

has traditionally applied the five “Tartan Criteria” established in *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994): (1) there must be a need for the service; (2) the applicant must be qualified to provide the 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.

4. As explained in the *Staff Memorandum*, attached hereto as Appendix A, Staff conducted an investigation into TCS’s request. Based upon its review, Staff concludes that TCS fulfills the requirements of the Tartan Criteria.

5. Additionally, the proposed service area, Oakridge, is adjacent to and would connect to a sewer system TCS currently serves, Oakbrook.² According to TCS’s tariff Rule 11, the developer may choose to have TCS construct the sewer or have a private contractor construct the sewers at the developer’s cost.³ Therefore, TCS will not need to provide new capital investments.

6. TCS proposes to provide sewer service pursuant to the existing rates, rules, and regulations currently applicable to TCS’s Clay County service area found in MO PSC No. 2.

7. Accordingly, Staff recommends approval granting the CCN, with conditions described in the *Staff Memorandum*, as the requested CCN would be necessary and convenient for the public service, and is not detrimental to the public interest.

8. As a part of its Application, TCS requested a waiver of the 60 day notice requirement under 4 CSR 240-4.017(D). Staff has no objection to waiving the notice.

² Authority granted in Case No. SA-2005-0297.

³ YS-2006-0671, Rule 11,A.

9. The Commission need not hold a hearing if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App., W.D. 1989). No party or individual has requested a hearing, so the Commission need not hold a hearing to grant a CCN to the Company.

WHEREFORE, Staff respectfully submits this Corrected Staff Recommendation for the Commission's information and consideration, and requests the Commission grant Timber Creek Sewer Company a Certificate of Convenience and Necessity, with conditions, to provide water service to the requested service area.

Respectfully submitted,

/s/ Ron Irving

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all parties and or counsel of record on this 7th day of September, 2018.

/s/ Ron Irving

MEMORANDUM

TO: Missouri Public Service Commission
Official Case File, Case No. SA-2019-0006

In the Matter of Timber Creek Sewer Company for a Certificate of Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Maintain, Control and Manage a Sewer System in Clay County, Missouri as an expansion of its Existing Certificated Areas.

FROM: James A. Merciel, Jr - Water and Sewer Department

/s/ James A. Merciel, Jr. 09-06-18 /s/ Jacob Westen 09-06-18
Case Coordinator / Date Staff Counsel's Office / Date

SUBJECT: Recommend Approval of Application seeking Granting of Certificate of Convenience and Necessity

DATE: September 6, 2018

CASE BACKGROUND

On July 10, 2018, Timber Creek Sewer Company ("TCS") submitted its *Application and Motion for Waiver* ("Application") in which it requests a Certificate of Convenience and Necessity (CCN) from the Public Service Commission ("Commission"). On July 11, 2018, the Commission issued its *Order Directing Notice and Setting Dates for Submission of Intervention Requests and Staff Recommendation* ("Order").

In the Order, among other things, the Commission set August 1, 2018 as the date by which any requests to intervene in this case should be filed. No party has sought to intervene. The Commission also directed Staff to file a recommendation in this case by September 6, 2018.

BACKGROUND OF TCS

TCS originally obtained a CCN in Case No. SA-95-110 to provide sewer service in Platte County in an area adjacent to Platte City, MO. It subsequently filed eight (8) additional CCN cases not including this current pending CCN case, requesting additional service areas in Platte, Clay, and Clinton Counties¹. TCS presently owns and operates four (4) sewage treatment facilities. In the Application, TCS states that it presently provides sewer service to 2,171 customers in Platte and Clay Counties.

¹ Ref. Case Nos. SA-96-238, SA-99-202, SA-2002-404, SO-2002-1061, SA-2005-0297, SA-2005-0467, SA-2010-0063, and SA-2010-0100. The requested service area in Clinton County addressed in Case No. SA-2010-0100 was granted by the Commission, but then rescinded at the request of TCS after an agreement to provide service in the area ultimately did not materialize.

REQUESTED SERVICE AREA

The area proposed in this CCN case is located in Clay County adjacent to one of TCS's existing service areas. The owner of the property within the proposed service area plans to develop a new subdivision to be named Oakridge, consisting of 18 lots. The developer is requesting sewer service from TCS for the new subdivision, as documented by Appendix 3 of the Application. Such a request for service inherently includes construction of new collecting sewers by the terms of TCS's tariff, as described further herein.

