

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 27th day of September, 2018.

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)

File No. SA-2019-0006

**ORDER GRANTING CERTIFICATE OF
CONVENIENCE AND NECESSITY AND GRANTING WAIVER**

Issue Date: September 27, 2018

Effective Date: October 27, 2018

On July 10, 2018, Timber Creek Sewer Company (“Timber Creek”) filed an application with the Missouri Public Service Commission (“Commission”) requesting that the Commission grant it a Certificate of Convenience and Necessity (“CCN”) to install, own, acquire, construct, operate, control, manage and maintain a sewer system in Clay County, Missouri. The requested CCN would allow Timber Creek to provide sewer service to a new service area adjacent to one of Timber Creek’s existing service areas. The new service area is the site of a proposed residential subdivision named Oakridge, which consists of 18 lots.

The Commission issued notice and set a deadline for intervention requests, but no persons requested to intervene in this proceeding. On July 26, 2018, the Commission directed Timber Creek to provide notice to Star Development Company, which is the only entity affected by the requested certificate. On September 7, 2018, the Commission’s Staff

filed its corrected Recommendation and Memorandum to approve the granting of the CCN, subject to certain conditions. Staff advises the Commission to issue an order that would:

1. Approve a new CCN, as requested in the Application;
2. Require Timber Creek 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 the 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 to utility plant constructed within the new service area, or providing service in the new service area, in any later proceeding.

On September 12, 2018, Timber Creek filed its response, stating that it has no objection to the conditions in the Staff Recommendation. No party has objected to the Staff recommendation within the time set by the Commission. Thus, the Commission will rule upon the unopposed application. No party has requested an evidentiary hearing, and no law requires one.¹ Therefore, this action is not a contested case,² and the Commission need not separately state its findings of fact.

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.”³ The Commission articulated the specific criteria to be used when evaluating applications for utility CCNs in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 561 (1991). The *Intercon* case combined the standards

¹ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App. 1989).

² Section 536.010(4), RSMo 2016.

used in several similar certificate cases, and set forth the following criteria: (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.⁴ The Commission finds that Timber Creek possesses adequate technical, managerial, and financial capacity to operate a sewer system in the new service area. The Commission concludes that the factors for granting a certificate of convenience and necessity to Timber Creek have been satisfied and that it is in the public interest for Timber Creek to expand its certificated service area to the Oakridge subdivision. Consequently, based on the Commission's independent and impartial review of the verified filings, the Commission will grant Timber Creek a certificate of convenience and necessity to provide sewer service within the proposed service area, subject to the conditions described above.

The application also asks the Commission to waive the 60-day notice requirement under 4 CSR 240-4.017(1). Timber Creek asserts that good cause exists in this case for granting such waiver because it has had no communication with the Office of the Commission within the prior 150 days regarding any substantive issue likely to be in this case. The Commission finds that good cause exists to waive the notice requirement, and a waiver of 4 CSR 240-4.017(1) will be granted.

THE COMMISSION ORDERS THAT:

1. Timber Creek Sewer Company's request for a waiver of the notice requirement under Commission Rule 4 CSR 240-4.017(1) is granted.

³ Section 393.170.3, RSMo 2016.

⁴ The factors have also been referred to as the "Tartan Factors" or the "Tartan Energy Criteria." See Report and Order, *In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a*

2. Timber Creek Sewer Company is granted the certificate of convenience and necessity to provide sewer service within the authorized service area as more particularly described in the application, subject to the conditions and requirements contained in Staff's Recommendation, including those conditions described in the body of this order.

3. This order shall become effective on October 27, 2018.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Hall, Rupp, and
Coleman, CC., concur.
Kenney, C., absent.

Bushmann, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 27th day of September 2018.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 27, 2018

File/Case No. SA-2019-0006

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Hampton Williams
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@ded.mo.gov

**Missouri Public Service
Commission**

Jacob Westen
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
jacob.westen@psc.mo.gov

Timber Creek Sewer Company

Dean L Cooper
312 East Capitol
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.