

**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-**  
To Petition the Circuit Court for the Appointment )  
of a Receiver for Mill Creek Sewers, Inc. )

**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**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), and for its *Petition* requesting the Missouri Public Service Commission (“Commission”) to appoint an interim receiver for Mill Creek Sewers, Inc. (“Mill Creek” or “Company”), authorize a circuit court action, and allow expedited treatment respectfully states the following:

1. Mill Creek’s sewer system currently serves approximately seventy-five (75) residential customers in Castlereagh Estates, Saint Louis, Saint Louis County, Missouri.
2. The above-mentioned case arises as a result of Staff’s monitoring of Mill Creek in Case No. SR-2005-0116, the Company’s continued inability and/or unwillingness to provide safe and adequate service to the customers of the sewer system, and Company actions effectively abandoning the sewer system.
3. Pursuant to Section 393.145.1 RSMo (Supp. 2009)<sup>1</sup>, in the event a sewer corporation that regularly provides service to less than eight thousand customers is unable or unwilling to provide safe and adequate service or has been actually or effectively abandoned, the Commission may, after hearing, order its General Counsel to petition the circuit court for the appointment of a receiver. Further, Section 393.145.2 RSMo allows the Commission to appoint

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<sup>1</sup> All statutory references are to the Missouri Revised Statutes as currently supplemented unless otherwise indicated.

an interim receiver to serve until such time as the circuit court determines whether to appoint a receiver.

4. Mill Creek is a “sewer corporation” and a “public utility” as Section 386.020 (49) and (43) RSMo, respectively, defines those terms. The Commission granted Mill Creek a Certificate of Convenience and Necessity on May 7, 1973. As indicated on Mill Creek’s 2009 Annual Report filed with the Commission, and the 2009 Annual Registration Report submitted to the Secretary of State, the Company’s principal place of business is located at 1208 Mead Drive, St. Louis, MO 63137, and its registered agent is Charles L. Stroud. Mr. Stroud’s registered office is Mill Creek’s principal place of business, however, the Staff’s recent certified correspondence to that address was unclaimed and returned. The Staff has successfully sent notice to Mill Creek at P.O. Box 38787, Saint Louis, MO 63138, the mailing address listed on the Company’s 2009 Annual Report filed with the Commission.

5. In March 2009, the Staff received notice that Mr. Stroud and Joseph Afshari, the former President and owner of Mill Creek, reached a sale agreement for the purchase of the Company. Mr. Afshari did not file a transfer of assets case with the Commission. However, after review of the agreement for sale, property certificate of value, and a general warranty deed, the Staff is of the opinion that Mill Creek still holds the assets of the Company, and as the assets remain with the entity certificated by the Commission, the transfer did not necessitate the filing of a case prior to the sale.

6. Based on the information the Staff obtained from the Missouri Department of Natural Resources (DNR), Mill Creek’s operating permit expired in July of 2008 and the Company has a past balance for permit fees. Mill Creek has submitted a renewal application to

DNR. The Staff understands that DNR awaits the submission of a change of owner form in order to process the application .

7. Mill Creek is delinquent in the payment of the Commission's fiscal year 2010 assessment in the amount of \$3,286.68.

8. Mill Creek filed its 2008 annual report on August 19, 2009. Mr. Stroud, the Company's current President and owner, verified total 2008 operating expenses in the amount of \$38,815.49, and annual revenues of \$29,282.35, for a loss of \$9,533.14 in 2008.

9. Mill Creek failed to bill its customers for the service months of February, March, April, September, October, November, and December 2009. Therefore, Mill Creek has not received income for that same period to manage its service costs.

10. The current operator of the sewer system is Testing-Analysis & Control, Inc (TAC). The last payment received by TAC for service was on September 11, 2009. The account is now considered past due.

11. Mill Creek receives electric service from Union Electric Company d/b/a AmerenUE. The Company's account is considered past due, and service may be disconnected at any time due to non-payment.

12. Additionally, Mill Creek remains delinquent in other obligations, including payment for phone service and certain tax obligations.

13. On October 23, 2009, the undersigned sent certified correspondence to Mill Creek Sewer, Inc., and Mr. Stroud asserting the position that the system is no longer providing safe and adequate service, and is abandoned due to the lack of communication with not only the Staff of the Commission, but the system's customers. The Staff provided a demand date of November 13, 2009, for Mr. Stroud to contact the Staff's counsel, to discuss a plan for timely

addressing and resolving the provision of account receivable information to the Staff, as well as the maintenance, billing, and general operational concerns discussed with the Company in August. It was made clear that failure to acknowledge receipt of this letter and to contact Staff would result in the Staff Counsel's Office filing receivership proceedings with the Commission.

14. On December 8, 2009, the Staff filed a petition and motion in SR-2005-0116, requesting the Commission appoint an interim receiver, grant the General Counsel authority to petition the circuit court for the appointment of a receiver, and allow expedited treatment in the matter. On December 9, 2009, the Commission granted the Staff's motion and set an evidentiary hearing for January 5, 2010 in that matter.

15. On December 31, 2009, Mr. Stroud contacted the undersigned regarding the scheduled evidentiary hearing. Mr. Stroud expressed a willingness to work with the Staff on a detailed and compressed schedule to resolve the Company's outstanding issues. On January 4, 2010, after reaching an agreement in principle, the Staff filed on its behalf, and that of Mr. Stroud as owner of Mill Creek, a *Motion to Stay Evidentiary Hearing*.

16. On January 19, 2010, the Staff met with Mr. Stroud at Mill Creek's office. Mr. Stroud was unable to produce the requested billing registers, check register, bank statements, deposit slips, vendor invoices, as well as other items requested.

17. Mill Creek has failed to comply with the agreed-upon schedule of compliance and the Company's communication with the Staff has once again stopped.

18. Mill Creek and Mr. Stroud have effectively abandoned the sewer system, and the owner is unwilling and/or unable to operate the system. Safe and adequate service is in jeopardy. The Staff recommends the Commission appoint Jason Williamson, President of Heartland Utilities, LLC, as an interim receiver to control and be responsible for Mill Creek

Sewers, Inc., at a monthly fee of \$800.00, until the circuit court makes its determination in this matter.

19. The Staff requests for the Notice of this matter to include the requirements of Commission Rule 4 CSR 240-2.040 (5).

**Motion for Expedited Treatment**

20. The Staff respectfully requests that the Commission expedite this case and set a hearing for the afternoon of February 25, 2010. Mill Creek and Mr. Stroud have effectively abandoned the sewer system, and Mr. Stroud is unwilling and/or unable to operate the system. Safe and adequate service is in jeopardy without proper management of the sewer system.

21. The Staff filed this pleading as soon as possible after it determined that Mill Creek and Mr. Stroud failed to meet the agreed upon compliance schedule, communications with the Staff stopped, and the Company appeared to be effectively abandoned.

**WHEREFORE**, the Staff prays for the Commission to enter an order 1) expediting this matter for hearing on the afternoon of February 25, 2010; 2) appointing Jason Williamson, President of Heartland Utilities, LLC, to control and be responsible for Mill Creek Sewers, Inc., at a monthly fee of \$800.00 until the Commission's resolution of this petition, and the Circuit Court makes its determination in any petition made by the General Counsel's Office in this matter.

Respectfully submitted,

**/s/ Jennifer Hernandez**

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