

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

In the Matter of the Application of Bear Creek)	
Water & Sewer, LLC to Sell its Sewer System)	
in Taney County, Missouri to Table Rock Lake)	<u>Case No. SM-2010-0241</u>
Community Service, Inc., in Taney County,)	
Missouri.)	

STAFF'S RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and hereby states to the Missouri Public Service Commission (Commission) Staff's opinion that the proposed sale and transfer in this case is not detrimental to the public interest and should be approved with the conditions cited in Staff's attached Recommendation.

WHEREFORE, Staff respectfully requests that the Commission accept Staff's Recommendation in this matter.

Respectfully submitted,

/s/ Shelley Syler Brueggemann
Shelley Syler Brueggemann
Missouri Bar No. 52173

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 14th day of May 2010.

/s/ Shelley Syler Brueggemann

MEMORANDUM

**Case No. SM-2010-0241– Bear Creek Water & Sewer, LLC
Application to Sell Sewer System**

TO: Missouri Public Service Commission Official Case File

FROM: Jerry Scheible, P.E., Utility Regulatory Engineer- Water & Sewer Department

/s/ Jerry Scheible
Project Coordinator

May 14, 2010

/s/ Shelley Brueggemann
Staff Counsel's Office

May 14, 2010

SUBJECT: Staff Recommendation Regarding the Application of Bear Creek Water & Sewer, LLC to Sell its Sewer System in Taney County, Missouri to Table Rock Lake Community Service, Inc., in Taney County, Missouri.

DATE: May 14, 2010

CASE FILING SUMMARY

On February 11, 2010 (unless noted otherwise, all dates herein refer to the year 2010), Bear Creek Water & Sewer, LLC (Bear Creek or Company) filed an Application with the Commission seeking to sell its sewer utility assets to Table Rock Lake Community Service, Inc. (TRLCS), which will in turn immediately transfer the assets to Ozarks Clean Water Company (OCWC). OCWC is a Chapter 393 RSMo non-profit sewer company and thereby exempt from Commission jurisdiction pursuant to § 393.847.3 RSMo (2009). The Commission originally assigned the application File No. WM-2010-0236, but because the application is for the sale of sewer assets and not water assets, the file designation number was changed to SM-2010-0241 on March 1.

On February 17, the Commission issued its *Order Directing Notice and Setting Date for Submission of Intervention Requests* requiring that notice of the Application be sent to the general public and interested parties in the affected area. This order set March 9 as an intervention deadline for interested parties. No applications to intervene have been submitted by any party.

On April 15, Staff filed *Staff's Status Report* in the subject case, in which it stated that Staff needed until May 15 to file its *Recommendation* in this matter.

An *Amended Application* was filed on April 19 to clarify the purpose of the application and to provide vital information that was omitted in the original *Application*.

A separate *Application* was filed by Bear Creek on February 11, to transfer the water assets to Public Water Supply District Number 3 of Taney County, Missouri (PWSD). A separate filing in that case, WM-2010-0239, is being filed concurrently and will address the transfer of the water assets.

BACKGROUND

A Certificate of Convenience and Necessity (CCN) was issued by the Commission to Bear Creek to provide both water and sewer service on August 1, 2000 (Case No. WA-2000-321). The sewer tariff currently on file is designated Tariff No. JS-2002-0264. The area served includes primarily the Whitetail Crossing subdivision in Taney County, Missouri. Bear Creek currently provides water service to forty-eight residential customers and sewer service to thirty-four residential customers.

Sewer service is provided by customer owned septic tank and pump units and a centralized wastewater treatment facility consisting of a recirculating sand filter and an ultraviolet disinfection unit. The facility operates under Missouri Department of Natural Resources (DNR) Permit Number MO-0124923 and does not currently have any compliance-related issues.

The Company is current with regard to filing its annual reports and paying annual assessments with the Commission.

