

Exhibit No.: \_\_\_\_  
Witness: Derek Sherry  
Type of Exhibit: Direct Testimony  
Issue: Application  
Sponsoring Party: Timber Creek Sewer Company  
Case No.: SA-2010-0063

MISSOURI PUBLIC SERVICE COMMISSION  
UTILITY DIVISION

TIMBER CREEK SEWER COMPANY  
CASE NO. SA-2010-0063

DIRECT TESTIMONY OF  
DEREK SHERRY

December 18, 2009

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

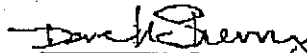
In the matter of the application of Timber )  
Creek Sewer Company, for permission, )  
approval, and a certificate of convenience )  
and necessity authorizing it to construct, )  
install, own, operate, control, manage and )  
maintain a sewer system for the public. )  
located in an unincorporated area in Platte )  
County, Missouri. )

CASE NO. SA-2010-0063


AFFIDAVIT OF DEREK SHERRY

STATE OF MISSOURI )  
 ) ss  
COUNTY OF JACKSON )

Derek Sherry, of lawful age, on his oath states: That he has reviewed the attached written testimony in question and answer form, all to be presented in the above case, that the answers in the attached written testimony were given by him; that he has knowledge of the matters set forth in such answers; that such matters are true to the best of his knowledge, information and belief.

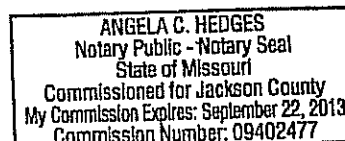
  
Derek Sherry

Subscribed and sworn to before me this 17 day of December, 2009

  
Notary Public

[SEAL]

My Commission expires: 9-22-2013



**PREPARED DIRECT TESTIMONY OF  
DEREK SHERRY**

1 Q: PLEASE STATE YOUR NAME AND ADDRESS.

2 A: Derek Sherry, 14398 Lucille Ct, Olathe, KS 66062.

3  
4 Q: ON WHOSE BEHALF ARE YOU APPEARING?

5 A: Timber Creek Sewer Company.

6  
7 Q: WHAT IS YOUR CAPACITY FOR TIMBER CREEK SEWER COMPANY?

8 A: President and General Manager since February 2008.

9  
10 Q: PLEASE STATE YOUR QUALIFICATIONS AND EXPERIENCE.

11 A: I graduated with an Engineering degree from University of Missouri - Rolla in 1985.

12 I worked for 5 years as an engineer for Johnson County Wastewater in Johnson  
13 County, Kansas which serves over 150,000 sewer customers. I was the engineer for  
14 rehabilitation projects, project manager for new construction, completed planning  
15 analysis for potential new service areas, performed feasibility and financial analysis for  
16 numerous undertakings (capital improvements plan, new administration building, new  
17 8-10 mgd plant and interceptors, etc) and led environmental studies for sensitive  
18 watersheds. Additionally, I've held numerous executive positions at Johnson County  
19 and Sprint for the past 17 years.

1     **Q.   WHAT EXPERIENCE DO YOU HAVE IN THE BUSINESS OF**  
2     **CONSTRUCTING AND OPERATING A REGULATED SEWER SYSTEM.**

3     A.   I served as a member of the Board of Directors and Vice President of Timber Creek  
4     for numerous years before becoming its President and General Manager in February  
5     2008. I have been involved in every phase of the planning, engineering, construction  
6     and operation of a sewer system. As President and General Manager, I work closely  
7     with the engineers in the design and planning of the system and assisted the general  
8     contractor who built much of the system. I have been involved in every aspect of the  
9     day-to-day operations of the company as a public utility including, but not limited to,  
10    planning and engineering the system, supervising construction and operation of the  
11    system, setting up the company's accounting system and billing system, conducting the  
12    financial operations of the company, assisting in the preparation of rules and tariffs,  
13    and assuring the customers' satisfaction with the service.

14  
15    **Q.   WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

16    A.   The purpose of my testimony is to present evidence in support of the application of  
17    Timber Creek Sewer Company for a certificate of convenience and necessity to serve  
18    an additional area in an unincorporated portion of Platte County.

