

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

Nathan G. Godsy and Leah N. Godsy,)
)
Complainants,)
)
v.)
)
Philadelphia Suburban Corporation, d/b/a)
AquaSource Development, AquaSource/RU,)
AquaSource/CU, AquaSource, and/or)
Aqua Missouri, Inc.)
)
Respondent.)

Case No. SC-2005-0371

REPORT OF COMPLAINT INVESTIGATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through Counsel, and for its Report of Complaint Investigation states the following to the Missouri Public Service Commission (Commission).

1. On April 18, 2005, the Commission issued its **Order Directing Staff to Investigate and Report** in the instant case, wherein it directed the Staff to investigate the subject complaint and to file a report regarding that investigation, with the report to be filed on or before May 2, 2005.

2. In compliance with the above-referenced Commission order, attached hereto as Appendix A is the Staff's *Report of Complaint Investigation*.

WHEREFORE, the Staff respectfully submits its *Report of Complaint Investigation* for the Commission's information and consideration in this case.

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/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 the foregoing 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 3rd day of May 2005.

/s/ Keith R. Krueger

Keith R. Krueger

APPENDIX A

Report of Complaint Investigation

Case No. SC-2005-0371

May 3, 2005

Report of Complaint Investigation

Case No. SC-2005-0371

Prepared By:

James A. Merciel, Jr., P.E.

Water & Sewer Department

Utility Operations Division

May 3, 2005

Background Information

On April 15, 2005, Nathan G. Godsy and Leah N. Godsy (Complainants) filed a formal complaint against Philadelphia Suburban Corp d/b/a AquaSource Development, AquaSource/RU, AquaSource/CU, AquaSource, and/or Aqua Missouri, Inc. The complaint is in regard to the availability of, or refusal to provide, sewer service to a newly constructed residence in an area known as Southwood Hills. The utility actually providing service in the area where the Complainants' residence is located is Aqua Missouri, Inc. (Company), although the background of the situation also dates to its corporate predecessors, AquaSource/CU, Inc. and Capital Utilities, Inc., as well as Cole County Regional Sewer District from which Capital Utilities, Inc. acquired assets.

The Complainants are attempting to connect to the Southwood Hills system, which, perhaps excepting some pipeline extensions and lift station projects, was constructed by or for the developer of Southwood Hills based on the developer's needs. As noted above, the system was originally owned by the Cole County Regional Sewer District, and was acquired along with other assets by Capital Utilities, Inc.

General Company Information

The Company has sewer extension rules that detail three basic scenarios. Those are: (1) acquisition of pre-existing subdivision sewer systems; (2) extension of collecting sewer pipelines by one or more individual customers to front specific lots; and (3) construction of new collection systems with new treatment facilities by or for subdivision developers. The third scenario is also applied when a developer is expanding a subdivision, or selling more lots than what was originally anticipated when planning treatment plant capacity. So, generally, one premise of the Company's capital funding is that developers pay for treatment capacity. This premise has worked reasonably well for the Company since, like its predecessors, it provides service with a collection of small sewer systems on a subdivision-by-subdivision basis, as opposed to a larger system serving a watershed or a community with a combination of subdivisions and individual lots connected to the system. Developer involvement is an important consideration in determining proper application of the extension rule, and service availability.

However, because the Company is set up to operate with developer funding, the financing situation becomes more complicated when additional individual customers wish to connect to a physically available facility that was constructed by a developer for particular subdivision lots.

The reason for this complication is that it is not practical to construct incremental treatment plant expansions each time one additional individual customer connects. Additionally, the Company's tariff does not currently contemplate any method to fund plant upgrades on a customer-by-customer basis. The situation of needing to provide service to more lots than what a developer's treatment capacity contemplates leaves the Company with an obligation to provide service to additional customers, but with no funding mechanism for additional plant capacity. As a result, there is an apparent obligation for the Company to provide treatment capacity using stockholder investment. This would, however, ultimately result in the inequitable situation of all customers paying the Company for a return on treatment plant investment, when some of those customers had already paid an adequate contribution to treatment plant capital through the purchase of their lot from a developer.

Specific Complaint Information

In the case of Southwood Hills, additional connections beyond those contemplated by the Southwood Hills developer were allowed to be made in past years. This has caused treatment capacity to be used by other parties who are now established customers, leaving the original developer with less capacity than what he originally paid to have available. Original contracts did not address any way to compensate the developer for capacity for which he paid, but which is no longer available after others, who, for whatever reason, were allowed to connect to the system with no obligation to pay for plant capacity. The Complainant's property, as far as the Staff can determine, could be such an additional lot beyond the lots originally contemplated by the developer, but if it is a part of any developer's project, then that developer should contract with the Company for sewer extension and treatment plant capacity by the extension rule, scenario number 3, above. Apparently, that is the reason the Company is taking the position that service is not available to the Complainant's lot.

