

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of)
Timber Creek Sewer Company for a) File No. SA-2010-0063
Certificate of Convenience and Necessity)

NOTICE OF CONTESTED CASE

Issue Date: November 17, 2009

The Missouri Public Service Commission is issuing notice of a contested case because of opposition to, and a request for a hearing on, the application.

In the application,¹ Timber Creek Sewer Company ("Company") seeks to construct sewer facilities and provide sewer service. Such activities require the Commission's permission and approval.² Such permission and approval appears in a certificate of convenience and necessity ("certificate").³

A certificate issues as follows:

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 [service] is necessary or convenient for the public service [.]⁴

The "due hearing" language means that the Commission may grant an application without convening a hearing if the application is unopposed.⁵

Staff favors the application in its recommendation.⁶ The recommendation includes the following language, "[T]here is no other sewer system or sewer utility available within the proposed [service] area." But Platte County Regional Sewer District's ("District")

¹ Filed on August 21, 2009.

² Section 393.170.1 and .2, RSMo 2000.

³ Section 393.170.3, RSMo 2000.

⁴ *Id.*

⁵ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

⁶ Filed on October 30, 2009.

Response to Staff Recommendation⁷ shows opposition to the application. The intervenor District states that it is authorized to provide sewer service “in the proposed service area [and] stands ready, willing and able to provide” such service. The District also expressly requests a hearing.

A hearing is due, upon such allegations, to determine the legal rights, duties or privileges of the Company and the District before the Commission decides the application. Those circumstances signify that this action is a “contested case.”⁸ A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities⁹ and a decision without a hearing,¹⁰ including by stipulation and agreement.¹¹ This notice does not require any party to file an answer.¹² The Commission’s discovery regulations are at 4 CSR 240-2.090.¹³

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 17th day of November 2009.

⁷ Staff its recommendation in favor of the application; the District filed its response on November 12, 2009.

⁸ Section 536.010(4), RSMo Supp. 2008.

⁹ Sections 536.060(3) and 536.063(3), RSMo 2000.

¹⁰ Sections 536.060, RSMo 2000.

¹¹ 4 CSR 240-2.115.

¹² Section 536.067(2)(d), RSMo 2000.

¹³ Section 536.067(2)(f), RSMo 2000.