1     **Q.     WOULD YOU BRIEFLY DESCRIBE TIMBER CREEK SEWER COMPANY?**

2     **A.**     Timber Creek is a Missouri corporation with its principal office and place of business  
3             located at 18305 Cable Bridge Road, Platte City, Missouri 64079. A copy of Timber  
4             Creek's Certificate of Incorporation and Articles of Incorporation were previously filed  
5             with the Commission in Case No. SA-95-110 and are hereby incorporated by reference  
6             herein. A copy of its Certificate of Good Standing issued by the Secretary of State is  
7             attached as Appendix 1 to the Application and is attached hereto as **Schedule DS-1**.

8  
9             Timber Creek was formed in 1994 to own, operate and maintain the sewer properties  
10            at the Timber Creek Subdivision in Platte County, Missouri. It has been a regulated  
11            sewer corporation since it was issued its first Certificate of Convenience and Necessity  
12            on May 18, 1995 in Case No. SA-95-110. Subsequently it has been issued Certificates  
13            of Convenience and Necessity to operate as a sewer utility by this Commission in: 1)  
14            certain other unincorporated areas of Platte County, Missouri, issued in Case Nos. SA-  
15            96-238, SA-99-202, SA-2002-404 and SA-2002-1061; 2) certain unincorporated areas  
16            of Clay County, Missouri, issued in Case Nos. SA-2005-0297 and SA-2005-0467; and  
17            3) certain unincorporated areas of Clinton County, Missouri, issued in Case No. SA-  
18            2010-0100. Since its inception in 1995 when it started with just over 25 customers,  
19            Timber Creek currently serves over 1,400 customers.

1 Q. WHAT IS THE ADDITIONAL PROPOSED SERVICE AREA TIMBER CREEK  
2 IS SEEKING IN PLATTE COUNTY BY THIS APPLICATION?

3 A. Timber Creek requests permission, approval, and a certificate of public convenience  
4 and necessity to install, own, acquire, construct, operate, control, manage, maintain and  
5 extend a sewer system for the public in an unincorporated area in Platte County,  
6 Missouri, located: (a) generally easterly of its Prairie Creek certificated area, which  
7 certificated area lies generally south of Platte City, Missouri; and (b) generally  
8 northerly of its Timber Creek certificated area, which lies generally east of Platte City,  
9 Missouri.

10  
11 The Company's current service area in Platte County is defined in two parts. One  
12 service area generally lies south of Platte City and the other service area lies generally  
13 east and north of Platte City. The service area extension being requested here lies  
14 generally between and abutting the existing service areas and as such would allow for  
15 a single contiguous service area boundary in Platte County and would follow standard  
16 engineering practices for sewer service area definitions by utilizing watershed  
17 topography where appropriate and feasible.

1 Q. HAVE YOU PREPARED A LEGAL DESCRIPTION OF THE PROPOSED  
2 SERVICE AREA?

3 A. Yes. The Legal Description of the Proposed Service Area is attached to the  
4 Application as Appendix 2 and is attached hereto **Schedule DS-2**.

6 Q. HAVE YOU PREPARED A MAP OF THE PROPOSED SERVICE AREA?

7 A. Yes. The Proposed Service Area is depicted on the map attached to the Application as  
8 Exhibit "A" and is attached hereto as **Schedule DS-3**.

10 Q: WHY DID THE COMPANY FILE TO SERVE THE PROPOSED SERVICE  
11 AREA?

12 A: There is no sewer service, regulated or nonregulated, currently provided in the  
13 Proposed Service Area. The Proposed Service Area is ripe for development as a  
14 quality residential and commercial area. However, before such development can  
15 occur, the area will need adequate sewer service. Inasmuch as Timber Creek currently  
16 serves two areas contiguous to and abutting the Proposed Service Area, Timber Creek  
17 is already uniquely situated to serve this area located between its other service areas.  
18 As a result, it can do so more economically and efficiently than an entity that would  
19 be required to do so as a stand-alone facility.

