

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of )  
Timber Creek Sewer Company for a )  
Certificate of Convenience and Necessity )

**File No. SA-2010-0063**

## ORDER CANCELLING HEARING

Issue Date: April 19, 2010

Effective Date: April 19, 2010

The Commission is canceling the hearing because no hearing is due. The application ("application") of Timber Creek Sewer Company ("Timber Creek") seeks a certificate of convenience and necessity. The application is subject to the following procedure:

The commission shall have the power to grant the permission and approval herein specified whenever it shall after **due hearing** determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service.<sup>1</sup>

Whether a hearing is "due" under that statute depends on whether the application faces opposition.<sup>2</sup>

The only opposition to the application arose on September 9, 2009, when Platte County Regional Sewer District ("the District") filed the only motion for intervention. On October 5, 2009, the Commission granted that motion. But on April 8, 2010, the District withdrew its intervention. On April 14, 2010, the Office of Public Counsel ("OPC") filed a statement that OPC sought no hearing. Because the only opposition to the application is withdrawn, no hearing is due.

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<sup>1</sup> Section 393.170.3, RSMo 2000.

<sup>2</sup> *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

The statutory provision for a “due hearing”<sup>3</sup> means that the Commission may grant the unopposed application without a hearing,<sup>4</sup> so the Commission will cancel the hearing.

**THE COMMISSION ORDERS THAT:**

1. The hearing is canceled.
2. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**

( S E A L )



Steven C. Reed  
Secretary

Daniel Jordan, Regulatory Law Judge,  
by delegation of authority pursuant  
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 19<sup>th</sup> day of April, 2010.

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<sup>3</sup> Section 393.170.3, RSMo 2000.

<sup>4</sup> *Deffenderfer*, 776 S.W.2d at 496.