

In the Matter of the Application of)
Timber Creek Sewer Company for a) **File No. SA-2010-0063**
Certificate of Convenience and Necessity)

COMES NOW Intervenor Platte County Regional Sewer District (“PCRSD”), pursuant to the Missouri Public Service Commission’s (“Commission”) Notice of Pre-Hearing Conference and Order Directing Filing (“Order”) issued in this matter on November 3, 2009, and for its Response to Staff’s Recommendation respectfully states as follows:

- According to Section 393.170.3 RSMo (2000), the Commission has the ‘power to grant [a certificate of convenience and necessity]. . . whenever it shall **after due hearing** determine that such construction or such exercise of the right, [or] privilege . . . is necessary or convenient for the public service. The Commission may by its order impose such condition or conditions as it may deem reasonable and necessary.’ (Emphasis added).

2. Staff's recommendation also notes that on September 21, 2009, Platte County Regional Sewer District filed a motion to intervene stating the "area designated by Timber Creek in its Application is presently under the jurisdiction of the Platte County Regional Sewer District and the District opposes any further extension of the service area of Timber Creek into the Platte County Regional Sewer District's jurisdiction area."

Application to Intervene of Platte County Regional Sewer District, ¶ 7. (Staff Recommendation, pages 1-2).

3. At Paragraph 7 of the Staff Recommendation, Staff recites: “**At this time**, Staff is recommending that the Commission approve the *Application* for a Certificate of Convenience and Necessity. . . .” Similarly, Paragraph 10 of the Recommendation contains the same qualifier stating: “In the Staff Recommendation attached hereto, Staff has determined that **at this time**, the Company has met all five criteria set forth in *In re Tartan Energy Company*, thus establishing a need for a CCN for the expanded service area.” (Emphasis added). Staff then renews its request for a prehearing conference, which the Commission has granted by its Order.

4. PCRSD opposes Staff’s recommendation that the Commission approve the Application for a certificate of convenience and necessity, renews its opposition to the relief requested in said Application, and requests a hearing thereon in accordance with the statutory requirement noted above. Applicant Timber Creek clearly has the burden of proof in demonstrating by substantial and competent evidence that it meets the legal standards for applicants seeking a certificate of convenience and necessity, and PCRSD submits that Timber Creek will fail to meet its burden of proof in this matter.

5. Further responding, PCRSD submits that there is presently no public need or convenience requiring the provision of services by Timber Creek in the proposed service area. It is unnecessary for Timber Creek to provide service in the proposed service area because PCRSD was organized, incorporated and specifically authorized to provide sanitary sewer collection and treatment services to the entire unincorporated area of Platte County, Missouri, including the proposed service area. PCRSD stands ready,

willing and able to provide sanitary sewage treatment services in the proposed service area whenever any property owner, landowner or developer in that area makes a request for assistance of the Regional Sewer District Board of Trustees.

WHEREFORE, in accordance with the Commission's directive, Platte County Regional Sewer District submits its response to the Staff Recommendation previously filed herein.

Respectfully submitted,

/s/ Larry W. Dority

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ATTORNEYS FOR THE PLATTE
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of November, 2009, a copy of the foregoing was served by email to the following:

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