1 Developers and property owners are planning to build residential homes and other  
2 establishments in the Proposed Service Area and have contacted us requesting that we  
3 provide sewer service in the Proposed Service Area. The owners and developers that  
4 to date have submitted their requests in writing for service are Steven Kerwin, William  
5 Mann, James Laderoute, Jill Fain and Paula Roberts. A copy of the letters received by  
6 Timber Creek from these property owners are attached hereto respectively as **Schedule**  
7 **DS-4, Schedule DS-5, Schedule DS-6, and Schedule DS-7.** Their locations  
8 throughout the Proposed Service Area are shown on a map attached to the Application  
9 as Exhibit "B" and attached hereto as **Schedule DS-8.** As can be seen, the properties  
10 are located throughout the Proposed Service Area and none are located adjacent to  
11 each other. The boundaries of the Proposed Service Area generally follow watershed  
12 topography while including the property owners' requests.

13  
14 **Q. HOW WILL THE GRANT OF THE REQUESTED AUTHORITY BENEFIT**  
15 **THE PUBLIC NECESSITY OR CONVENIENCE?**

16 A. If the application is approved, Timber Creek's operations in Platte County would in  
17 effect be provided through a single contiguous service area with the ensuing economies  
18 of scale thereof. Due to economies of scale and through the use of existing treatment  
19 facilities in the Company's current service areas in Platte County to serve the Proposed  
20 Service Area, where available and feasible, the expansion in the size of our contiguous

1 service area will benefit both the public in the Proposed Service Area as well as the  
2 public in the existing service areas. A public need exists for adequate sewer service  
3 within the Proposed Service Area and the public convenience and necessity will be  
4 promoted in both the Proposed Service Area as well as in Timber Creek's existing  
5 service area by the granting of the authority requested.

6  
7 In addition, the future residents of the Proposed Service Area will also benefit from  
8 the fact that their rates and the reliability of their service will be provided by a  
9 company regulated by the Public Service Commission.

10  
11 **Q: WHAT IS THE COMPANY'S APPROACH TO PROVIDE SERVICE TO THE**  
12 **AREA?**

13 **A:** The Company plans to provide service initially through the use of existing treatment  
14 and other facilities where capacity exists in the existing infrastructure as well as build  
15 new facilities to meet demand as needed. The Company's two existing treatment  
16 facilities that serve the areas contiguous to the Proposed Service Area have  
17 approximately 120,000 gallons per day of capacity available, approximately 350 - 400  
18 equivalent dwelling units. Consequently, the only Company construction anticipated in  
19 the first two years in the Proposed Service Area is the construction of pump stations  
20 and force mains, when and where necessary, to connect the new customers in the

1 Proposed Service Area to the existing treatment facilities in the Company's contiguous  
2 service areas. Depending on the pace of economic development and demand, the  
3 company would acquire a new location in the future and build a new treatment facility  
4 strategically located to serve the customers in the watershed that flows north towards  
5 the Platte River.

6  
7 This approach is similar to how development south of Platte City was managed by  
8 Timber Creek, which led to the continued commercial development at the southern  
9 border of Platte City and over 2000 residential homes.

10  
11 **Q: HOW DOES THE COMPANY PLAN TO FINANCE INFRASTRUCTURE FOR**  
12 **THE PROPOSED SERVICE AREA?**

13 **A:** Any new infrastructure would be financed through private investors, loans, and  
14 contributions in aid of construction fees (CIAC).

15  
16 The sewer mains, service lines and other facilities to be constructed to provide sewer  
17 service within any subdivisions to be developed within the Proposed Service Area  
18 would be financed solely by the developers thereof and subsequently dedicated to the  
19 Company thereafter.

1 Q. HAVE YOU PREPARED A FEASIBILITY STUDY IN ACCORDANCE WITH  
2 COMMISSION DIRECTIVES?

3 A. Yes. A copy of the feasibility study is attached to the Application as Appendix 3 and  
4 is attached hereto as Schedule DS-9.

