

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Small Company Rate)
Increase Request of Mill Creek Sewers, Inc.)

Case No. SR-2005-0116

STATUS REPORT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and for its Status Report states the following to the Missouri Public Service Commission ("Commission").

1. On September 28, 2005, Mill Creek Sewers, Inc. ("the Company"), the Staff, and the Office of Public Counsel filed in this case their Second Supplemental Agreement Regarding Disposition of Small Company Rate Increase Request ("Second Supplemental Agreement"). As a part of the Second Supplemental Agreement, the Staff agreed to monitor, and offered to file monthly status reports on, the Company's business operations to ensure that the funds generated by the Company's customer rates are used solely for the purposes specified in the agreement.

2. On September 29, 2005, the Commission issued its **Order Approving Tariff and Agreement** ("09/29/05 Order"), by which it approved an increase in the Company's monthly sewer rate from \$5.00 per customer per month to \$30.11 per customer per month, with the increased rate becoming effective on October 12, 2005. As a part of the 09/29/05 Order, the Commission also ordered the Staff to file monthly reports, as the Staff had offered to do in the Second Supplemental Agreement.

3. On December 9, 2005, the Staff filed its first status report as contemplated by the Commission's 09/29/05 Order. As a part of that filing, the Staff requested that its future reports be due on or before the fifteenth of each month, until such time that the Commission determined that the reports were no longer needed.

4. Consistent with its December 9, 2005 filing, the Staff filed monthly status reports on or before the fifteenth of each month, or on the first business day thereafter, beginning in January 2006 and continuing through March 2007; except that it did not file a report in December 2006, per leave of the Commission.

5. On April 3, 2007, the Commission issued its **Order Regarding Status Reports**, in which it granted a Staff motion to change the frequency of the status report filings from monthly to quarterly, with the first quarterly report due on June 15, 2007.

6. On June 15, 2007, the Staff filed its first quarterly status report.

7. Attached as Appendix A hereto is the *Staff Monitoring Report* dated September 15, 2007, which covers the Company's activities during the months of June, July and August 2007. Included in this report is information regarding the following matters: (a) the Company's most recent customer billings; (b) the Staff's most recent review of the Company's books and records; (c) the Staff's conclusions regarding the Company's use of its funds; (d) the Company's past-due customer account balances; (e) the Company's efforts regarding collection of certain of the past-due customer accounts; (f) customer service complaints and/or inquiries; (g) the Company's operations contract; and (h) the Company's DNR operating permit fees.

8. As is noted in the attached *Staff Monitoring Report*, Mill Creek spent the customer funds that it collected from its June, July and August 2007 billings as required by the Second Supplemental Agreement, and did not divert any of those funds to its owners or shareholders.

9. The Staff will continue to file quarterly status reports in this case, unless otherwise ordered by the Commission.

WHEREFORE, the Staff respectfully submits this Status Report, and the attached *Staff Monitoring Report*, for the Commission's information and consideration in this case.

Respectfully Submitted,

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission

P.O. Box 360
Jefferson City, MO 65102
573-751-4140 (telephone)
573-751-9285 (facsimile)
keith.krueger@psc.mo.gov (e-mail)

CERTIFICATE OF SERVICE

I hereby certify that copies of this Status Report, and the attached *Staff Monitoring Report*, have been mailed with first-class postage, hand-delivered, transmitted by facsimile, or transmitted via e-mail to all counsel and/or parties of record this 14th day of September 2007.

/s/ Keith R. Krueger

APPENDIX A

Staff Monitoring Report

Case No. SR-2005-0116

September 14, 2007

Staff Monitoring Report

Case No. SR-2005-0116

Mill Creek Sewers, Inc.

Prepared By:

John Cassidy

Auditing Department

and

Jim Merciel

Water & Sewer Department

September 14, 2007

BACKGROUND

On September 29, 2005, the Commission issued its **Order Approving Tariff and Agreement** ("09/29/05 Order"), by which it approved an increase in Mill Creek Sewers, Inc.'s ("Mill Creek" or "Company") monthly sewer rate from \$5.00 per customer per month to \$30.11 per customer per month, with the increased rate becoming effective on October 12, 2005.

