

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Timber Creek Sewer Company, Inc.'s) **Case No. SR-2008-0080**
Tariff Designed to Increase Rates for Sewer Service.) **Tariff No. YS-2008-0171**

ORDER APPROVING UNANIMOUS STIPULATION AND AGREEMENT

Issue Date: January 29, 2008

Effective Date: February 1, 2008

Timber Creek Sewer Company submitted a request on March 22, 2007, for an increase in its total annual sewer service operating revenues and for an increase in its Contribution in Aid of Construction (CIAC) connection fee from \$1,600 to \$3,200. The request was submitted through the Commission's small company rate case procedure. After the Staff of the Commission conducted an audit, it recommended the CIAC connection fee be \$2,650.

On October 16, 2007, Hunt Midwest Real Estate Development, Inc., was granted intervention in this matter. Hunt Midwest objected only to the increase in the CIAC. The Commission approved the operating revenues and approved the \$2,650 CIAC fee as “interim subject to refund” pending a hearing on the CIAC connection fee.

The parties filed a Unanimous Stipulation and Agreement on January 4, 2008, purporting to settle all the issues in this case and waiving their respective rights to a hearing. As part of the agreement, the parties agree that the connection fee applicable to each of the 47 lots in Hunt Midwest's Running Horse Phase 3 Subdivision shall be \$1,600. Hunt Midwest agrees to pay the entire amount for these lots within three business days of the effective date of the Commission's order approving the stipulation. After approval, Hunt

Midwest will move the Commission to approve Timber Creek's interim CIAC fee tariff on a permanent basis. Timber Creek agrees not to seek reimbursement from the ratepayers in any future rate increase request for the difference between the \$2,650 interim CIAC connection fee and the agreed-to CIAC connection fee of \$1,600 for those 47 lots.

The Commission has the legal authority to accept a stipulation and agreement as offered by the parties pursuant to Section 536.060, RSMo 2000. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence.¹ The parties, as part of their agreement, have waived their rights to a hearing in this matter. Therefore, the Commission may grant the relief requested based on the agreement.

On January 23, 2008, Timber Creek filed a motion requesting that the Commission expeditiously review the Unanimous Stipulation and Agreement so that the CIAC fee could be made permanent in its tariffs by February 1, 2008. Since no party is objecting to the approval of the agreement, the Commission will grant the motion with regard to reviewing the agreement expeditiously. However, in order to give sufficient time for requests for rehearing of this matter, the Commission cannot make the CIAC rate permanent by the date requested, but will do so as soon thereafter as is practicable.

The Commission finds that the agreement is reasonable and it shall be approved.² The CIAC charge which was previously approved as "interim subject to refund"

¹ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

² The Commission notes that its approval of this agreement is based on the specific facts of this case. Any future agreement with regard to similar issues will be determined based on the specific facts in that case.

is made permanent as directed below. The parties are directed to comply with the terms and recommendations set out in the agreement.

IT IS ORDERED THAT:

1. The Unanimous Stipulation and Agreement is approved.
2. The parties are directed to comply with the terms of the Unanimous Stipulation and Agreement.
3. The rate for Contribution in Aid of Construction shall be \$2,650 effective on February 7, 2008.
4. This order shall become effective on February 1, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Nancy Dippell, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 29th day of January, 2008.