5  
6 Q. WAS THIS FEASIBILITY STUDY PREPARED UNDER YOUR SUPERVISION  
7 AND DIRECTION?

8 A. Yes. I prepared much of it myself and the parts prepared by our accountant, engineer  
9 and surveyor were prepared under my supervision and direction.

10  
11 Q: WHAT IS THE COMPANY'S PROPOSED RATE STRUCTURE FOR THE  
12 PROPOSED SERVICE AREA?

13 A: The rates published in tariffs for the Platte County service area approved by the  
14 Missouri Public Service Commission will be used - monthly sewer service fee is  
15 \$34.74 and CIAC of \$2650 per equivalent dwelling unit.

16  
17 Q. DOES THE COMPANY HAVE ANY PENDING ACTIONS OR FINAL  
18 UNSATISFIED JUDGMENTS OR DECISIONS AGAINST IT FROM ANY  
19 STATE OR FEDERAL AGENCY OR COURT WHICH INVOLVE CUSTOMER

1 SERVICE OR RATES OR WITHIN THREE YEARS OF THE DATE OF THIS  
2 APPLICATION?

3 A. No.  
4

5 Q. DOES THE COMPANY HAVE ANY ANNUAL REPORTS OR ASSESSMENT  
6 FEES OVERDUE TO THE COMMISSION?

7 A. No.  
8

9 Q. ARE THERE ANY MUNICIPAL FRANCHISES REQUIRED TO BE SOUGHT  
10 BY THE COMPANY?

11 A. No. No part of the Proposed Service Area is within the boundaries of any  
12 municipalities so there is no municipal franchise required and Platte County does not  
13 require a franchise.  
14

15 Q. IS THE COMPANY CURRENTLY IN COMPLIANCE WITH THE  
16 REQUIREMENTS OF THE MISSOURI DEPARTMENT OF NATURAL  
17 RESOURCES (DNR) AND WILL THE COMPANY BE IN COMPLIANCE  
18 WITH DNR IN THE PROPOSED SERVICE AREA?

19 A. Timber Creek's present sewer system in its presently certificated areas meets all  
20 requirements of the DNR. All extensions or other plant required to serve the Proposed

1 Service Area shall also be designed and built to meet all requirements of DNR as well  
2 as the requirements of the Commission and the requirements contained in the  
3 company's rules and regulations on file with the Commission.  
4

5 **Q. ARE THERE PRESENTLY ANY PROPERTY OWNERS IN THE PROPOSED**  
6 **SERVICE AREA?**

7 A. Yes. From my review of County records, there appears to be over 150 owners of land  
8 parcels of various sizes located throughout the Proposed Service Area. Pursuant to  
9 Commission rules, we provided a list of ten such residents or land owners to be  
10 notified attached to the Application as Appendix 4. Because of a change in addresses  
11 of two of such persons, we provided an Amended Appendix 4, a copy of which is  
12 attached as Schedule DS-10. It is our understanding that each of them was notified of  
13 this application. In addition, local news stories covered the filing of the application so  
14 others have become aware of its pendency. None of the land owners nor residents has  
15 sought to intervene in opposition.  
16

17 **Q. HAVE YOU HEARD FROM ANY OF THE PROPERTY OWNERS IN**  
18 **REGARD TO THIS PROPOSAL?**

19 A. Yes. As we have stated hereinabove, at least 4 such property owners had sent letters  
20 requesting that Timber Creek provide sewer service to their properties. We have also

1 received calls inquiring about the application and none of the callers expressed any  
2 complaint. Most of the calls we received were to inquire as to how soon they could  
3 expect to receive sewer service. Some wanted to know if there would be a tax  
4 increase if the service was authorized. When they learned that it was an investor  
5 owned public utility and not a taxing entity and that they would not receive a tax  
6 increase or have to pay anything unless they subscribed to the service and then, only  
7 under the rules and regulations and rates approved by the Public Service Commission,  
8 they were quite pleased.

9  
10 **Q. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?**

11 **A. Yes.**