TCS's existing service area adjacent to the proposed new area is named Oakbrook, after a subdivision of the same name comprising the service area which has a total of 75 lots. The Commission granted TCS authority to provide service in the Oakbrook service area in Case No. SA-2005-0297. The treatment facility utilized in this service area is a 30,000 gallon per day extended air treatment facility. In its 2017 annual report filed with the Commission, TCS states that the Oakbrook facility is operating at approximately 20% of its capacity, and TCS verbally states to Staff that 40 customers exist in this subdivision at present. Staff estimates the plant has enough capacity to realistically serve well over 100 residential customers, and thus concludes that with the 40 existing customers connected at present plus the 35 lots remaining in that subdivision, plus the additional 18 lots in the proposed new Oakridge service area, totaling 93 residential customers, TCS has adequate capacity with respect to the Oakridge facility in the foreseeable future. Unlike gravity collecting sewers commonly used in many locations, the collecting sewers comprising the Oakbrook system are pressure sewers which require the use of an electric-powered pump unit at each customer's residence.

Development of the new Oakridge subdivision in the proposed service area will include construction of pressure collecting sewers, which would be connected to the existing Oakbrook system. Collecting sewer extensions will be undertaken by the terms of TCS's tariff *Rule 11- Extension of Collecting Sewers*. By the terms of this tariff rule, the developer may either a) construct sewers subject to plan reviews and associated fees, and then contribute the assets to TCS as contribution-in-aid-of-construction (CIAC); or b) request that TCS construct sewers at the cost of the developer. By the terms of tariff Rule 12 B., customers, or possibly the subdivision developer or a homebuilder as a customer's agent, are responsible for the cost of constructing the pump units. There is no new direct investment required on the part of TCS if the Commission grants TCS request for this additional service area.

STAFF'S INVESTIGATION

Providing sewer service by TCS in this proposed requested service area only requires a relatively small collecting sewer extension into a new 18-lot residential subdivision development. This is similar to such extensions constructed by most any utility as development within a service area progresses, but the reason this is a case before the Commission is that this simple extension would be outside of TCS's existing service area boundary. So, the request is for the service area to be expanded to include these new residential lots. There will be no new or expanded treatment facility constructed, and no capital investment directly made by TCS for service in the proposed area. Rate base will not be directly affected, and there will be no changes in depreciation of plant accounts necessary.

Tartan Energy Criteria

It is customary with most cases involving a new CCN for Staff to use criteria that was studied and analyzed by the Commission in a past CCN case, GA-94-127 filed by the Tartan Energy Company, to justify granting a CCN. The Tartan criteria and Staff's analysis of TCU's proposed Oakridge service area are as follows:

(1) Need for Service

There is a need for service. A land developer intends to construct residential housing which will require sewer service, and has in fact requested service from TCS.

(2) Applicant's Qualifications

TCS is qualified to provide the service, as it has demonstrated by providing sewer service in its other nearby areas. TCS has demonstrated in other service areas its capability of undertaking necessary capital improvements for continued operations including expansions, to provide safe and adequate service to its customers.

(3) Applicant's Financial Ability

TCS has demonstrated in its service areas that it has sufficient financial resources as debt, equity and CIAC to be able to construct utility plant as needed. It is able to evaluate costs of alternatives when undertaking operations and capital improvements.

(4) Economic Feasibility of Proposal

With respect to financing and capital funding regarding this proposed new service area, TCS will not be required to provide new capital, since providing service in this proposed service area only consists of a relatively simple collecting sewer extension that will be funded by a land developer for a new subdivision. The new customers in Oakridge will be connected to the new collecting sewers which in turn will be connected to the existing Oakbrook sewer system, which has adequate capacity. The new customers will be provided sewer service under the same rules and rates as applicable to existing customers.

(5) Promotion of the Public Interest

As the Commission determined in GA-94-127, positive findings with respect to the other four standards above will in most instances support a finding that an application for a certificate of convenience and necessity will promote the public interest. The granting of this requested CCN will, assuming the developer is successful in selling lots with buyers constructing new homes, result in additional revenue with no increased capital expense, benefiting existing customers in the long-term. For all of the reasons outlined throughout this memorandum, Staff asserts that TCS's request for a CCN in the proposed Oakridge service area is not detrimental to the public interest.

