

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

In the Matter of the Application of Central)
Rivers Wastewater Utility, Inc., for a Certificate)
of Convenience and Necessity Authorizing it to)
Construct, Install, Own , Operate, Control,)
Manage and Maintain a Sewer System for the)
Public, Located in an Unincorporated Area in)
Clay County, Missouri)

Case No. SA-2005-0302

RECOMMENDATION FOR APPROVAL OF APPLICATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through Counsel, and for its Recommendation for Approval of Application (Recommendation), states the following to the Missouri Public Service Commission (Commission).

1. On March 14, 2005¹, Central Rivers Wastewater Utility, Inc. (Company) filed an Application with the Commission, requesting that it be issued a certificate of convenience and necessity (certificate) to provide sewer service to the public in an unincorporated area in Clay County known as the Berkshire Glen subdivision.

2. Section 393.170(3), RSMo 2000, provides, among other things, that the Commission may issue a certificate if it is "necessary or convenient for the public service". See also *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994), wherein the Commission set forth five criteria that should be met before a certificate is issued.

3. The Staff believes that the Company has met the requirements set forth in Section 393.170 (3), as well as the criteria established by the Commission in the Tartan Energy case. As a result, the Staff believes the Commission should approve the Company's Application.

¹ Unless noted otherwise, all dates herein refer to the year 2005.

4. The Staff's specific recommendations to the Commission regarding approval of the Company's Application are found on page 6 of the Staff Memorandum that is included in the document attached hereto and identified as Appendix A.

WHEREFORE, the Staff submits this Recommendation for the Commission's consideration and respectfully requests that the Commission issue an order consistent with the recommendations contained in the Staff Memorandum that is included in Appendix A.

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission

P.O. Box 360
Jefferson City, MO 65102
573-751-4140 (telephone)
573-751-9285 (facsimile)
keith.krueger@psc.mo.gov (e-mail)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 25th day of October 2005.

/s/ Keith R. Krueger

APPENDIX A

STAFF MEMORANDUM & ATTACHMENTS

CASE NO. SA-2005-0302

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Official Case File Memorandum

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. SA-2005-0302 (Berkshire Glen Subdivision)
Central Rivers Wastewater Utility, Inc.

FROM: Dale Johansen – Project Coordinator
Lesley Preston – Auditing Department
Jolie Mathis – Engineering & Management Services Department
David Murray – Financial Analysis Department
Jim Merciel – Water & Sewer Department
Martin Hummel – Water & Sewer Department

<u>/s/ Dale W. Johansen</u>	<u>10/24/05</u>
Project Coordinator	Date
 <u>/s/ Keith R. Krueger</u>	 <u>10/24/05</u>
General Counsel's Office	Date

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

DATE: October 24, 2005

BACKGROUND

On March 14, 2005¹, 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 Berkshire Glen subdivision in Clay County, Missouri.

On March 16, 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 5 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. Four additional subdivisions have been added to CRW's certificated service areas in subsequent cases. Four of the Company's existing service areas are in Clay County and one is in Ray County.

¹ Unless noted otherwise, all dates herein refer to the year 2005.

The subdivisions comprising CRW's current service areas and the current number of customers are as follows: Countryside Meadows – 8; Fox Run – 36; Wilmar Estates – 41; Barr-B Acres – 33; and Private Gardens – 7.

The proposed Berkshire Glen service area has 30 lots, and there are six homes constructed at present. 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 in its other service areas. The construction of this system is complete, the Department of Natural Resources (DNR) has issued an operating permit for the system, and the system is ready to provide service.

The Staff requested extensions of time to file a recommendation in this case because of a delay in the Company's submission of its FY2004 Annual Report. This delay was primarily due to health problems experienced by the company's primary record keeper.

STAFF'S INVESTIGATION

As noted at the beginning of this Memorandum, Staff members from the Auditing, Engineering & Management Services, Financial Analysis, and Water & Sewer Departments participated in the Staff's review of the subject Application. All Staff participants, the participants' up-line supervisors, and the assigned Staff attorney 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 DNR's Kansas City Regional Office and the Clay County Planning and Zoning Office 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 No. 1 modified by the Staff, are set out within this Memorandum below.

STAFF'S FINDINGS AND CONCLUSIONS

The Company's current Commission-approved rate of \$32 per month per customer 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 rate should also be used for the Berkshire Glen service area.

