

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Mid MO Sanitation LLC)
for a Certificate of Convenience and)
Necessity Authorizing it to Own,)
Operate, Maintain, Control and Manage)
a Sewer System in Callaway County,)
Missouri.)

Case No. SA-2009-0319

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through the undersigned counsel, and for its *Staff Recommendation* in Case No. SA-2009-0319 states as follows:

1. On March 6, 2009, Mid MO Sanitation LLC (Mid MO or the Company) filed an *Application* with the Missouri Public Service Commission (the Commission) seeking to obtain from the Commission a certificate of convenience and necessity to own, operate, maintain, control and manage a sewer system in Callaway County, Missouri.

2. On March 10, 2009, the Commission issued its *Order Directing Notice and Setting Intervention Date*, ordering that notice of Mid MO's *Application* be provided to certain parties of interest, and setting an intervention date of March 30, 2009.

3. On March 31, 2009, the Commission issued its *Order Directing Staff to File a Recommendation*, ordering Staff to file a recommendation regarding Mid MO's *Application* no later than May 1, 2009.

4. Pursuant to Section 393.170 RSMo (2000), no sewer corporation shall provide service to consumers without first having obtained from the Commission a certificate of convenience and necessity (CCN). See also *In the Matter of Tartan Energy Company, et al.*, 3

Mo. PSC 3d 173, 177 (1994), wherein the Commission set forth five (5) criteria that should be met before a certificate may be issued.

5. In the attached Memorandum, labeled Appendix A, Staff states its position that “the operation of the Company as outlined in its Application is both necessary and convenient for public service...” in that the operation of the system is currently relied upon by commercial and residential customers and that the Company has the necessary technical, managerial and financial capacities to own and operate the system.

6. Because Mid MO Sanitation LLC is newly-formed corporation, pursuant to the Company’s current *Application* Staff has engaged in an investigation to determine a just and reasonable amount of rates to be charged to its customers. No customer has been assessed a fee since Staff contacted the system operator in March, 2008.

7. Pursuant to Staff investigation Staff and the Company have reached an agreement whereby the Company will include in its tariff a flat fee of \$79.01 per month for residential service and a flat fee of \$118.52 per month for commercial service. Under this agreement these rates are to be contained in the Company’s tariff, to be filed prior to their exercise, and will be subject to Commission approval at that time.

8. In the attached Memorandum Staff states its recommendation that the Commission issue an order which:

- a. Approves a Certificate of Convenience and Necessity for Mid MO Sanitation LLC to provide sewer service as described in its *Application*;
- b. Requires the Sewer Company to submit a complete tariff specifying a monthly rate of \$79.01 for residential customers and \$118.52 for

commercial customers. The customer will not be billed for service until such time as the tariff is approved and made effective;

- c. Approves the schedule of depreciation rates attached to Staff's Memorandum;
- d. Recognizes that nothing in Staff's Memorandum, or in any order issued by the Commission in this case, shall bind the Commission on any ratemaking issue in any future rate proceeding.

WHEREFORE, Staff submits this *Staff Recommendation* in compliance with the Commission's *Order Directing Staff to File a Recommendation*.

Respectfully submitted,

/s/ Eric Dearmont

Eric Dearmont
Assistant General Counsel
Missouri Bar No. 60892

Attorney for the Staff of the
Missouri Public Service Commission
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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 1st day of May, 2009.

/s/ Eric Dearmont

MEMORANDUM

Case No. SA-2009-0319 – Mid MO Sanitation, LLC

TO: Missouri Public Service Commission Official Case File

FROM: Jerry Scheible, P.E., Utility Regulatory Engineer- Water & Sewer Department

James Russo – Water & Sewer Department

Keith Foster – Auditing Department

Arthur Rice – Engineering and Management Services

/s/ Jerry Scheible
Project Coordinator

April 30, 2009

/s/ Eric Dearmont
General Counsel's Office

April 30, 2009

SUBJECT: Staff Recommendation Regarding the Application Seeking Permission, Approval, and Certificate of Convenience and Necessity for Mid Mo Sanitation, LLC to Provide Sewer Service in a Described Area near Millersburg, Callaway County, Missouri.

