

Exhibit No.: ____
Witness: Derek Sherry
Type of Exhibit: Surrebuttal Testimony
Issue: Application
Sponsoring Party: Timber Creek Sewer Company
Case No.: SA-2010-0063

MISSOURI PUBLIC SERVICE COMMISSION
UTILITY DIVISION

TIMBER CREEK SEWER COMPANY

CASE NO. SA-2010-0063

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SURREBUTTAL TESTIMONY OF

DEREK SHERRY

March 26, 2010

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

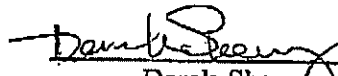
In the matter of the application of Timber)
Creek Sewer Company, for permission,)
approval, and a certificate of convenience)
and necessity authorizing it to construct,)
install, own, operate, control, manage and)
maintain a sewer system for the public,)
located in an unincorporated area in Platte)
County, Missouri.)

CASE NO. SA-2010-0063

AFFIDAVIT OF DEREK SHERRY

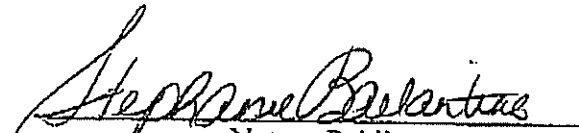
STATE OF MISSOURI)
CLAY) ss
COUNTY OF JACKSON)

Derek Sherry, of lawful age, on his oath states: That he has reviewed the attached written testimony in question and answer form, all to be presented in the above case, that the answers in the attached written testimony were given by him; that he has knowledge of the matters set forth in such answers; that such matters are true to the best of his knowledge, information and belief.


Derek Sherry

Subscribed and sworn to before me this 26 day of March, 2010

STEPHANIE BALLANTINE
Notary Public - Notary Seal
State of Missouri - Clay County
Commission # 06396863
My Commission Expires 04/18/2010


Notary Public

[SEAL]

My Commission expires: 4/18/2010

**PREPARED SURREBUTTAL TESTIMONY OF
DEREK SHERRY**

1 **Q: PLEASE STATE YOUR NAME AND ADDRESS.**

2 A: Derek Sherry, 14398 Lucille Ct, Olathe, KS 66062.

4 **Q: ON WHOSE BEHALF ARE YOU APPEARING?**

5 A: Timber Creek Sewer Company.

7 **Q: WHAT IS YOUR CAPACITY WITH TIMBER CREEK SEWER COMPANY?**

8 A: President and General Manager.

10 **Q: ARE YOU THE SAME DEREK SHERRY WHO PREVIOUSLY FILED
11 DIRECT TESTIMONY IN THIS CASE?**

12 A: Yes.

14 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY TODAY?**

15 A. The purpose of my testimony is to respond to the Direct/Rebuttal Testimony of
16 Charles W. Reineke and Michael P. Kalis on behalf of Intervenor Platte County
17 Regional Sewer District ("PCRSB").

1 Q. MR. REINEKE'S STATES ON PAGE 2 OF HIS DIRECT/REBUTTAL
2 TESTIMONY THAT PCRSD IS "INFORMALLY RECOGNIZED BY
3 MISSOURI DNR AS THE CONTINUING AUTHORITY FOR SEWER
4 TREATMENT SERVICES THROUGHOUT THE UNINCORPORATED
5 PORTIONS OF PLATTE COUNTY". CAN YOU EXPLAIN WHAT THIS
6 MEANS?

7 A. Since I had never heard of "informal" recognition as a continuing authority, I
8 contacted the Lee's Summit office and the Jefferson City office of DNR for
9 clarification regarding PCRSD as being informally recognized by Missouri DNR as the
10 continuing authority for sewer treatment services throughout the unincorporated
11 portions of Platte County. Representatives from DNR were neither familiar with an
12 informal continuing authority classification nor aware of PCRSD being the informal
13 continuing authority for Platte County. DNR representatives referred me to 10 CSR
14 20-6.010 Rules of Department of Natural Resources, revision 11/30/2009, page 3
15 paragraph (3) Continuing Authorities attached as **Schedule DS-11**. This section
16 describes continuing authority classifications. As you can plainly see, there is no
17 mention of an informal continuing authority classification or inference of an informal
18 continuing authority in the DNR rules.
19 Additionally, see PCRSD response dated March 9, 2010 to Timber Creek DR 42.a,
20 where PCRSD states: "10 CSR 20-6.010(3)(B) sets forth rules regarding continuing

1 authorities. We are aware of no law, regulation or rule which specifically uses the
2 term "informal recognition". A copy of the response is attached as **Schedule DS-12**.

