new and revised tariff sheets to be submitted, as described herein;
- Approves the Company's existing depreciation rates, service charges and customer rate of \$32.00/month to be applicable to the Private Gardens service area;
- Directs CRW to submit new and revised tariff sheets for its existing tariff including a map and written description of the Private Gardens service area, and indicating the applicability of the existing customer rate and service charges to this service area, within 30 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;
- Authorizes the Staff to conduct a rate review encompassing CRW's entire operations including the Private Gardens service area, subsequent to CRW's books and records for calendar year 2005 being available; and
- 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 CRW, in any later proceeding.

The Water & Sewer Department Staff will file a further recommendation regarding approval of the tariff sheets that CRW will be submitting in accordance with the Commission's order granting the Certificate. This case should thus remain open for consideration of those tariff sheets and the Staff's recommendation thereon.

List of Attachments

Attachment 1 – Staff's September 24, 2004 Letter to CRW

Attachment 2 – CRW's Letter to Staff

Official Case File Memorandum

Attachment 1

Staff Letter to Company



Commissioners

STEVE GAW
Chair

CONNIE MURRAY

ROBERT M. CLAYTON III

JEFF DAVIS

LINWARD "LIN" APPLING

Missouri Public Service Commission

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ROBERT J. QUINN, JR.
Executive Director

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Mark Geisinger
Central Rivers Wastewater Utility, Inc.
P.O. Box 528
Kearney, MO 64060

September 24, 2004

RE: Case No.SA-2004-0470, Application for Sewer Service Certificate (Private Gardens subd.)

Dear Mr. Geisinger:

The purpose of this letter is to present to you the Staff's position on the Application by Central Rivers Wastewater Utilities Inc. (CRW) for a Certificate of Convenience and Necessity for the provision of sewer service at Private Gardens subdivision and adjacent area.

The Staff is agreeable to the use of the current flat rate of \$32.00 per month as established in the Case No. SA-98-530(Countryside Meadows).

CRW will attempt to obtain individual customer water usage from the water suppliers and evaluate establishing rates based on water usage data.

The \$32/month rate is expected to support a ratebase of \$500 per customer as investment in the treatment facility for Private Gardens, with the balance being contributed by the developer. The Staff understands that this has been agreed to by the developer and CRW.

As we have also discussed, the Staff is agreeable to a septic tank effluent pump (STEP) installation charges as previously approved and shown in your current tariff for new customers.

CRW will maintain records of each system's construction costs, accumulated depreciation, CIAC, revenues, operation and maintenance expenses.

As we have discussed, subsequent to the Commission issuing an order in this case, CRW will need to file appropriate tariff sheets to add the new service area description, and the map. The Staff does expect the description to be rewritten and some additional detail added to the map to make the rendition in the tariff more usable by customers.

Our proposed recommendations on this case are:

- CRW continue to keep its books and records according to the Uniform System of Accounts;
- Currently approved depreciation rates be used for Private Gardens area;
- CRW's existing flat rate of \$32.00/month be approved for the new service area;
- Current service charges in the company's tariff be approved for the new service area; and
- that a Certificate of Convenience and Necessity be approved to be effective concurrent with the filing and approval of the appropriate tariff sheets.
- That Staff will review the rates, expenses and revenues for all the service areas in 15 months.

If you agree with the proposed recommendations and conditions as set forth in this letter, CRW should send written acknowledgment.

Sincerely,



Martin Hummel
Water and Sewer Department

cc:

John Coffman, Office of Public Counsel
Leslie Preston, PSC-K.C. Office
Carole Bloom, Clay County Planning and Zoning

Official Case File Memorandum

Attachment 2

Company Letter to Staff

Central Rivers Wastewater Utility, Inc.

RECEIVED

OCT 04 2004

UTILITY OPERATIONS
DIVISION

September 30, 2004

Martin Hummel
Water and Sewer Department
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

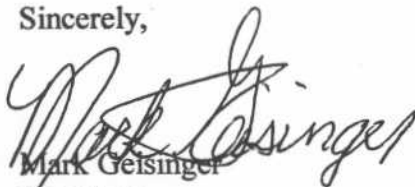
RE: Your letter of September 24, 2004 (Case No.SA-2004-0470)

Dear Mr. Hummel:

The purpose of this letter is to tell you that I agree with your proposed recommendations

and conditions as set forth in your letter of September 24, 2004.

Sincerely,


Mark Geisinger
President

P.O. Box 528 Kearney, MO 64060
Phone: (816) 903-1454 Fax: (816) 903-1499