DATE: April 30, 2009

BACKGROUND

On March 31, 2009 (unless noted otherwise, all dates herein refer to the year 2009), Mid MO Sanitation, LLC (Company) filed an *Application* with the Commission, seeking a Certificate of Convenience and Necessity (CCN) to provide sewer service to the existing developments which include a subdivision known as Lake Breeze Estates and a commercial area known as Lake Breeze Business Park, both located in Callaway County near Millersburg, Missouri. There are currently twenty-six residential customers (single-family homes) and two commercial customers (a day care facility serving approximately fifty children, and a gas station with convenience items and a small café area.)

On March 31, the Commission issued its *Order Directing Staff to File Recommendation*, setting a May 1 deadline for Staff to issue its recommendation in this case.

STAFF'S INVESTIGATION

The area to be served was originally developed in 1999 and the wastewater treatment lagoon was constructed and placed into operation at that time. The area to be served was developed by Edward and Shirley Bright, the parents of the current applicant, Bill Bright. Mr. and Mrs. Edward Bright also operated the lagoon and charged the residents of the subdivision for sewer service under an entity named KLR Sewer Company (KLR). KLR charged a flat rate of \$35 per month for sewer service for each customer; whether residential or commercial. The Brights were not aware that a CCN was required, and therefore did not submit an application for such. The Public Service Commission (the Commission) was initially made aware of KLR's operation as a utility in March of 2008, when a customer contacted the Water and Sewer Department.

Staff began investigating the situation at that point and learned that Mr. and Mrs. Bright had both passed away by 2007. Bill Bright, the current applicant, assumed the operation of the lagoon system by default at that point in time. Mr. Bright has been very cooperative in working with Staff once he was made aware of PSC requirements, and the customers have not been billed for sewer service since Staff first contacted him in March of 2008.

Significant effort has been made by the parties involved to determine the best solution to the situation. Although the parties initially explored various options such as the transfer of ownership of the utility to a properly formed home owners association or a different utility operating under a CCN, it was ultimately determined that Mr. Bright would apply for a CCN. This led to the creation of the entity of Mid MO Sanitation, LLC in January, and the submission of the application at hand. Mid MO Sanitation is a corporation in good standing with the Missouri Secretary of State.

Water service is provided to the development and surrounding area by Callaway County Public Water District No. 9. The Water District does not currently operate any sewer services and declined when the Brights proposed the possibility of transferring ownership of the sewer utility to the Water District.

The facility originally operated under Missouri Department of Natural Resources (DNR) Permit Number MO-0120995. That permit has since expired and the Department is waiting to renew the permit until the newly formed continuing authority, Mid MO Sanitation, LLC acquires a CCN. Mr. Bright has continued to work with DNR, including sampling the effluent as required by the original permit and reporting the results to DNR. No further issues exist regarding DNR requirements, as the lagoon is operating well within design capabilities.

Items reviewed during Staff's investigation of the subject *Application* included the Company's overall plan for providing the proposed service in the requested service area. Additionally, Staff analyzed the Company's ability to meet the "Tartan Energy Criteria", which are the criteria

historically used by the Commission in evaluating CCN applications. The Tartan Energy Criteria, with criterion (1) slightly modified by Staff, are set out later in this Recommendation.

In addition to the above-referenced reviews and analysis, Staff also performed its own cost-of-service analysis and rate calculations for the system, which will be discussed in more detail later in this Recommendation.

THE APPLICATION AND STAFF'S REVIEWS

The owner of the Company expects that the current numbers of 26 residential customers and two commercial customers will remain constant over the next five years of operation. Staff has assumed that customer level for ratemaking purposes.