TRANSFER OF OWNERSHIP DETAILS

The buyer, TRLCS, intends to purchase all the assets of the sewer system from Bear Creek. The closing of the sale is to take place within thirty days after the effective date of a Commission Order approving the sale. Upon closing, TRLCS will immediately transfer ownership to OCWC. OCWC will then begin the rendition of sewer service without interruption to the current customers. This same scenario occurred and was approved by the Commission in Case No. SO-2008-0094 for the previously certificated sewer utility, Savannah Heights Industrial Treatment, Inc.

OCWC, the proposed ultimate owner and operator of this sewer system, is registered as a Non-Profit Corporation in good standing with the Missouri Secretary of State (SOS). It was created in 2004 and organized as a non-profit sewer utility in accordance with §§ 393.825 to 393.861 of the Missouri Revised Statutes. After review of OCWC's creation filings with the SOS, Staff believes that OCWC is legitimately created and is operating as a non-profit sewer utility and therefore not subject to regulation by the Commission.

OCWC is currently providing sewer service to approximately 350 customers in various locations around the Branson, Missouri area under contract with White River Valley Environmental Services, an experienced operations firm. OCWC is recognized by the DNR as a legal entity that can own and operate wastewater collection and treatment systems.

OCWC has proposed to continue to charge the current customers the rate for sewer service of \$20 per month as is currently effective in Tariff No. JS-2002-0264, so there will be no immediate rate impact on the customers. Further, the proposed sale of assets will not impact the tax revenues in Taney County, Missouri, as stated by the County Office of the Assessor in a document dated January 12.

STAFF'S CONCLUSIONS

The Staff, based upon its review, believes that the proposed sale and transfer of assets is not detrimental to the public interest, and therefore recommends approval.

STAFF'S RECOMMENDATIONS

Based upon the above, Staff recommends that the Commission issue an order that:

- 1) Grants Bear Creek Water and Sewer, LLC the authority to sell and transfer all of its sewer utility assets to Table Rock Lake Community Service, Inc., and subsequent immediate transfer by Table Rock Lake Community Service, Inc. to Ozark Clean Water Company as requested in the *Application*;
- 2) Makes no ratemaking determination regarding any potential future regulatory oversight, if any;
- 3) Requires the parties to submit notice to the Commission regarding evidence of the transfer of assets to TRLCS and then a transfer to OCWC within three (3) business days after the transfer to OCWC;
- 4) That after the above notice of transfer is received, require the parties to file a motion requesting the Certificate of Convenience and Necessity held by, and sewer tariff JS-2002-0264 on file for, Bear Creek Water and Sewer LLC be cancelled, and grant such request. Should such notice not be received within sixty (60) days of the Commission Order granting the transfer of ownership, ownership of the utility and responsibility to provide sewer service shall revert back to Bear Creek Water and Sewer, LLC and this case shall be closed; and,
- 5) Clarify that Bear Creek Water and Sewer, LLC is not authorized to cease providing sewer services to customers in its service area until the Commission issues an order cancelling its CCN and its associated sewer tariff.

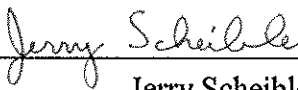
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

AFFIDAVIT OF JERRY SCHEIBLE, P.E.

STATE OF MISSOURI)
) SS **CASE NO. SM-2010-0241**
COUNTY OF COLE)


COMES NOW Jerry Scheible, P.E., being of lawful age, and on his oath states the following:

(1) that he is a Utility Regulatory Engineer in the Missouri Public Service Commission's Water & Sewer Department; (2) that he participated in the preparation of the foregoing Staff Recommendation Memorandum; (3) that he has knowledge of the information presented in the foregoing Staff Recommendation Memorandum; and (4) that the information presented in the foregoing Staff Recommendation Memorandum is true and correct to the best of his knowledge, information and belief.



Jerry Scheible, P.E.

Subscribed and sworn to before me this 14th day of May 2010.



Notary Public

My Commission Expires: _____