Staff's conclusion is that the Tartan Energy criteria are all met, for this case.

Tariff

TCU's tariff will need to include a written description and a map of the new service area, assuming the Commission approves this request.

TCS included a metes and bounds written description as Appendix 1 with the Application. However, this description is actually of the land owned by the developer, and it extends into TCS's existing Oakbrook service area. To eliminate this overlap, Staff discussed with TCS the idea of modifying the metes and bounds description the Commission is being asked to approve. Staff's suggested modified metes and bounds description is included with this memorandum as Attachment A, incorporated by reference herein.

TCS could modify tariff Sheet No. 2A by adding the new service area map. Existing Sheet No. 2A shows the adjacent Oakbrook service area as Clay County Area 1, along with a neighboring TCS service area, Clay County Area 2. A replacement map with the new service area filed as a tariff sheet could look somewhat similar to either Appendix 2 that TCS included with the Application, or Attachment B included with this memorandum and incorporated by reference herein.

Other than the need for new service area depiction, TCS's existing tariff will be applicable to the new proposed service area. Specifically, TCS's approved rates for its Clay County service areas will apply to new customers in the proposed Oakridge subdivision, and as discussed the existing rule for Extension of Collecting Sewers will apply to the Oakridge land developer.

Customer Notice

In its Order issued on July 11, 2018, referenced earlier in this memorandum, the Commission requested TCU file suggestions regarding notification to affected customers. TCU filed a suggestion, which the Commission adopted, and then TCS complied with a subsequent order that the Commission issued. As is noted in this case file, there are no actual retail customers receiving sewer service within the proposed service area at present, and no existing customers will be directly impacted if this request is approved. The only entity impacted is the land developer who is requesting that sewer service be provided in the new Oakridge subdivision. Staff therefore asserts that customer notice has been adequate, and no notice to any existing customers is necessary. TCS will, of course, be required by established rules and procedure to communicate with new customers who construct homes and connect to the sewer system, thereby becoming new TCS customers.

OTHER ISSUES

TCS is a corporation that is in "good standing," according to documentation on the Missouri Secretary of State (SOS) website. TCS is current on its annual report filings with the Commission through calendar year 2017, according to information as posted on the Commission's Electronic Filing Information System (EFIS). TCS is current on its annual assessments through the first quarter of fiscal year 2019, as posted internally by the Commission's Budget and Fiscal Services Department.

TCS has no other pending cases before the Commission.

SUMMARY AND CONCLUSIONS

Staff recommends the Commission grant the CCN as requested. Staff's position is that providing service in the proposed service area is feasible and is not detrimental to the public interest. Existing rates and rules will apply to the new service area. TCS's tariff will need modification to reflect the addition of the new service area.

Staff's Recommendations

Based upon the foregoing, Staff recommends that the Commission:

1. Approve a new CCN, as requested in the Application;
2. Require TCS to file new and/or replacement tariff sheets, as 30-day filings, within ten (10) days after the effective date of an order from the Commission approving the CCN, with a metes and bounds description similar to Attachment A included with this memorandum, and a map depicting the new service area; and,
3. Make no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining utility plant constructed within the new service area, or providing service in the new service area, in any later proceeding.

Staff will submit a further recommendation regarding tariff sheets to be filed by TCU in this matter.

ATTACHMENT

- A. Staff's Proposed Modified Oakridge Area Metes and Bounds Description
- B. Map Depicting the proposed Oakridge Area and the Existing Oakbrook Area

SA-2019-0006

Timber Creek Sewer Company

Staff Proposed Metes and Bounds Description of Service Area

A tract of land located in the East Half of the Northeast Quarter of Section 7, Township 52 North, Range 31 West, in Clay County, Missouri, being more particularly described as follows:

Commencing at the Northwest corner of said Northeast Quarter; thence North $89^{\circ}48'13''$ East along the North line of said Northeast Quarter, 1,321.92 feet to the Northwest corner of the East Half of said Northeast Quarter, said point also being the Point of Beginning;

thence North $89^{\circ}48'13''$ East, continuing along said North line, 512.00 feet;

thence South $00^{\circ}33'02''$ East, 1,447.00 feet;

thence South $89^{\circ}48'13''$ West, 512.00 feet to a point on the West line of said East Half;

thence North $00^{\circ}33'02''$ West, along said West line, 1,447.00 feet to the Point of Beginning.

