

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

In the Matter of the Application 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-2022-0338

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for its *Staff Recommendation*, states as follows:

1. On June 1, 2022, 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 as an expansion of its existing certificated area known as Johnson Ridge (shown in the tariff as Service Area 2 of Clay County).

2. On June 9, 2022, Staff was ordered to file a recommendation regarding Timber Creek’s CCN application no later than July 14, 2022.

3. Timber Creek did not file a notice 60 days prior to the filing of its application pursuant to Rule 20 CSR 4240-4.017(1). Timber Creek seeks a waiver of the 60-day notice requirement under Rule 20 CSR 4240-4.017(1)(D) which provides that a waiver may be granted for good cause. Staff does not oppose Timber Creek’s request for a waiver.

4. As detailed in the attached Memorandum, Staff recommends that the Commission grant the request of Timber Creek to install, own, acquire, construct, operate,

control, manage and maintain a sewer system in Clay County, Missouri with the conditions listed in Staff's Memorandum.

WHEREFORE, Staff respectfully submits this Staff Recommendation for the Commission's information and consideration, and requests the Commission grant Timber Creek's request for a CCN with the conditions listed in Staff's Memorandum.

Respectfully Submitted,

/s/ Casi Aslin

Casi Aslin
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Missouri Bar No. 67934
Attorney for the Staff of the
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(573) 751-8517
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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 July, 2022.

/s/ Casi Aslin

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. SA-2022-0338

FROM: Daronn A. Williams – Water, Sewer & Steam Department
Lisa Stockman – Customer Experience Department

<u>/s/ Daronn A. Williams</u>	<u>7/14/22</u>	<u>/s/ Casi Aslin</u>	<u>7/14/22</u>
Case Manager	Date	Senior Counsel	Date

SUBJECT: Staff’s Recommendation to Approve Certificate of Convenience and Necessity

DATE: July 14, 2022

CASE BACKGROUND

On June 1, 2022, Timber Creek Sewer Company (“TCS”) submitted its *Application and Motion for Waiver* (“Application”) requesting a Certificate of Convenience and Necessity (“CCN”) from the Public Service Commission (“Commission”). On June 9, 2022, the Commission issued its *Order Directing Notice* and *Order Directing Staff Recommendation* (“Orders”).

In the Orders, among other things, the Commission set July 8, 2022 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 status report or recommendation in this case by July 14, 2022.

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. It has subsequently filed ten (10) additional CCN cases requesting additional service areas in Platte, Clay, and Clinton Counties.¹ TCS presently owns and operates four (4) sewage treatment facilities, and presently provides sewer service to 2,357 customers in Platte and Clay Counties.

REQUESTED SERVICE AREA

The area proposed in this CCN case is located in Clay County adjacent to TCS’ existing Service Area 2. The proposed area would be connected to the existing Johnson Ridge Wastewater Treatment Facility (“WWTF”), which currently serves the Johnson Ridge Subdivision. The proposed area would be a new subdivision called Eastern Estates. There are no other sewer providers for this area and the expansion would not encroach into another sewer provider’s service

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, SA-2010-0100, SA-2019-0006, and SA-2020-0013. 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 ultimately did not materialize.

area. In the proposed area, there is already one home built and in use. This home is owned by the developer and is their personal residence. This home's sewer is currently serviced by a septic tank. If the CCN is granted, it would connect to the TCS sewer system.

The developer of the area plans to construct 18 additional single-family residences. With the addition of the developer's home, Eastern Estates will consist of a total of 19 single-family residences. The property owner is requesting sewer service from TCS for the residences, as documented by Appendix C of the Application. The current property owner (developer) will be responsible for installing a grinder pump and building the necessary pressure collection line to the TCS system and then contributing that line to TCS per TCS' tariff.

The Johnson Ridge WWTF consists of a grit chamber with extended aeration, clarifier, aerobic digester and ultraviolet radiation for disinfection. Sludge is disposed of by a contract hauler. This WWTF is regulated by the Missouri Department of Natural Resources ("DNR") and operates under DNR's Missouri State Operating Permit Number MO-0132110. The design flow of the facility is 40,000 gallons per day ("gpd"), but has an actual flow of 5,500 gpd. This plant has adequate capacity into the foreseeable future. Per a conversation with TCS, the WWTF can support up to 200 homes and they have 46 homes currently connected. According to TCS' Annual Report to the Commission, the Johnson Ridge WWTF is at a 20% capacity.