3
4 **Q. HAVE YOU HEARD CLAIMS THAT PCRS D HAS PUBLICLY STATED TO**
5 **HAVE EXCLUSIVE AUTHORITY TO PROVIDE SEWER SERVICE FOR**
6 **UNINCORPORATED PLATTE COUNTY. COULD YOU COMMENT ON THIS**
7 **POSITION?**

8 **A.** PCRS D does not have exclusive authority for sewer service in unincorporated Platte
9 County. In PCRS D's response dated November 9th 2009 to Timber Creek DR 2, Mr.
10 Reineke confirms that PCRS D does not have exclusive authority. A copy of the
11 response is attached as **Schedule DS-13**.
12 Furthermore, the Commission in PSC Case No. SA-99-202 granted Timber Creek a
13 service area expansion in Platte County even though PCRS D and KCMO intervened in
14 the case claiming to have jurisdiction.

15
16 **Q. MR. REINEKE CLAIMS IN HIS DIRECT/REBUTTAL TESTIMONY ON**
17 **PAGES 5-6 AND MR. KALIS IN HIS DIRECT/REBUTTAL TESTIMONY ON**
18 **PAGES 4-6 THAT PCRS D'S ECONOMIES OF SCALE, AND ITS**
19 **COOPERATIVE AGREEMENTS WITH KANSAS CITY, MISSOURI AND**
20 **WITH PLATTE CITY WILL RESULT IN A FAR MORE ECONOMICAL**

**SOLUTION FOR THE CUSTOMERS THAN WHAT TIMBER CREEK WOULD
PROVIDE. CAN YOU COMMENT ON THESE CLAIMS?**

A. The theory of economies of scale is where a business or organization obtains cost advantages due to increased size and scale. This concept refers to reductions in unit costs due to the increased size, thus the reductions in unit cost should be reflected in rates charged to customers.

PCRSB is over twice the size of Timber Creek in number of customers (Timber Creek has approximately 1,500 customers and PCRSB has approximately 4,300 customers). Additionally, In Mr. Reineke's and Mr. Kalis' testimonies, they also promote its cooperative agreement with Kansas City, Missouri ("KCMO") in providing economical sewer service to PCRSB customers. KCMO is much larger in scale than Timber Creek and PCRSB. The combination of PCRSB's size, KCMO's size, and synergies resulting from the partnership one would expect very competitive sewer rates for customers as compared to Timber Creek. However, that has not been the case.

To factually and accurately represent historical results to date resulting from economies of scale claimed by PCRSB and its partnership with KCMO, a head to head comparison of the cost impact to customers since 2005 for each entity are shown in Schedule DS-14. PCRSB does not have any customers with Platte City, thus no data exists.

1 The monthly sewer rates shown in Figure 1 of Schedule DS-14 for PCRSD for sewage
2 treated by PCRSD and for PCRSD for sewage treated by KCMO are from PCRSD's
3 responses to Timber Creek's DR 14, a copy of which is attached as **Schedule DS-15**.

4 As can be seen from Schedule DS-14, Timber Creek's monthly rates have been less
5 than PCRSD's monthly rates for sewage treated by PCRSD for every year by a range
6 of 10.1% to 32.7% for 2005 through 2010 for an average of Timber Creek's rates
7 being 16.9% lower.

8 Timber Creek's monthly rates have been less than PCRSD/KCMO, i.e., PCRSD
9 sewage treated by KCMO, for every year by a range of 14.2% to 27.2% for 2005
10 through 2010 for an average of being 20.8% lower than PCRSD/KCMO.

11 From 2005 to 2010, Timber Creek has increased its rates 29% while PCRSD has
12 increased 32% and PCRSD/KCMO rates increased 43%. Additionally, KCMO has
13 informed its wholesale customers, such as PCRSD, to plan for 12% to 15% increases
14 annually to assist in paying for an estimated \$2.4 billion dollar combined sewer
15 overflow plan to reduce sanitary sewer overflows via a consent order with the EPA.