Contains 740,850 square feet, or 17.01 acres, m/l.

How to Find and Download Products

Use Map

Box/Point Current Extent Coordinates Located Point Polygon:

Map Indices

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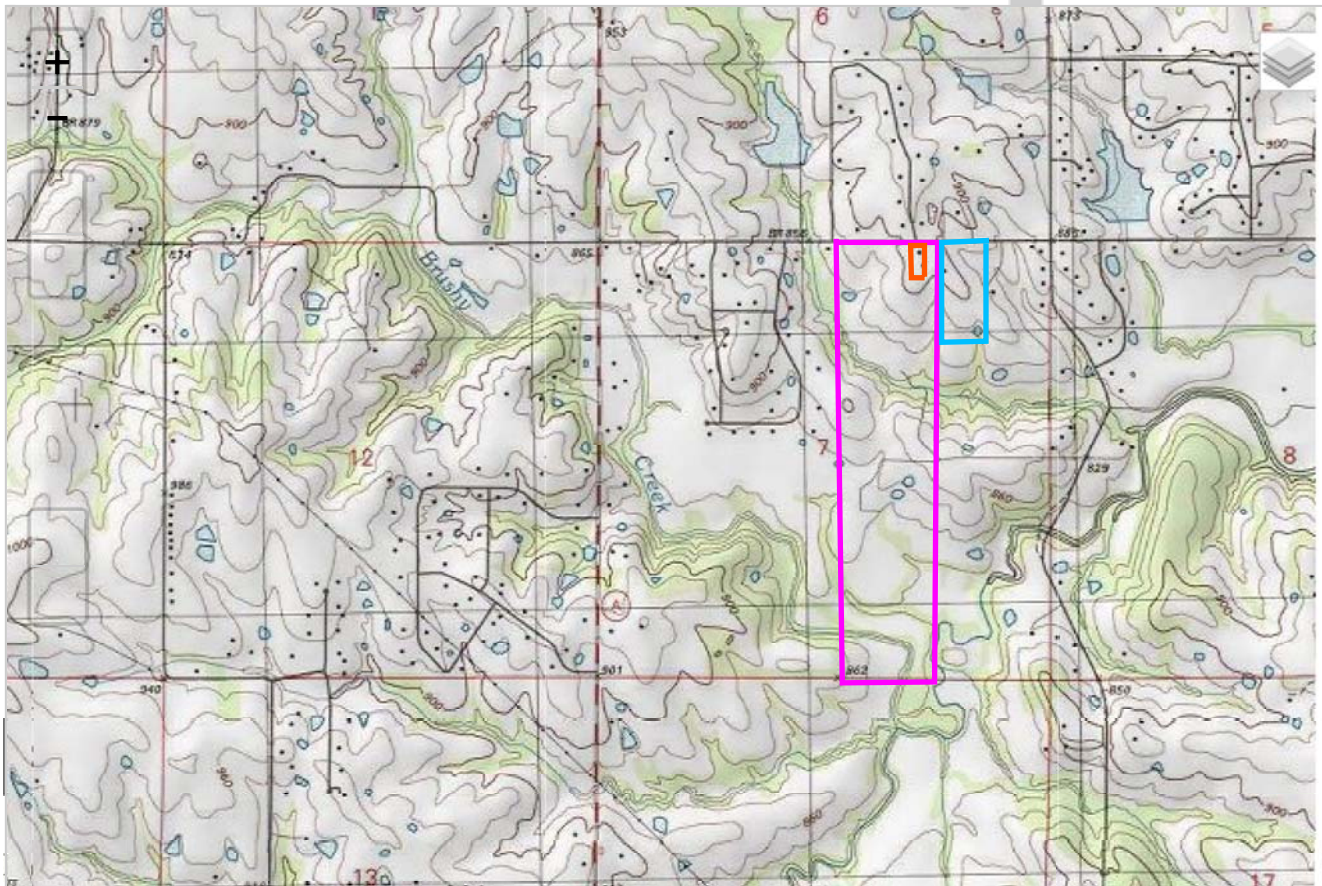
1 Degree 15 Minute 7.5 Minute All Zoom in to make 7.5 min indices visible

Address/Place No Results [Using The National Map Download Client](#)

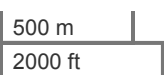
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Clear



- existing service area
- service area exception (Lot 1 Popejoy)
- proposed new service area



Attachment B