The sewer collection system was installed at the same time as the plant in July 2005. This collection system comprises of 3,837.13 feet ("ft") of two and a half (2.5) inch Polyvinyl chloride ("PVC") piping, 1,738.22 ft of two inch (2) PVC piping and 1,015.14 ft of one and a half (1.5) inch PVC piping. The collection system is all forced main piping, which requires the use of an electric-powered grinder pump unit at each customer's residence, which the developer will install.

Construction of collecting sewer extensions will be undertaken by the terms of TCS' tariff *Rule 11- Extension of Collecting Sewers*. By the terms of this tariff rule, a property owner may either have TCS construct the sewer extension or the property owner may construct the extension and contribute the property to TCS. By the terms of tariff Rule 12 B., the customers, the subdivision developer, or the homebuilder can be responsible for the cost of installing the pump unit depending on the service agreement. Based on the current plan, there will be no new direct investment required on the part of TCS if the Commission grants TCS' request for this additional service area.

STAFF'S INVESTIGATION

This request is for the service area to be expanded to include 18 new single-family residences and one existing single-family residence. There will be no new or expanded treatment facility construction 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. An audit was therefore not conducted by Staff.

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 additional service area are as follows:

(1) Need for Service

There is a need for service. A land developer intends to provide 19 residences which will require sewer service, and this developer has in fact requested sewer 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 certificated 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, such 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 the land developer of each single residence. The new customer will be connected to existing collecting sewers of the Johnson Ridge WWTF, which has adequate capacity. The new customers will be provided sewer service under the same rules and rates applicable to existing customers of Clay County.

(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 CCN will promote the public interest. The granting of this requested CCN will 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' request for a CCN in the proposed additional 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 and Rate Impact

Should the Commission approve its Application, TCS' tariff will need to include a written description and a map of the new service area.

TCS included a legal description as Appendix B with the Application. Staff requested a revised description from TCS that eliminates the inclusion of lot descriptions, as lots are sometimes changed in the future. Staff's suggested modified legal description is included with this memorandum as Attachment A, incorporated by reference herein. TCS will need to modify 1st Revised Sheet No. 3B in its tariff to include the proposed addition to the Clay County Service Area 2.

TCS will also need to modify 1st Revised Sheet No. 2A in its tariff by adding the new service area to Service Area 2 of Clay County. The new shape will need to be the new, contiguous service area of Service Area 2. Existing Sheet No. 2A shows the Clay County Service Area 1 and Clay County Service Area 2. A replacement map with the new service area filed as a tariff sheet will need to be submitted by TCS.

TCS' approved rates for its Clay County service areas will apply to the new customers in the proposed service area, and, as discussed, the existing rule for Extension of Collecting Sewers will also apply. No existing customers will be directly impacted if this request is approved. The only entity impacted is the developer who is requesting that sewer service be provided to the developing Eastern Estates subdivision.

Customer Service

Staff requested a copy of an informational brochure from the Company that is given to new customers at the time of service. The Company provided to Staff their New Service Application which includes information to the customer regarding rates, payment information and the disconnect process. However, this does not comply with all of the requirements of Commission Rule 20 CSR 4240-13.040(3).

On July 8, 2022, Staff of the Customer Experience Department ("CXD") of the Commission had a phone conversation with TCS to discuss additional information that is available to their customers. TCS stated that their company website contains all the information that is required of Commission Rule 20 CSR 4240-13.040(3) and they refer their customers frequently to the website, however TCS does not have a paper copy available to its customers. TCS stated they are committed to developing a paper brochure for each of their service areas to comply with the requirements of Chapter 13.

TCS needs to develop a brochure that contains all the requirements as listed in the Commission Rule. Staff believes present and future customers should be provided the new brochure to ensure all customers are aware of the information.