16 See the news article appearing in the Kansas City Star on December 11, 2009 attached
17 as **Schedule DS-16**.

18 While both PCRSD and PCRSD/KCMO are larger in scale than Timber Creek, Timber
19 Creek has year after year been the low cost operator.
20

1 **Q. MR. REINEKE CLAIMS IN HIS DIRECT/REBUTTAL TESTIMONY AT PAGE**
2 **7 THAT PCRSD HAS PROVIDED RATE STABILITY WITHOUT DRASTIC**
3 **FLUCTUATIONS IN AVERAGE RATES FOR PCRSD CUSTOMERS. CAN**
4 **YOU COMMENT ON THESE STATEMENTS?**

5 A. PCRSD has increased the monthly sewer rates 32% since 2005 and PCRSD/KCMO
6 has increased monthly sewer rates 43% since 2005. As stated earlier, KCMO plans to
7 raise rates 12-15% per year for its wholesale customers indicating the PCRSD/KCMO
8 customers will continue to experience increased monthly sewer rates.

10 **Q. MR. REINEKE CLAIMS IN HIS DIRECT/REBUTTAL TESTIMONY AT PAGE**
11 **7 THAT PCRSD DECREASED THE AVERAGE MONTHLY RATE IN 2010**
12 **FROM THE RATES ESTABLISHED IN 2009 FOR SEWAGE TREATED BY**
13 **PCRSD. DO YOU HAVE ANY COMMENT ON THIS STATEMENT?**

14 A. According to PCRSD response to DR 14, in 2009, PCRSD's base rate (fixed customer
15 charge) was \$9.49 per month while the rate per 1000 gallons for customers in 2009
16 was \$2.93 per 1000 gallons, with the monthly treatment plant bond payments charge
17 remaining constant at \$15.05. Thus, a customer using 1,000 gallons in a month would
18 have paid \$27.47 (\$9.49 plus \$2.93 plus \$15.05).

1 For 2010, PCRSD's base rate was \$9.16 per month while the rate per 1000 gallons for
2 customers in 2009 was \$3.31 per 1000 gallons. Thus, a customer using 1000 gallons
3 in a month would have paid \$27.52 (\$9.16 plus \$3.31 plus \$15.05) or \$0.07 more.

4 While, the base rate decreased by \$0.33 or 3.5% in 2010, the percentage change from
5 2009 to 2010 in the rate per thousand gallons is an increase of \$0.38 or 13% for
6 customers. Thus, any customer using at least 1000 gallons per month would see an
7 increase of \$0.07. Moreover, if a customer used more than 1000 gallons in a month,
8 he or she would see an additional increase of \$0.38 for each 1000 gallons used as
9 compared to the same gallonage used in 2009. Thus, the only customers seeing a
10 decrease in 2010 over 2009 would have to use less than 1000 gallons in a month,
11 everyone using 1000 gallons or more would see an increase and the more one uses the
12 greater the increase.

13 While PCRSD claims the Total Average Usage Charge decreased from \$39.37 in 2009
14 to \$39.12 in 2010, it is clear that the reason for the decrease is not a decrease in rates,
15 but rather the claimed decrease in Customer Average Water Usage per Month from
16 5,070 gallons in 2009 to 4,510 gallons per month in 2010, a decrease of 560 gallons
17 per month. Had average usage remained constant, it is obvious that the monthly bill
18 for the average customer in 2010 would have increased by \$1.85 per month to \$40.97
19 ($\$3.31 \times .560 = \1.85). In other words, the average customer gets less sewer service
20 for his or her money in 2010 than in 2009. This is like going out and buying a box of

1 cereal for less than you paid for it last year only to find out when you got home that
2 the contents had been reduced from 16 ounces to 12 ounces and you are actually
3 paying more per ounce than you did before. You have been misled.

4
5 **Q. MR. REINEKE AND MR. KALIS STATE IN THEIR DIRECT/REBUTTAL**
6 **TESTIMONY THAT THE COOPERATIVE AGREEMENTS WITH PLATTE**
7 **CITY AND KCMO WILL ALLOW PCRSD TO UTILIZE EXCESS CAPACITY**
8 **OF PLATTE CITY'S AND KCMO'S TREATMENT FACILITIES WITHOUT**
9 **HAVING THE NEED TO CONSTRUCT ADDITIONAL TREATMENT**
10 **FACILITIES. CAN YOU COMMENT ON THESE STATEMENTS?**