The service area is served by small diameter pressure collecting sewers that carry effluent from each customer's premises to the three-cell aerated lagoon treatment facility. Each home has an individual effluent pump and small pump chamber, which the customers own and maintain. The sewer collection pipelines will be considered contribution in aid of construction (CIAC), as is common practice in rate determination. The original cost of construction of the treatment facility will be considered CIAC as well, since that cost was recouped by the subdivision developers through the sale of the lots.

Upgrades, replacements and additions have been made to the treatment facility in recent years, including the addition of ultraviolet (UV) disinfection and an upgrade to the aerator anchoring system. Those items will be treated as capital investment made by the utility and considered Rate Base. Depreciation of the items since they were put in use has been accounted for by Staff, leaving \$17,559 as the current Rate Base for the utility. Rate Base plus revenue requirement was used by Staff to determine the following proposed flat rates:

Residential Customers- \$79.01/month
Commercial Customers- \$118.52/month

Staff and the Company arrived at this rate after discussions and modifications of the estimated expenses as originally submitted. Commercial rates were determined by Staff using MDNR guidelines for sewage production for the types of commercial businesses currently served by the system, and input from Mr. Bright. Staff and Mr. Bright agree that it is reasonable to expect that the existing commercial customers produce approximately 50% more sewage flow than the typical residential customer. The *Rate Base, Expenses and Rate Calculation Worksheet* can be found as "Attachment 1" and the depreciation rates used in determining rates are shown on "Attachment 2" of this Memorandum.

Staff communicated with the Company's owner regarding possible positions on the granting of the *Application* throughout the investigation of the *Application*. On April 30, Staff spoke via

telephone to Mr. Bill Bright, informing him of the proposed rates. Mr. Bright has no objection to the rates as proposed.

The Company will need to file a complete tariff after the Commission grants a certificate. Staff will assist the Company with this task, and anticipates the tariff will be similar to the Water & Sewer Department's example tariff for sewer utilities.

TARTAN ENERGY CRITERIA EVALUATION

As noted previously, Staff analyzed the Company's ability to meet the Tartan Energy Criteria, as has historically been done in evaluating certificate applications. Staff's conclusions regarding this matter are set out as follows:

Q. Is there a need for the proposed service, and is there a need for this Company to provide the proposed service?

A. The central sewer system is in place and serving the customers in the proposed service area, which is not located within a public sewer district's boundaries. As a result, Staff believes there is a need for the Company to be the entity providing the sewer service to the area.

Q. Is the Company qualified to provide the proposed service?

A. Staff believes that the owner of the Company has demonstrated technical and managerial ability to develop and operate the sewer system, in that he has been doing so effectively for two years. The owner owns and operates a successful electrical contracting business, thereby has experience in business operation, and has contracted with an established certified operator to run the system.

Q. Does the Company have the financial ability to provide the proposed service?

A. The initial investment in the sewer treatment facilities has been recouped in the sale of the lots and therefore does not represent a debt that remains to be paid. Staff believes that the Company has the financial capability through bank financing and its owners' funding support to successfully move forward with its proposal, and will be able to generate sufficient cash flow to remain viable, given the proposed rates.

Q. Is the Company's proposal economically feasible?

A. Staff, having evaluated estimated expenses, rates, CIAC charges, etc., believes the proposal for the sewer system is economically feasible – if Staff's proposed rates are adopted. The majority of all potential customers are in place and have been billed for sewer service in the past; thus it should not be a “new” economic burden on the customers. There is opportunity for several new commercial customers, which the sewer system is adequately sized to accept, which would further add to the viability of the utility.

Q. Does the Company's proposal promote the public interest?

A. Staff believes the Company's proposal promotes the public interest because the existing central sewer system is desirable for a good living environment for the involved residential and commercial customers, and because the other Tartan Energy Criteria have been met.

STAFF'S CONCLUSIONS

Staff is of the opinion that the operation of the Company as outlined in its Application is both necessary and convenient for public service, and that the agreed-upon rates to be contained in the Company's tariffs are just and reasonable. There is a need for sewer service, in that it is currently in operation, and therefore relied upon, for the subdivision and commercial area. Staff believes the Company has the necessary technical, managerial and financial capacities, in part because Engineering Surveys and Services has been contracted to operate the sewer system. Additionally, the owner of the Company is an established business owner in the vicinity and has now been managing the operation of the sewer system for two years.