As a part of its 09/29/05 Order, the Commission directed the Staff to file monthly reports regarding Mill Creek's use of the operational funds generated by this rate increase, and to file a complaint if it found that any of the operational funds were being misused. The genesis of this part of the Commission's order was apparently the provisions of Paragraphs 3, 4 and 5 of the *Second Supplemental Agreement Regarding Disposition of Small Company Rate Increase Request* ("Second Supplemental Agreement") entered into by Mill Creek, the Staff and the Office of the Public Counsel.

On December 9, 2005, the Staff filed its first monitoring report as contemplated by the Commission's 09/29/05 Order. As a part of that filing, the Staff requested that its future reports be due on or before the fifteenth of each month, until such time that the Commission determines that the reports are no longer needed.

On January 13, 2006, the Staff filed its second monitoring report.

On January 23, 2006, the Commission issued its **Order Directing Filing** ("01/23/06 Order") directing the Staff to provide an indication of Mill Creek's customer satisfaction in its February status report by addressing the following issues set out in the order: "Are the customers satisfied with the service? What concerns or problems do they have? In particular, Staff notes that ten of the customers account for 75% of the company's bad debt. Are their non-payments because of dissatisfaction with the company's service?"

On February 15, 2006, the Staff filed its third monitoring report, in which it included information regarding the issues raised in the Commission's 01/23/06 Order and other information relevant to Mill Creek's operations.

On April 3, 2007 (unless noted otherwise, all dates/months hereafter refer to the year 2007), the Commission issued its **Order Regarding Status Reports**, in which it granted a Staff motion to change the frequency of the status report filings from monthly to quarterly, with the first quarterly report due on June 15, 2007. As a part of this order, the Commission also directed the Staff to immediately notify the Commission if changes are made regarding the Company's operations at any time, particularly a change in the operations and maintenance firm used by the Company (Testing Analysis and Control, Inc.).

Subsequent to its February 15, 2006 filing, the Staff has filed monthly or quarterly monitoring reports, as ordered by the Commission, with the exception of December 2006, when it was granted leave to not file a report, with those reports including information regarding the following matters:

- * The Company's monthly customer billings (all reports for March 2006 through June 2007);
- * The Staff's review of the Company's books and records (all reports for March 2006 through June 2007);
- * The Staff's conclusions regarding the Company's use of its funds (all reports for March 2006 through June 2007);
- * The Company's past-due account balances (all reports for March 2006 through June 2007);
- * Customer service complaints and inquiries (all reports for March 2006 through June 2007);
- * The Department of Natural Resources ("DNR") operating permit and permit fees for the Company's sewage treatment plant (the April 2006 report and all reports for June 2006 through June 2007);
- * Efforts regarding the collection of past-due customer accounts (all reports for June 2006 through June 2007);
- * The Company's CY2006 Annual Report and Annual Statement of Operating Revenues (the report for June 2007)
- * The Company's corporate registration with the Secretary of State (the reports for July 2006 through March 2007);
- * Customer access to Company personnel outside of normal business hours (the reports for April 2006 and May 2006);
- * The Company's purchase of a telephone answering machine (the report for March 2006);

- * The Company's annual statement of operating revenues to the Commission (the report for June 2006); and
- * The Company's payment of previous court-ordered penalties related to past environmental noncompliances (the report for July 2006).

INFORMATION REGARDING CUSTOMER BILLINGS

On or about June 1, July 1 and August 1, Mill Creek issued its 19th, 20th and 21st customer billings under its new rates, for service provided during the months of May, June and July. On or about September 1, Mill Creek issued its 22nd customer billing under its new rates for service provided during the month of August, which will be addressed in the Staff's next quarterly status report scheduled to be filed on or about December 15.

STAFF'S REVIEW OF MILL CREEK'S BOOKS AND RECORDS AND ITS CONCLUSIONS REGARDING MILL CREEK'S USE OF ITS FUNDS

On September 11, John Cassidy of the Auditing Department's St. Louis Office reviewed Mill Creek's books and records to determine if the Company's use of the funds that were collected from its June, July and August customer billings complied with the provisions of the Second Supplemental Agreement applicable to that matter.