Additionally, it appears to the Staff that there is a need to extend the company-owned collecting sewer, by the extension rule in the Company's tariff as described by scenario number 2 above. The Complainant's property is on the north side of the street. There is a lift station (pump station) at the rear of the property across the street from the Complainant's property, on the south side of the street, and a few other houses on the south side of the street that are or could be connected to a sewer that may be at the rear of those properties. The slope of the ground is to the south, such that houses on the south side would need a sewer at the rear of the property to be served by gravity. By observation, an extension to the Complainant's property could be constructed uphill from the lift station to the street, where the complainant's property could connect, and perhaps further extended along the street if future customers are to be connected. Such an extension probably would not be particularly lengthy or costly to the Complainants.

Upon inquiry, the Company advised the Staff that at the time the builder came to the office, apparently in October of 2004, a temporary office worker was present over a lunch hour. The temp took the application and check, and supplied the appropriate part for a connection, but did not check maps and other information in the office which is normally done in order to be sure that service is indeed available to an applicant, or if a sewer extension is needed, or some other

unusual situation exists. The Company further advised that within a few days, after a review of the application, two of its employees went to the site and advised the builders' people who were working on site that there were some issues that needed to be addressed, notably the need for a collecting sewer extension. After the onsite visit, according to the Company, there were telephone calls and other communication between it and the Complainant's builder in December and/or January, but without resolution to the extension issue the Company finally returned the check to the builder. Although the Company possibly could have made telephone calls to the builder in addition to the site visit, timeliness of a follow-up on either the builder's or the Company's part does not seem to have been critical given that the construction was likely in its early stages at the time. The Staff observes that the house is still under construction, the structure is in place without siding. The Company advises it is detailing its actions in its response to the Complaint, which is due to be filed the same day as this report.

Additional Information

The Staff has information from past inspections, and provided by the Company, indicating that the plant has a capacity of 23,000 gallons per day, which by normal design criteria represents 62 customers at 370 gallons per customer. According to the Company, there are 85 customers presently connected. It is not unusual for treatment plants to adequately perform with more customers than the design criteria, as is the case here. Although the plant operator can determine the flow occurring at the plant at the particular time of observation, there is not a good way to determine the flow over a day-long period, because of the extreme variations in flow throughout the day reflecting customers' water usage patterns. This plant is not equipped with a "totalizer" flow meter. So, it is difficult to determine exactly what percentage of plant capacity is being used based on flow. However, flow is not the ultimate parameter in determining plant capacity. Rather, biological treatment of sewage is the plant's function, and performance of this function is really what determines capacity. But regardless of this, there is no question that the plant is at or near capacity, that there is customer growth occurring, and additional treatment capacity is, or soon will be, needed for this area.

It is easy to say that, given the circumstances of having a home that is nearly completed, the Complainants should be allowed to connect. Connection of the Complainants new home, in itself, may or may not create a problem in operating the Southwood Hills treatment facility. But of course, as more and more customers are connected, at some point the plant will eventually become inadequate resulting in a discharge of water that does not meet MO Department of Natural Resources clean water standards. There clearly is an approaching need for some upgrade, expansion, or alternative treatment project to be undertaken to increase treatment capacity for the Southwood Hills area. Any such project would require capital funding from some source.

Additional Matter

The Staff has had several discussions and meetings with the Company to, among other issues, discuss possible updates to the Company's extension rule. The Staff believes that improvements and changes to the rule are necessary in order to address funding of treatment plant upgrades for

areas where developers are not exclusively involved with customer growth. A Contribution-in-aid-of-Construction Charge (CIAC) applicable to individual customers and perhaps some developers would be one way to fund plant expansions.

Conclusions and Recommendations

The Staff believes the Complainants, as an individual potential customer, should be allowed to connect to the system, regardless of the loading on the treatment facility. However, if the Company can show that the property was a part of a developer's project, where the developer should have contracted with the Company for a sewer extension and plant capacity under scenario number 3 of the extension rule as described herein, then there could be a civil issue between the Complainants and the developer. Whether a developer was involved or not, some party needs to work with the Company regarding a collecting sewer extension.

Beyond the particular Complaint, and not necessarily directly affecting the Complaint, the Company needs to plan for expansion and funding of treatment capacity at this and other locations. The Staff does not recommend addressing this issue in the context of this Complaint, because it could very well involve new charges to be created, which need to be addressed in a rate case.