

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

In the Matter of the Petition for an Interim Receiver)
and for an Order Directing the General Counsel) **Case No. SO-2010-0237**
To Petition the Circuit Court for the Appointment)
of a Receiver for Mill Creek Sewers, Inc.)

MOTION FOR CLARIFICATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and moves for the Missouri Public Service Commission (“Commission”) to clarify portions of its March 3, 2010 *Report And Order Appointing Interim Receiver And Directing Action For Court-Appointed Receiver* (“*Report and Order*”). For its *Motion*, the Staff respectfully states the following:

1. On February 25, 2010, the Commission held an evidentiary hearing in this matter, during which the Staff presented evidence in support of its February 11, 2010 *Petition For An Interim Receiver And For An Order Directing The General Counsel To Petition The Circuit Court For The Appointment Of A Receiver For Mill Creek Sewers, Inc., And Motion For Expedited Treatment*.

2. Due to the expedited schedule of this case, and without the benefit of a transcript, the Commission issued its *Report and Order* on March 3, 2010. Understandably, the *Report and Order* contains some factual statements that when construed in such a way can produce incorrect factual findings. The Staff seeks to obviate these possible constructions and recommends clarifications to the italicized language of concern in the paragraphs below.

3. Paragraph five (5) of the *Report and Order* states:

Since March 2008—a year before Stroud bought Mill Creek—Staff has been discussing the system’s needs with Stroud. Staff has offered advice on billing and guidance on providing safe and adequate service. In *March*, June, July and

August, Stroud failed to produce records as requested by Staff. On July 31, 2009, Stroud stated that receivership was the appropriate disposition of Mill Creek.

Staff moves to clarify Paragraph five (5) as follows:

Since December 2008, Staff has been discussing the system's needs with Stroud. Staff has offered advice on billing and guidance on providing safe and adequate service. In March of 2009, Stroud failed to produce records as requested by Staff until two weeks after the request. In June, July and August of 2009, Stroud entirely failed to produce records as requested by the Staff. On July 31, 2009, Stroud stated that receivership was the appropriate disposition of Mill Creek.

The February 25, 2010 testimony of Lisa Hanneken supports this clarification.

4. Paragraph twelve (12) of the *Report and Order* states:

Mill Creek's communication with the Staff has again ceased. *Staff's recent certified correspondence* to Mill Creek was returned unclaimed. Mill Creek has also ceased communication with customers.

The Staff moves to clarify Paragraph twelve (12) as follows:

Staff's October 23, 2009 certified correspondence to Mill Creek was returned unclaimed. Mill Creek's communication with the Staff has again ceased. Mill Creek has also ceased communication with customers.

The Staff's February 11, 2010 *Petition* and the February 25, 2010 testimony of Lisa Hanneken support this clarification.

5. Paragraph seventeen (17) of the *Report and Order* states:

Mill Creek has closed its office and its customer service number is disconnected. Without such *contacts*, customers cannot notify Mill Creek of service issues like sewage back-ups. Sewage back-ups require attention within a few hours to prevent property damage and pollution to the waters of the state.

The Staff moves to clarify Paragraph seventeen (17) as follows:

Mill Creek's customer service number is disconnected. Without such contact, customers cannot notify Mill Creek of service issues like sewage back-ups. Sewage back-ups require attention within a few hours to prevent property damage and pollution to the waters of the state.

The Staff's February 25, 2010 testimony addressed Mill Creek's current postal mail and telephone situations, and supports this clarification. These two forms of communication are the contact methods that the Company offered to its customers. Mr. Stroud did not provide an office location where customers could inquire about Mill Creek service or billing issues.

6. The Staff requests the Commission's clarified order to also be effective on March 13, 2010. As the Staff's proposed clarifications will not substantially change any response to the Commission's *Report and Order* in preparation by a party to this case, and the Staff is not requesting a change in the judgment result reached, an effective date of March 13, 2010 will not deny any party substantial rights.

WHEREFORE, the Staff requests that the Commission enter an order clarifying Paragraphs five (5), twelve (12) and seventeen (17) as suggested above, with an effective date of March 13, 2010.

Respectfully submitted,

/s/ Jennifer Hernandez

Jennifer Hernandez

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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 attorneys and/or parties of record this 8th day of March, 2010.

/s/ Jennifer Hernandez