Based on his September 11th review of the Company's books and records, Mr. Cassidy determined that Mill Creek had appropriately spent the customer funds collected from its June, July and August customer billings on the following items: (1) operations and maintenance of the wastewater treatment plant; (2) electricity expense; (3) cellular phone expense; (4) sludge hauling expense; (5) sewer line cleaning and repair; (6) compensation paid to Jim Holmes, Mill Creek's office manager, for customer billing and office manager duties; (7) postage expense related to customer billings and payments of bills; (8) payment for a utility mailbox rental; and (9) miscellaneous office supplies.

No payments to the owners or shareholders were noted during the course of Mr. Cassidy's September 11th quarterly review of the Company's books and records.

INFORMATION REGARDING PAST-DUE ACCOUNT BALANCES AND COLLECTION EFFORTS PERTAINING TO CERTAIN OF THOSE ACCOUNTS

As of August 31st, Mill Creek's customer account past-due balances totaled approximately \$4,990. During Mr. Cassidy's September 11th review of the Company's books and records, Mr. Holmes reported that seven of Mill Creek's customers are responsible for approximately \$3,010 (approximately 60%) of this total.

Additionally, there are two accounts that are responsible for approximately \$1,005 (approximately 20%) of the total, for which the current customers did not create the past-due balances. Mill Creek is attempting to collect the past-due balances for these two accounts from real estate title companies. Mr. Holmes has been in contact with a title company regarding one of these accounts, but has not yet been able to reach a resolution with the title company.

Further, Mr. Holmes reported that three customers (not included in the situations discussed in the preceding paragraph) have been paying extra amounts each month as part of a special billing arrangement to address their unpaid past-due balances. Currently, the three customers with billing arrangements have past-due account balances totaling approximately \$660 (approximately 13%) of the past-due balance. The remaining past-due amounts (approximately \$315, or about 7% of the total) pertain to small past due balances owed by various customers.

An historical summary of Mill Creek's total past-due account balances, which include the balances related to title company matters, is set out below, with the amounts shown being rounded to the nearest \$5 increment.

| | |
|---------------------|----------|
| Balance at 10/31/05 | \$10,445 |
| Balance at 11/30/05 | \$8,775 |
| Balance at 12/31/05 | \$7,100 |
| Balance at 01/31/06 | \$7,185 |
| Balance at 02/28/06 | \$6,825 |
| Balance at 03/31/06 | \$6,535 |
| Balance at 04/30/06 | \$6,260 |
| Balance at 05/31/06 | \$4,995 |
| Balance at 06/30/06 | \$4,670 |
| Balance at 07/31/06 | \$4,875 |
| Balance at 08/31/06 | \$4,945 |
| Balance at 09/30/06 | \$5,010 |
| Balance at 10/31/06 | \$5,030 |
| Balance at 11/30/06 | \$5,615 |
| Balance at 12/31/06 | \$6,455 |
| Balance at 01/31/07 | \$6,100 |
| Balance at 02/28/07 | \$5,720 |
| Balance at 03/31/07 | \$4,745 |
| Balance at 04/30/07 | \$5,110 |
| Balance at 05/31/07 | \$5,500 |
| Balance at 08/31/07 | \$4,990 |

As noted in prior monitoring reports, Staff members from the Water & Sewer Department have been working on a service disconnection agreement between Mill Creek and Missouri-American Water Company ("MAWC"), under which MAWC would agree to disconnect water service for non-payment of sewer service charges at the request of Mill Creek. These types of agreements are provided for in Section 393.015 of the Missouri statutes.

A draft of the service disconnection agreement has now been completed and will be forwarded to Mill Creek and MAWC for review no later than September 30. If such an agreement is executed, Staff members from the Water & Sewer Department will assist Mill Creek with the development and filing of the tariff revisions that will be needed to implement the agreement.

The Staff will continue to monitor the progress of Mill Creek's collection efforts regarding its past-due customer accounts, will assist the Company in those efforts as deemed appropriate, and will include updates regarding this matter in its future status reports.