11 **A.** In the first place, neither KCMO nor Platte City's treatment plants are strategically
12 located to economically serve this area.
13 KCMO's nearest treatment plant to the proposed service area is the Todd Creek
14 Wastewater Treatment Facility ("WWTF") located approximately 3 miles east of the
15 far eastern proposed service area line. The distance from a primary discharge point
16 for the proposed service area to the Todd Creek WWTF is approximately 5 miles.
17 Additionally, PCRSD's Master Sewer Plan did not evaluate, estimate nor mention
18 using KCMO treatment as a possible option for this area (reference Page 1-6 of the
19 PCRSD Master Plan found in Mr. Reineke's Schedule CWR-2 and Mr. Kalis'
20 Schedule MPK-1 to their Direct/Rebuttal Testimony regarding the West Clear Branch

1 watershed in which the proposed service area is located). Since the PCRSD Master
2 Plan performed by HDR/Archer did not consider KCMO treatment as an option, the
3 KCMO treatment option appears not to be a viable option to study.
4 Platte City's treatment plant is located approximately 1.5 miles west of Interstate 29,
5 whereas the proposed service area is on the east side of Interstate 29. Significant
6 barriers - Interstate 29, the Platte River, and Missouri Conservation owned property -
7 lie between collection points in the watershed and discharging to the Platte City
8 WWTF. To overcome these barriers and to reach a discharge point to Platte City,
9 significant off-site infrastructure would be needed to transport wastewater including
10 multiple pump stations in series for re-pumping wastewater (reference Mr. Kalis'
11 Testimony page 4 and PCRSD Master Sewer Plan). Timber Creek believes that
12 pumping the same wastewater repeatedly (pump stations in series) is a last resort
13 design option because of increased cost for construction, significant increased cost for
14 on-going operations and maintenance and increased environmental risks due to
15 multiple points of mechanical failures.

16 Two scenarios were studied by HDR/Archer in PCRSD Master Plan to serve this
17 watershed: 1) use Platte City's treatment facility, or 2) PCRSD build a treatment plant
18 (reference PCRSD Master Plan page 1-6). The PCRSD Master Plan estimated the
19 Platte City treatment option at \$20.73 million and for PCRSD to build a treatment
20 plant was estimated at \$17.47 million (reference Mr. Reineke's and Mr. Kalis'

1 Testimony schedules of the PCRSD Master Plan, page 1-7). PCRSD Master Plan
2 analysis indicates that building a new treatment plant is a more economical approach
3 rather than transporting and conveyance wastewater to Platte City's treatment plant.
4

5 **Q. MR. REINEKE AND MR. KALIS STATE IN THEIR DIRECT/REBUTTAL**
6 **TESTIMONY THAT PCRSD CAN MORE ECONOMICALLY SERVE THE**
7 **AREA THAN TIMBER CREEK. CAN YOU COMMENT ON THESE**
8 **STATEMENTS?**

9 A. This statement is not based on the facts. According to PCRSD's Master Plan Section
10 7 page 7-14, the West Clear Branch area has estimated costs for PCRSD to serve 3152
11 EDUs at \$20.73 million if treated by Platte City (\$6,578 per EDU) and \$17.47 million
12 if treated by PCRSD (\$5,543 per EDU). In contrast, Timber Creek's cost per EDU is
13 \$2,650 (established by PSC rate case SR-2008-0080) for a total estimated cost of
14 \$7.98 million for 3152 EDUs. The Platte City treatment option is 2.6 times the cost
15 of Timber Creek and the PCRSD treatment option is 2.2 times the cost of Timber
16 Creek.

17 Timber Creek believes the best economical strategy in the long term is not to adopt the
18 "Field of Dreams" approach, i.e., build it and they will come, but rather to utilize
19 existing facilities for the short term and as they start to approach capacity to acquire
20 property near the base of the watershed and build a new treatment facility as demand

1 dictates to serve the watershed, as we stated in Timber Creek's feasibility study
2 (Schedule DS-9 to the Direct Testimony of Derek Sherry).

3 This has been Timber Creek's past practice in serving the Prairie Creek watershed.

4 There we started with a smaller plant upstream closer to the development and as more
5 and more developers sought to develop additional areas in the watershed, including
6 areas downstream of the original plant, we built a new larger expandable facility at the
7 base of the watershed. It has proven to be a very effective strategy and after 10 years,
8 we are now serving over 1400 homes in the Prairie Creek watershed and also treating
9 a portion of Platte City's sewage needs, which assists the City in attracting
10 developments within its city limits.

11 This long term approach of building a new treatment plant to serve the watershed has
12 been validated by PCRSD Master Plan as the lowest cost option as well as by our own
13 past experience.
14

15 **Q. DOES THAT CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

16 **A. Yes.**