

**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

STAFF'S STATUS REPORT

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its Status Report on Mill Creek Sewers, Inc. (Company) states the following:

1. On September 29, 2005, the Commission issued its *Order Approving Tariff and Agreement* approving an increase in the Company's monthly sewer rate effective October 12, 2005. The Commission also ordered the Staff to file status reports.
2. Attached as Attachment A, hereto, is the Staff's Seventh Quarterly Status Report outlining the Company's activities for the months of September, October, and November 2008.

WHEREFORE, the Staff respectfully submits Staff's Seventh Quarterly Status Report for the Commission's information and consideration in this case.

Respectfully submitted,

/s/ Shelley Syler Brueggemann

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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 counsel of record and/or parties of record this 12th day of December 2008.

/s/ Shelley Syler Brueggemann

**Public Service Commission Staff's Seventh Quarterly Status Report for
Mill Creek Sewers, Inc.**

Case No. SR-2005-0216

December 12, 2008

Prepared by Lisa Hanneken

ORDER REGARDING STATUS REPORTS

As part of its Order Regarding Status Reports (Order), effective April 3, 2007, the Commission granted the Staff permission to reduce the frequency of filing of its Status Reports for Mill Creek Sewers, Inc. (Mill Creek or Company) from a monthly basis to a quarterly basis. Staff's last monthly Mill Creek status report was filed on March 15, 2007 and the first quarterly status report was filed on June 15, 2007. Also, as part of its Order, the Commission directed the Staff to immediately notify the Commission if at any time changes are made regarding the operation or management of Mill Creek, particularly a change in the management company from Testing, Analysis and Control, Inc. (TAC) to a different entity.

CURRENT STATUS OF MILL CREEK'S OPERATIONS

Staff noted, in its last quarterly report filed September 30, 2008, a change in the day-to-day management of Mill Creek. On August 28, 2008 the Staff received a faxed letter from Mr. Jim Holmes, who had been employed as the office manager of Mill Creek, informing them that he had resigned effective immediately. In addition, during its last quarterly review on September 11, 2008 Staff was introduced to the person which Mill Creek's owner, Mr. Joseph Afshari had hired as a new office manager, Mrs. Marilyn Wyatt. As reported in Staff's last quarterly report, Mrs. Lisa Hanneken and Ms. Lisa Ferguson from Staff's auditing department worked with Mrs. Wyatt to assist her with learning her new duties as office manager for Mill Creek.

Since the time of Staff's last quarterly report, Mrs. Hanneken and Ms. Ferguson, have met with or had phone discussions with Mrs. Wyatt numerous times. Staff has provided Mrs. Wyatt with vendor lists, procedure guidelines, A/P timelines, etc.; as well, as giving assistance on preparing customer bills, resolving customer billing problems, and general bookkeeping instruction.

During Staff's current review on December 1-2, 2008, Staff was informed of the possibility of a sale of the property to Mr. Charlie Stroud, a civil engineer. Mr. Stroud was head of the water and sewer operations in Liberty, Missouri for several years, so he is well versed in sewer operations. Mr. Stroud is currently assessing the system and has not made a decision as to whether he wishes to purchase it or not. The Staff will continue to monitor these negotiations and will report any new developments to the Commission should they occur.

INFORMATION REGARDING CUSTOMER BILLINGS

Since the time of the Staff's previous quarterly status report filed September 30, 2008, Mill Creek has issued additional customer billings. On or about September 16, October 1 and November 1, 2008, Mill Creek issued its thirty-fourth, thirty-fifth and thirty-sixth customer billing under its new rates, for service provided during the months of August, September, and October 2008 respectively. As previously discussed in Staff's last report, due to the transition to the new office manager the thirty-fourth billing did not take place until September 16th for service provided during the month of August 2008.

STAFF'S REVIEW OF MILL CREEK'S BOOKS AND RECORDS AND CONCLUSIONS REGARDING MILL CREEK'S USE OF ITS FUNDS

As previously discussed, Mrs. Hanneken and Ms. Ferguson of the Auditing Department's St. Louis Office visited Mr. Afshari's office on December 1-2, 2008 and reviewed all available Mill Creek books and records to determine if the Company's use of the funds that were collected from its September 16, October 1 and November 1, 2008 customer billings complied with the provisions of the Second Supplemental Agreement applicable to that matter.

