

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 8th day of
November, 2005.

In the Matter of the Application of Central Rivers)
Wastewater Utility, Inc, for 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 Clay County,)
Missouri.)

Case No. SA-2005-0302

**ORDER GRANTING CERTIFICATE OF
CONVENIENCE AND NECESSITY**

Issue Date: November 8, 2005

Effective Date: November 18, 2005

On March 14, 2005, Central Rivers Wastewater Utility, Inc. filed an application for a certificate of convenience and necessity to construct and operate of sewer system in Berkshire Glen subdivision, a developing and unincorporated area of Clay County, Missouri. The company states that the subdivision is owned by the Terra Group, LLC, and has 30 lots, with six known residents. The company states that there is no sewer service being offered in the proposed area; hence, there is a need for such service. With its application, the company provided a map and description of the proposed service area, a feasibility study and an engineering report for the sewer system.

Staff Memorandum

On October 25, the Staff of the Commission filed its Memorandum recommending that the Commission approve the application. Staff states that the company was

incorporated in 1997 and in 1999 was granted a certificate to provide sewer service in an area known as Countryside Meadows. Since that time four additional subdivisions have been added to the company's certificated areas. Staff also states that the wastewater will be treated using a re-circulating sand filter facility, which can consistently deliver treated water that meets environmental requirements. Additionally, the construction of the system is complete and the Department of Natural Resources has issued an operating permit for the system.

Staff informs the Commission that the company's current Commission-approved rate is \$32 per month per customer and advises that this rate should also be used for the Berkshire Glen service area. Also, while lots remain vacant the developer will subsidize the system at a rate of \$20 per lot until all lots are full. Furthermore, although the company has not filed a revised tariff, Staff advises that the company's existing depreciation rates and service charges should be used. Staff also suggests that the company's revised tariff sheets should include a map and written description of the Berkshire Glen service area. Finally, with regard to the company's tariff, Staff suggests that the tariff be filed no later than 30 days after this order is issued and that the tariff should have an effective date at least 30 days from the date the tariff is submitted.

Staff opines that there is a need for the proposed service and that the company is qualified and has the financial ability to provide the proposed sewer service. With regard to the company's financial ability, Staff states that the developer will subsidize the system by paying \$20 per vacant lot until all of the lots are full. Furthermore, the developer provides the initial investments in the system's treatment facilities and is partially reimbursed as customers connect to the system. Staff also states that the company's

proposal is economically feasible. Staff believes the company has demonstrated the technical and managerial ability to develop and operate sewer systems. This is evidenced by the company currently owning and operating four systems.

Staff further states that the proposed sewer service fulfills one of the requirements that make new home construction possible in this portion of unincorporated Clay County and concludes that this is in the public interest. Finally, Staff states that there has been very little activity with regard to customer inquiries concerning the company's operations, the company has a record of cooperation with Staff and DNR, and DNR has not issued any notice of violation to the company for any of its systems.

Discussion

Section 393.170.3, RSMo 2000, authorizes the Commission to approve an application for a certificate to operate a sewer utility if it determines that such a certificate is "necessary or convenient for the public service." In the 1994 *Tartan Energy*¹ case, this Commission recognized five criteria that should be considered when making that determination:

- 1) There must be a need for the service;
- 2) The applicant must be qualified to provide the service;
- 3) The applicant must have the financial ability to provide the service;
- 4) The applicant's proposal must be economically feasible; and
- 5) The service must promote the public interest.

Staff concludes in its Memorandum that Central Rivers' application satisfies the *Tartan Energy* criteria.

¹ *In re Tartan Energy Company*, 3 Mo. P.S.C. 3d 173, 177, (1994).

Conclusion

The company did not respond to Staff's recommendation. The Office of the Public Counsel has not voiced any concern with the company's proposal. Based on the application and the Staff's recommendation and memorandum, the Commission will approve Central Rivers' application. The Commission will also direct the company to file revised tariff sheets using its current depreciation rates and service charges.

The Commission reminds the company that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

A) The obligation to file an annual report, as established by Section 393.140(6), RSMo 2000. Failure to comply with this obligation will make the utility liable to a penalty of \$100 and an additional \$100 per day that the violation continues. Commission rule 4 CSR 240-3.360 requires water utilities to file their annual report on or before April 15 of each year. Commission rule 4 CSR 240-3.335 requires sewer utilities to file their annual report on or before April 15 of each year.

B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000. Because assessments are facilitated by order of the Commission, failure to comply with the order will subject the company to penalties ranging from \$100 to \$2,000 for each day of noncompliance pursuant to Section 386.570, RSMo 2000.

C) The obligation to provide safe and adequate service at just and reasonable rates, pursuant to Section 393.130, RSMo 2000.

D) The obligation to comply with all relevant state and federal laws and regulations, including, but not limited to, rules of this Commission, the Department of Natural Resources, and the Environmental Protection Agency.

E) The obligation to comply with orders issued by the Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, pursuant to Section 386.570, RSMo 2000.

F) The obligation to keep the Commission informed of its current address and telephone number.

This certificate is granted conditioned upon the compliance of the company with all of these obligations.

Moreover, if the Commission finds, upon conducting a hearing, that the company fails to provide safe and adequate service, or has defaulted on any indebtedness, the Commission will petition the circuit court for an order attaching the assets, and placing the company under the control of a receiver, as permitted by Section 393.145, RSMo 2000. As a condition of granting these certificates, the company hereby consents to the appointment of a temporary receiver until such time as the circuit court grants or denies the petition for receivership.

The company is also placed on notice that Section 386.310.1, RSMo 2000, provides that the Commission can, without first holding a hearing, issue an order in any case, “in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property.”

Furthermore, the company is reminded that, as a corporation, its officers may not represent the company before the Commission. Instead, the corporation must be represented by an attorney licensed to practice law in Missouri.

IT IS THEREFORE ORDERED:

1. That Central Rivers Wastewater Utility, Inc. is granted a certificate of convenience and necessity to provide sewer service to the Berkshire Glen subdivision as requested in its application.

2. That the Central Rivers Wastewater Utility, Inc.'s existing depreciation rates, service charge and customer rate of \$32.00 per month shall be applicable to the Berkshire Glen service area.

3. That Central Rivers Wastewater Utility, Inc. shall submit new and revised tariff sheets for its existing tariff, including a map and written description of the Berkshire Glen service area no later than December 8, 2005.

4. That the tariff sheets described in ordered paragraph 3 shall bear an effective date not earlier than January 7, 2006.

5. That the Staff of the Commission is authorized to conduct a rate review encompassing Central Rivers Wastewater Utility, Inc.'s entire operations, including the Berkshire Glen service area upon the availability of the company's books and records for the year 2005.

6. That this order shall become effective on November 18, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Jones, Regulatory Law Judge