STAFF'S RECOMMENDATIONS

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

- 1) Approves a Certificate of Convenience and Necessity for Mid MO Sanitation, LLC for providing sewer service to the service area described in the *Application*;
- 2) Requires the Sewer Company to submit a complete tariff specifying a monthly rate of \$79.01 for residential customers and \$118.52 for commercial customers. The customers will not be billed for service until such time as the tariff is approved and made effective;

- 3) Approves the schedule of depreciation rates attached to this Memorandum for use by the Company.
- 4) Recognizes that nothing in this Memorandum, or in any order issued by the Commission in this case, shall bind the Commission on any ratemaking issue in any future rate proceedings.

After the Company submits a complete tariff, Staff will submit an additional recommendation regarding approval of the tariff.

List of Attachments

Attachment 1: Estimated Expenses & Rate Calculation Worksheet

Attachment 2: Schedule of Proposed Depreciation Rates

Mid MO Sanitation LLC
DEPRECIATION RATES
(SEWER)
SR-2009-0319

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEPRECIATION RATE	AVERAGE SERVICE LIFE (YEARS)	NET SALVAGE
311	Structures & Improvements	3.0%	33	0%
352.1	Collection Sewers (Force)	2.0%	50	0%
355	Flow Measurement Devices	3.3%	30	0%
362	Receiving Wells (UV Pit)	4.0%	25	0%
372	Oxidation Lagoons	4.0%	25	0%
373	Treatment & Disposal Facilities (UV and aeration equipment)	5.0%	20	0%
391.1	Office Computer Equipment	20.0%	5	0%

File Date 4/30/2009

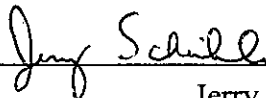
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

AFFIDAVIT OF JERRY SCHEIBLE, P.E.

STATE OF MISSOURI)
) SS CASE NO. SA-2009-0319
COUNTY OF COLE)


COMES NOW Jerry Scheible, being of lawful age, and on his oath states the following:

(1) that he is a Utility Regulatory Engineer in the Missouri Public Service Commission's Water & Sewer Department; (2) that he participated in the preparation of the foregoing Staff Recommendation Memorandum; (3) that he has knowledge of the information presented in the foregoing Staff Recommendation Memorandum; and (4) that the information presented in the foregoing Staff Recommendation Memorandum is true and correct to the best of his knowledge, information and belief.



Jerry Scheible

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



Notary Public

My Commission Expires: 9-21-10



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Mid MO Sanitation LLC for)
a Certificate of Convenience and Necessity) Case No. SA-2009-0319
Authorizing it to Own, Operate, Maintain,)
Control and Manage a Sewer System in)
Callaway County, Missouri)

AFFIDAVIT OF ARTHUR W. RICE, PE

STATE OF MISSOURI

ss.

COUNTY OF COLE

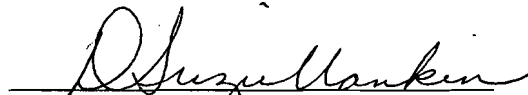
COMES NOW Arthur W. Rice, being of lawful age, and on his oath states the following: (1) that he is a Utility Regulatory Engineer in the Missouri Public Service Commission's Engineering & Management Services Department; (2) that he was responsible for the preparation of Attachment 2 to *Staff Recommendation Memorandum* ("Recommendation"); (3) that he has knowledge of the matters set forth in Attachment 2 to the Recommendation; and (4) that the matters set forth in Attachment 2 to the Recommendation are true and correct to the best of his knowledge, information, and belief.



Arthur W. Rice
Utility Regulatory Engineer
Engineering & Management
Services Department

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

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: December 08, 2012
Commission Number: 08412071


Notary Public