Based on this review of the books and records and additional investigation, Staff determined Mill Creek had appropriately spent the customer funds collected from its the aforementioned customer billings on the following items: (1) payment for operations and maintenance of the wastewater treatment plant; (2) payment for electricity expense; (3) compensation paid to Marilyn Wyatt, Mill Creek's office manager, for customer billing and office manager duties; (4) payment for telephone expense; (5) payment for postage; (6) payment to Metropolitan Sewer District for storm drain service; and (7) payment for office supplies.

Presently, Mill Creek is current on all payments, with the exception of its annual fees to DNR, its St. Louis County personal property taxes and its Missouri Public Service Commission assessment (quarterly payment due in October). Each of these are discussed in greater detail below. The Company is not in a position at this time to pay all of these outstanding balances, but will need to budget for these items and make payments as the funds are available to them.

INFORMATION REGARDING PAST-DUE ACCOUNT BALANCES AND COLLECTION EFFORTS PERTAINING TO CERTAIN OF THOSE ACCOUNTS

As of November 30, 2008, Mill Creek's customer account past-due balances totaled approximately \$3,798.08. Seven of Mill Creek's current customers are responsible for \$2,282 (approximately 60%) of this total. Mrs. Wyatt is looking into collection options for the most severely delinquent customers. One past due account is responsible for approximately \$753 (approximately 20%) of the total, however this is a former customer who no longer lives in the service area. Mill Creek is still attempting to collect the past-due balances for this account from the real estate title company. The remaining amount of past due amounts pertain to small past due balances owed by various customers.

A historical summary of Mill Creek's total past-due account balances, which include the outstanding balances related to title company matters, is set out below, with the amounts shown being rounded to the nearest \$5 increment.

Balance at October 31, 2005	\$10,445
Balance at November 30, 2005	\$8,775
Balance at December 31, 2005	\$7,100
Balance at January 31, 2006	\$7,185
Balance at February 28, 2006	\$6,825
Balance at March 31, 2006	\$6,535
Balance at April 30, 2006	\$6,260
Balance at May 31, 2006	\$4,995
Balance at June 30, 2006	\$4,670
Balance at July 31, 2006	\$4,875
Balance at August 31, 2006	\$4,945
Balance at September 30, 2006	\$5,010
Balance at October 31, 2006	\$5,030
Balance at November 30, 2006	\$5,615
Balance at December 31, 2006	\$6,455
Balance at January 31, 2007	\$6,100
Balance at February 28, 2007	\$5,720
Balance at March 31, 2007	\$4,745
Balance at April 30, 2007	\$5,110
Balance at May 31, 2007	\$5,500
Balance at June 30, 2007	\$5,740
Balance at July 31, 2007	\$5,970
Balance at August 31, 2007	\$4,990
Balance at September 30, 2007	\$4,915
Balance at October 31, 2007	\$5,050
Balance at November 30, 2007	\$4,890
Balance at December 31, 2007	\$4,980
Balance at January 31, 2008	\$3,850
Balance at February 29, 2008	\$4,110
Balance at March 31, 2008	\$4,175
Balance at April 30, 2008	\$3,955
Balance at May 31, 2008	\$4,090
Balance at June 30, 2008	\$4,610
Balance at July 31, 2008	\$4,450
Balance at August 31, 2008	\$3,535
Balance at September 30, 2008	\$3,505
Balance at October 31, 2008	\$3,420
Balance at November 30, 2008	\$3,800

The Staff will continue to work with Mrs. Wyatt and also monitor the progress of Mill Creek's collection efforts regarding its past-due customer accounts, will assist the Company in those

efforts as deemed appropriate and will include updates regarding this matter in its future quarterly status reports.

CUSTOMER SERVICE COMPLAINTS AND INQUIRIES

A review of the Consumer Quality data base in the Commission's electronic filing and information system (EFIS) revealed that there were no customer service complaints or inquiries made since the time of the last quarterly review that was conducted in June 2008.

