

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 9th day of
March, 2011.

In the Matter of the Application of Lake Region Water)	
& Sewer Company for a Certificate of Convenience)	
and Necessity Authorizing It to Construct, Install, Own,)	<u>File No. SA-2011-0174</u>
Operate, Control, Manage and Maintain a Sewer System)	
for the Public Located in an Unincorporated Area in)	
Camden County, Missouri)	

ORDER GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY

Issue Date: March 9, 2011

Effective Date: March 19, 2011

Procedural History

On December 21, 2010, Lake Region Water & Sewer Company ("Lake Region") filed an application with the Missouri Public Service Commission, pursuant to Section 393.170, RSMo 2000, requesting that the Commission grant it authority to construct, install, own, operate, control, manage and maintain a sewer system for the public in unincorporated Camden County, Missouri. Lake Region asks for a certificate to serve certain sections of Township 40 North, Range 16 West in Camden County, Missouri.

The Commission allowed potential intervenors until January 12, 2011 to request intervention. The Commission received no intervention requests.

On February 14, 2011, the Commission's Staff (hereafter "Staff") filed a Recommendation that asks the Commission to approve the application, subject to certain conditions. Commission Rule 4 CSR 240-2.080(15) allows parties ten days to respond to pleadings. No party responded to Staff's Recommendation; therefore, the Commission

finds that no party objects to the Commission granting Lake Region the certificate subject to the conditions requested by Staff.

Decision

The Commission may grant a sewer corporation a certificate of convenience and necessity to operate after determining that the construction and operation are either “necessary or convenient for the public service.”¹ The Commission has stated five criteria that it will use:

- 1) There must be a need for the service;
- 2) The applicant must be qualified to provide the proposed service;
- 3) The applicant must have the financial ability to provide the service;
- 4) The applicant’s proposal must be economically feasible; and
- 5) The service must promote the public interest.²

Based on the verified application and the verified recommendation of Staff, the Commission finds that granting Lake Region’s application for a certificate of convenience and necessity to provide sewer service meet the above listed criteria.³ The application will be granted.

The Commission reminds Lake Region that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

¹ Section 393.170, RSMo 2000.

² *In re Tartan Energy Company*, 3 Mo.P.S.C. 173, 177 (1994).

³ The requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence. No party requested a hearing in this matter; thus, no hearing is necessary. *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm’n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

A) The obligation to file an annual report, as established by Section 393.140(6), RSMo 2000. Failure to comply with this obligation will make the utility liable to a penalty of \$100 and an additional \$100 per day that the violation continues. Commission Rule 4 CSR 240-3.335 requires sewer utilities to file their annual report on or before April 15 of each year.

B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000. Because assessments are facilitated by order of the Commission, failure to comply with the order will subject the company to penalties ranging from \$100 to \$2,000 for each day of noncompliance pursuant to Section 386.570, RSMo 2000.

C) The obligation to provide safe and adequate service at just and reasonable rates, pursuant to Section 393.130, RSMo Supp. 2009.

D) The obligation to comply with all relevant state and federal laws and regulations, including but not limited to, rules of this Commission, the Department of Natural Resources, and the Environmental Protection Agency.

E) The obligation to comply with orders issued by the Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, pursuant to Section 386.570, RSMo 2000.

F) The obligation to keep the Commission informed of its current address and telephone number.

The certificate is granted conditioned upon the compliance of the company with all of these obligations, as well as the obligations listed below in the ordered paragraphs.

Moreover, if the Commission finds, upon conducting a hearing, that the company fails to provide safe and adequate service, or has defaulted on any indebtedness, the Commission shall petition the circuit court for an order attaching the assets, and placing the company under the control of a receiver, as permitted by Section 393.145, RSMo Supp. 2009. As a condition of granting this certificate, the company hereby consents to the appointment of a temporary receiver until such time as the circuit court grants or denies the petition for receivership.

The company is also placed on notice that Section 386.310.1, RSMo 2000, provides that the Commission can, without first holding a hearing, issue an order in any case “in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property.”

Furthermore, the company is reminded that, as a corporation, its officers may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice in Missouri.

THE COMMISSION ORDERS THAT:

1. Lake Region Water & Sewer Company is granted permission, approval, and a certificate of convenience and necessity to construct, install, own, operate, control, manage, and maintain a sewer system for the public in Camden County, Missouri, as more particularly described in its application.

2. This certificate of convenience and necessity is granted upon the conditions set out in the body of this order.

3. The Commission approves Lake Region Water & Sewer Company's existing monthly customer rate of \$29.39, general service charges and depreciation rates to be applicable to the service area more particularly described in the application

3. Lake Region Water & Sewer Company must submit new and revised tariff sheets; specifically, Rule 12(A)(9) Sheet No. 28, within 30 days after the date of this order, 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.

4. Lake Region Water & Sewer Company shall comply with all Missouri statutes and Commission rules.

5. Nothing in the Staff Recommendation or this order shall bind the Commission on any ratemaking issue in any future rate proceeding.

6. This order shall become effective on March 19, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Clayton, Davis,
Jarrett, and Kenney, CC., concur.

Pridgin, Senior Regulatory Law Judge