CUSTOMER COMPLAINTS AND INQUIRIES

As noted in the Staff's June 15th Status Report, a review of the Commission's electronic filing and information system (EFIS) revealed there was an informal customer complaint submitted to EFIS on March 9th. This complaint pertains to the customer's allegation that he has not received billings on a regular basis. In response to this complaint, Mr. Holmes indicated to the Staff that he has consistently been mailing bills to all of the Company's customers on or around the first of each month – and the Staff's regular reviews of the Company's books and records have confirmed that. Additionally, Mr. Holmes has contacted this customer regarding this issue, and the fact that this customer has a rather large past-due account balance. Since the customer filed the complaint and was contacted by Mr. Holmes, the customer has consistently paid for current service and has also made additional payments to address the past-due balance with each regular payment. During Mr. Cassidy's September 11th review of the Company's books and records, Mr. Holmes contacted Pam Craig of the Commission's Consumer Services Department by telephone, and discussed this customer complaint. On September 12th, Mr. Holmes forwarded supporting documentation to Ms. Craig in order to resolve this complaint.

Other than the complaint discussed above, no other customer complaints or inquiries regarding the Company have been submitted to EFIS since April 1st.

OPERATION, MAINTENANCE AND TESTING AGREEMENT

In August, Mill Creek received a new contract offer from Testing Analysis and Control, Inc. (TAC), which performs monthly operations, maintenance and testing functions for Mill Creek. The terms of the new contract call for a \$730 per month rate for performance of these same services, beginning September 1 and extending through August 31, 2008. During the previous year, Mill Creek paid TAC \$700 per month for these services.

DNR OPERATING PERMIT FEES

The Missouri Clean Water Law requires that all sewer companies pay an annual operating permit fee to the DNR for each wastewater treatment plant that discharges to the waters of the state, with that permit fee normally being based on the design flow of each particular treatment plant. Mill Creek is assessed \$2,500 annually for this permit fee based on the design flow of its wastewater treatment plant.

As of September 1, Mill Creek owed the DNR \$3,000 (\$500 for late fees related to prior years' past-due operating permit fees, plus \$2,500 for the Company's 2007 permit fee, which the DNR billed on May 1). During Mr. Cassidy's September 11th review of the Company's books and records, Mr. Holmes stated that he had mailed a \$3,000 payment to the DNR earlier that day. The Staff will contact personnel at the DNR to verify receipt of this payment, and will provide an update regarding it in the next status report.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

AFFIDAVIT OF JAMES A. MERCIEL, JR.

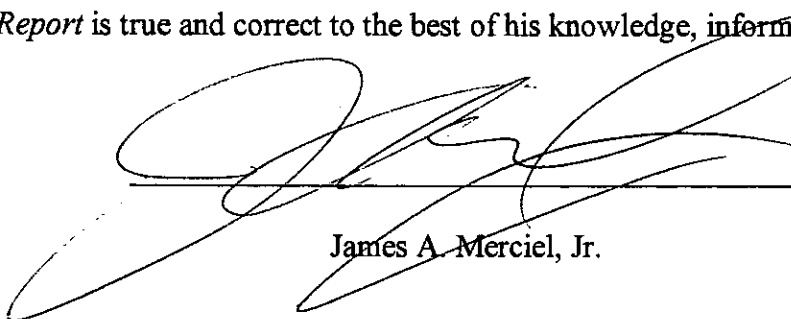
STATE OF MISSOURI)

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CASE NO. SR-2005-0116

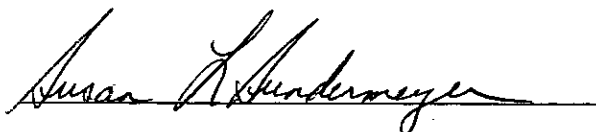
COUNTY OF COLE)

COMES NOW James A. Merciel, Jr., being of lawful age, and on his oath states the following: (1) that he is the Assistant Manager – Engineering of the Missouri Public Service Commission's Water & Sewer Department; (2) that he participated in the preparation of the foregoing Status Report and the *Staff Monitoring Report* that is included in the following appendix; (3) that he has knowledge of the information presented in the Status Report and the *Staff Monitoring Report*; and (4) that the information presented in the Status Report and the *Staff Monitoring Report* is true and correct to the best of his knowledge, information and belief.



James A. Merciel, Jr.

Subscribed and sworn to before me this 14th day of September 2007.



Notary Public



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086

My Commission Expires: September 21, 2010