However, as discussed in Staff's last quarterly report, an email to the Missouri Public Service Commission (PSC) and the Attorney General's Office was received from a Mill Creek customer on August 21, 2008 regarding a sewer back-up that occurred some time ago. The customer was requesting assistance in obtaining reimbursement of clean-up expenses as well as consideration for damages to property. The Staff believes that the PSC does not have jurisdiction over the Company involving a matter of reimbursement for damages, but did speak with Mr. Holmes to discuss the concept of good customer relations. Subsequently when Staff met with Mrs. Wyatt regarding this matter it was suggested that she speak with Mr. Afshari regarding the possibility of reaching an agreement with this customer. To date, Mr. Afshari has not made an effort to resolve this situation with the customer.

TESTING, ANALYSIS & CONTROL, INC. (TAC)

TAC continues to maintain and monitor the system, as well as ensuring compliance with DNR standards.

COMMERCIAL GENERAL LIABILITY INSURANCE

As discussed in Staff's last quarterly report, Staff has recommended to the Company that they should obtain liability insurance and Mrs. Wyatt had agreed to investigate insurance coverage for Mill Creek's operations. Currently the Company is obtaining quotes for insurance.

DNR OPERATING PERMIT FEES

The Missouri Clean Water Law requires that all sewer utilities pay an annual operating permit fee to The Missouri Department of Natural Resources (DNR) for each wastewater treatment plant that discharges to the waters of the State, with that permit fee normally being based on the design flow of each particular treatment plant. Mill Creek is assessed \$2,500 annually for this permit fee based on the design flow of its wastewater treatment plant. As recently as August 2006, Mill Creek owed DNR approximately \$10,000 for past due operating permit fees and related late fees. Since that time Mill Creek has made significant progress towards paying for this past due balance owed.

The Company currently owes \$2,500, plus a \$150 late fee to DNR for its 2008 operating permit fee. Mill Creek needs to continue to budget its expenses in order to address the amounts owed to DNR for its current past due annual operating permit fees.

PERSONAL PROPERTY TAXES

Recently, Mill Creek received from the St. Louis County Collector of Revenue, a personal property tax bill for approximately \$8,515. Of this amount, \$7,529 represents a past due balance which continues to accrue interest. This past due balance reflects delinquent amounts owed from five prior years' assessments, for taxes pertaining to Mill Creek's plant facilities. Staff contacted the collector's office during the last quarterly review and was told that the Collector plans to start its collection and court process with regard to this past due bill.

In addition to non-payment, the Company has also not submitted its declaration forms for the past 6 years, which prevents it from seeking any recourse on the taxes owed. In the past, Mr. Holmes had contended that the tax bill was inaccurate given the fact that the amount of assessment was an estimated amount and thought the property should be reassessed. However, when speaking with the taxing authority, they indicated that because the declarations had never been sent indicating what type of property was present and the Company had not requested a reassessment, they could not change the previous tax amounts, but could on a going-forward basis if the Company were to ask for a reassessment and submit its required declaration. Staff has recommended to the new office manager that she or Mr. Afshari should contact the taxing authority to address the assessed value issue and to submit all necessary documents.

Mill Creek will need to budget its expenses in order to pay for any outstanding balance that is owed to St. Louis County Collector of Revenue for the personal property taxes, much in the same way as it has previously done to address its large past due balances owed to DNR.

INCOME TAXES

As discussed in its last quarterly status report, Staff noted that the Company had received requests from taxing authorities requesting past tax filings. During its current review Staff was made aware of additional documents from taxing authorities requesting forms to be filed. Specifically, the Company received a request from the Internal Revenue Service requesting the Company's tax returns for calendar years ending December 31, 2006 and 2007. In addition, the Company received a letter from the Missouri Department of Revenue Taxation Bureau stating they have not received an Income tax or Franchise Tax filing for years 2001, 2002, or 2003. The letter also states that the department has no record of any filings for the Company.

The Staff has repeatedly informed Mr. Afshari that this situation should be looked into and resolved, however to date Staff has been unable to determine if a resolution has been attained or what plan Mr. Afshari has to address these circumstances.