OTHER ISSUES

TCS is a corporation that is in “good standing,” according to documentation on the Missouri Secretary of State website. TCS is current on its annual report filings with the Commission through calendar year 2021, according to information as posted on the Commission’s Electronic Filing Information System. TCS is current on its annual assessments as of April 2022, 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 expanded service area is feasible and is not detrimental to the public interest. Existing rates and rules will apply to the new service area. TCS’ 1st Revised tariff sheets 2A and 3B 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 2nd Revised Sheets 2A and 3B, as 30-day filings, within ten (10) days after the effective date of an order from the Commission approving the CCN, with a legal description and a map depicting the new service area;
3. Require TCS to develop and provide to CXD Staff and distribute to all customers, present and new to the expansion, a customer brochure which outlines all of the criteria in Commission Rule 20 CSR 4240-13.040(3) within thirty (30) days of the order in this case;
4. Require TCS to provide training to its call center personnel regarding rates and rules pertaining to the new customers of the expansion area within thirty (30) days of the addition of the first new customer;
5. Require TCS to provide to CXD Staff the first billing statements sent to customers of the new expansion area as new service is established according to Appendix D of the application;

6. Require TCS to email Staff in the CXD and Water, Sewer & Steam Departments outlining completion of the above recommendations regarding the customer brochure, training and billing within the specified time periods; and
7. 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.

ATTACHMENTS

- A. Staff's Proposed Modified Legal Description
- B. Map Depicting the Proposed Service Area

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

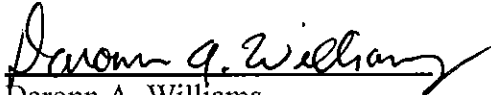
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AFFIDAVIT OF DARONN A. WILLIAMS

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW Daronn A. Williams, and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to his best knowledge and belief, under penalty of perjury.

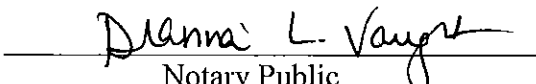
Further the Affiant sayeth not.


Daronn A. Williams

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 13th day of July, 2022.

DIANNA L VAUGHT
Notary Public - Notary Seal
STATE OF MISSOURI
Cole County
My Commission Expires: July 18, 2023
Commission #: 15207377


Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

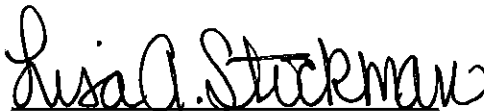
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AFFIDAVIT OF LISA A. STOCKMAN

STATE OF MISSOURI)
) ss.
 COUNTY OF COLE)

COMES NOW Lisa A. Stockman, and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation in Memorandum form*; and that the same is true and correct according to her best knowledge and belief, under penalty of perjury.

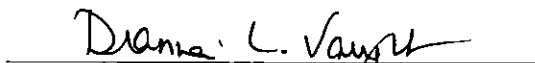
Further the Affiant sayeth not.


 Lisa A. Stockman

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 14th day of July, 2022.

DIANNA L VAUGHT Notary Public - Notary Seal STATE OF MISSOURI Cole County My Commission Expires July 18, 2023 Commission #: 15207377


 Notary Public

ATTACHMENT A

Legal Description

A tract of land in part of Section 9, Township 52 North, Range 32 West, Clay County, Missouri and being more particularly described as follows:

Commencing at the Southeast Corner of the Northeast Quarter of Section 9, Township 52 North, Range 32 West; Thence $N00^{\circ}23'09''E$, Along the East Line of said Northeast Quarter, a distance of 40.00 feet; Thence $N89^{\circ}46'47''W$, along a Line 40.00 feet North of and Parallel with the South line of said Northeast Quarter, a Distance of 40.00 feet to the point of beginning on the Southeast Corner; Thence $N89^{\circ}46'47''W$, Along the South line of property, a Distance of 1141.32 feet to the Southwest Corner of property; Thence $N00^{\circ}23'56''E$, along the West line of property, a Distance of 1290.76 feet to the Northwest Corner of property; Thence $S89^{\circ}31'34''E$, along the North line of said property, a Distance of 1141.02 feet to the Northeast Corner of property; Thence $S00^{\circ}23'09''W$, along the East line of said property, a Distance of 1285.71 feet to the point of beginning ; Containing 33.75 Acres, More or Less.

ATTACHMENT B

Map of Proposed Service Area



Proposed Service Area



Current Service Area 2 of Clay County