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. In the Company's first certificate case the Staff 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 in an overearnings position, and to explore the issue of when a formal rate review should be performed. Subsequently, the Staff addressed this matter in the context of one of CRW's other recent certificate application cases, Case No. SA-2004-0470. As a part of its recommendation in that case, the Staff requested that it be authorized to conduct a rate review of CRW's entire operations in early 2006 based on CRW's books and records for CY2005. The Commission approved that recommended approach in its order for Case No. SA-2004-0470. The Staff believes this approach continues to be appropriate and plans to include this new service area in its upcoming rate review.

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 Berkshire Glen service area. Also, the revised tariff sheet(s) will need to show that the Company's existing customer rates apply to this new 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. There is no other sewer system available proximate to Berkshire Glen. 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 in its other five service areas.

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 provide that the developers subsidize the expenses related to operating the systems until there are a significant number of customers. For example, at Berkshire Glen the developer will pay \$20 per month per vacant lot for 30 lots minus those lots that have a customer connected to the system, and will do so until there are 30 customers connected to the system. Also, in addition to providing the investment in the collection systems for the developments, the developers provide the initial investments in the systems' treatment facilities, and then receive partial reimbursements from CRW as customers connect to the system. As a result, CRW is assured of staying financially sound while in a start-up mode, and has the capability to sustain itself financially as the business matures.

Is the Company's proposal economically feasible?

The current pro forma estimates by the Staff and by CRW indicate the necessary monthly rate is in the range of \$29 to \$35. As a result, the Staff is of the opinion that the proposal to utilize the Company's existing monthly rate of \$32 as the initial rate for this system is reasonable and will not adversely affect the success of the development. Also, as noted above, until 30 customers are connected to the system, the developer will subsidize operating expenses. While future adjustments of monthly rates will likely occur due to increased operating expenses, as is normal for most sewer utilities, the Staff does not expect that those adjustments will be significant based on the information available at this time. Additionally, the treatment facilities that have been installed have a long expected life and the capability to meet the environmental discharge limits that are presently required, and it is thus not anticipated that significant capital expenditures will be required for quite some time.

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. Additionally, the presumption in these types of case is that if the other four criteria are met then this criterion is also met.

RESPONSES TO STAFF'S PROPOSALS

On September 21, 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 27, 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 historically been and is now current on the submission of its annual reports and 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. Additionally, there has thus far been very little activity with regard to customer inquiries concerning the Company's operations. The Company has a record of cooperation with the Staff and the DNR, and the DNR has not issued any notices of violations to CRW for any of its systems. Also, as noted previously, the DNR has issued an operating permit for the Berkshire Glen system.

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 Berkshire Glen 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 Berkshire Glen service area;
- Directs CRW to submit new and revised tariff sheets for its existing tariff including a map and written description of the Berkshire Glen 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 Berkshire Glen 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 21 Letter to CRW

Attachment 2 – CRW's September 27 Letter to Staff

Memo Attachment 1

Staff's September 21 Letter to CRW



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

WARREN T. WOOD
Director, Utility Operations

COLLEEN M. DALE
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 21, 2005

RE: Case No.SA-2005-0302, Application for Sewer Service Certificate (Berkshire Glen 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 Berkshire Glen 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 Berkshire Glen, 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 subdivision(Berkshire Glen, Private Gardens, Fox Run, Wilmar Estates, Park Estates, Countryside Meadows) 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 simplified to make the description in the tariff more usable by customers.

September 21, 2005

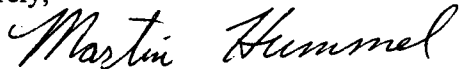
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Our proposed recommendations on this case are:

- CRW continue to keep its books and records according to the Uniform System of Accounts;
- Currently approved depreciation rates be used for Berkshire Glen 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 with 2005 used as the test year.

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:

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

Memo Attachment 2

CRW's September 27 Letter to Staff

Central Rivers Wastewater Utility, Inc.

RECEIVED

SEP 30 2005

UTILITY OPERATIONS
DIVISION

September 27, 2005


Martin Hummel
Water and Sewer Department
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

RE: Your letter of September 21, 2005 (Case No. SA-2005-0302)

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 21, 2005.

Sincerely,


Mark Geisinger
President

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