

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

In the Matter of the Small Company Rate)
Increase Request of Mill Creek Sewers, Inc.)

Case No. SR-2005-0116

RECOMMENDATION FOR APPROVAL OF TARIFF REVISIONS

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through Counsel, and for its Recommendation for Approval of Tariff Revisions states the following to the Missouri Public Service Commission ("Commission").

PROCEDURAL HISTORY

1. On October 27, 2004, Mill Creek Sewers, Inc. ("Mill Creek") submitted to the Commission revised tariff sheets to implement an increase in its sewer service rates and charges, and the instant case was established.

2. As was stated in Mill Creek's tariff filing transmittal letter, the rates and charges contained in the subject revised tariff sheets were based upon a *Company/Staff Agreement Regarding Disposition of Small Company Rate Increase Request* ("Original Disposition Agreement") entered into by Mill Creek and the Staff, which pertained to the small company rate increase request that Mill Creek submitted to the Commission on February 20, 2002. This disposition agreement contained provisions that would result in Mill Creek submitting initial tariff revisions to implement rates that did not include a return on its investment in a sewage treatment plant; an agreement that Mill Creek would cooperate in the actions needed to realize a transfer of its sewer collection and treatment facility to a new owner under certain circumstances; and provisions for a second rate increase request if a transfer did not occur through no fault of Mill Creek.

3. On October 29, 2004, the Staff filed the above-referenced disposition agreement in this case. In addition to the disposition agreement, this filing included the following documents: example tariff sheets related to Mill Creek's initial tariff filing; the Staff's ratemaking income statement related to Mill Creek's initial tariff filing; the Staff's rate design worksheet related to Mill Creek's initial tariff filing; the agreed-upon schedule of depreciation rates to be prescribed for Mill Creek; example tariff sheets related to Mill Creek's possible second rate increase; the Staff's ratemaking income statement related to the possible second rate increase; the Staff's rate design worksheet related to the possible second rate increase; and the customer notice that would be sent to Mill Creek's customers regarding the provisions of the disposition agreement.

4. On November 1, 2004, the Staff sent a notice to Mill Creek's customers regarding the rate increase that would result from the pending subject revised tariff sheets being approved (the Staff filed a copy of the notice in this case on November 2).

5. On December 2, 2004, the Office of the Public Counsel ("OPC") filed a request for a local public hearing, based upon responses received in response to the above-referenced customer notice. In addition to its request for a local public hearing, the OPC also submitted copies of the responses to the above-referenced customer notice and the original customer notice regarding Mill Creek's Request.

6. On December 7, 2004, the Commission issued an order suspending Mill Creek's pending revised tariff sheets until April 12, 2005.

7. On December 22, 2004, the Commission issued an order setting January 24, 2005 (unless noted otherwise, all dates hereafter refer to the year 2005), as the date for a local public hearing regarding Mill Creek's Request.

8. On January 20, the Staff made its standard "informational" filing in advance of the scheduled local public hearing. In addition to information that the Staff had previously filed in the case, this filing included copies of responses to the November 1, 2004 customer notice, which had not been submitted with the OPC's filing on December 2, 2004.

9. On January 24, the public hearing for this case was held as scheduled.

10. On March 16, pursuant to the provisions of an order that the Commission issued on February 8, the parties participated in an on-the-record presentation regarding Mill Creek's Request and related matters.

11. On March 23, the Commission issued its Order Directing Filing, in which it directed the Staff to file two reports regarding the status of the potential transfer of Mill Creek's sewer collection and treatment system to the St. Louis Metropolitan Sewer District (the MSD).

12. On March 25, the Staff filed its first status report regarding the possible transfer of Mill Creek's system to the MSD, and is filing its second such status report contemporaneously with this filing.

13. Pursuant to negotiations held after the above-referenced on-the-record presentation, Mill Creek, the Staff and the OPC reached several agreements regarding Mill Creek's operations and the implementation of the subject pending revised tariff sheets, with those agreements being set out in a *Unanimous Supplemental Agreement Regarding Disposition of Small Company Rate Increase Request* ("Supplemental Disposition Agreement") that the Staff is filing contemporaneously with this filing.

14. On April 1, the Commission issued its Order Further Suspending Tariff and Setting Prehearing Conference, in which, among other things, it set April 8 as the date for a Prehearing

Conference for this case, with one of the purposes of that conference to be the parties' discussion of a possible procedural schedule for the case.

INFORMATION PROVIDED TO THE COMMISSION

15. The information normally included with the Staff's filing of its recommendation for approval of tariff revisions in small company rate cases has previously been submitted in this case, or is presented in Paragraph 16 below. For reference purposes the Commission should refer to the Staff filings made on October 29, 2004 and January 20, 2005, as well as the OPC's filing of December 2, 2004.

16. With regard to certain general information that the Staff routinely provides to the Commission in Staff recommendations the Staff notes the following: (a) with regard to the payment of its assessments, as of today's date Mill Creek has approximately \$505 in past due assessments, but has advised the Staff that a check for the past due balance was mailed on March 29; (b) with regard to its submission of its annual reports, Mill Creek is current on its past reports and has acknowledged in the Supplemental Disposition Agreement that it must file its CY2004 report by April 15; (c) with regard to its CY2004 annual statement of revenues, Mill Creek has acknowledged in the Supplemental Disposition Agreement that its CY2004 operating revenues are \$4,400; (d) with regard to compliance matters involving the DNR, the Staff notes that it is not aware of any outstanding compliance issues regarding Mill Creek's operations; and (e) with regard to Mill Creek's corporate status, the Staff notes that Mill Creek is currently in good standing with the Secretary of State.

THE SUPPLEMENTAL DISPOSITION AGREEMENT

17. The Supplemental Disposition Agreement for this case includes provisions regarding the concerns expressed by Mill Creek's customers through responses to the customer notices and during the local public hearing, and certain items that the Staff has identified as concerns since the

time the Original Disposition Agreement was executed, which were discussed during the March 16 on-the-record presentation for this case. In addition to addressing these concerns, this agreement also includes provisions that would effectively make the pending revised tariff sheets interim in nature, if they are approved under the terms of the agreement.

STAFF'S RECOMMENDATIONS

18. Based upon the above, the information previously filed in this case, and the assumption that Mill Creek's payment of its past due assessments is received at the Commission's office in the very near future, the Staff recommends that the Commission issue an order that:

- (a) Approves Mill Creek's pending revised tariff sheets to be effective for service rendered on and after April 12, 2005;
- (b) Directs Mill Creek to comply with the provisions of the Original Disposition Agreement submitted in this case, to the extent those provisions have not been modified by the Supplemental Disposition Agreement submitted in this case;
- (c) Directs Mill Creek to comply with the provisions of the Supplemental Disposition Agreement submitted in this case; and
- (d) Prescribes the depreciation rates set out in Attachment D to the Original Disposition Agreement as the depreciation rates authorized for Mill Creek's use.

19. Lastly, in light of the filing of the Supplemental Disposition Agreement, the Staff's second Status Report regarding the potential transfer of Mill Creek's system to the MSD, and this Staff recommendation, the Staff respectfully requests that the Commission give consideration to the matter of whether the Prehearing Conference currently scheduled in this case for April 8 continues to be necessary.

WHEREFORE, the Staff respectfully submits its Recommendation for Approval of Tariff Revisions for the Commission's consideration in this case.

Respectfully Submitted,

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/s/ Cliff E. Snodgrass

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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 1st day of April 2005.

/s/ Cliff E. Snodgrass

Cliff E. Snodgrass