

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 29th day
of September, 2005.

In the Matter of the Small Company Rate)	<u>Case No. SR-2005-0116</u>
Increase Request of Mill Creek Sewers, Inc.)	Tariff No. YS-2005-0330

ORDER APPROVING TARIFF AND AGREEMENT

Issue Date: September 29, 2005

Effective Date: October 9, 2005

On October 27, 2004, Mill Creek Sewers, Inc., requested approval from the Missouri Public Service Commission to revise its tariff. The tariff had an effective date of December 13, 2004. Mill Creek serves approximately 75 customers who currently pay \$5.00 per month for sewer service. The proposed tariff raises the amount customers would pay to \$30.11. As reflected in an agreement between the Staff of the Commission and Mill Creek Sewer, \$26,741/year, rather than the current \$4,440/year, is needed to properly run the system. The increase does not include a return on the rate base, but reflects only the necessary costs.

Upon receiving a number a written customer complaints, through the Office of the Public Counsel, the Commission suspended the tariff in order to allow time for a local public hearing. The Commission held the local public hearing on January 24, 2005.

Due to the testimony of Mill Creek's customers, concerning complaints ranging from damaged real property and sewage backup to the lack of customer service and customers having to repair the sewage system because the owner was either unwilling or unable to do

so, the Commission was reluctant to grant an increase under the current ownership and further suspended the tariff, which now has an effective date of October 12, 2005. This suspension was also put in place in light of Staff informing the Commission that the St. Louis Metropolitan Sewer District (MSD) was interested in purchasing Mill Creek.

While MSD pondered its interest in Mill Creek, the Commission directed its Staff to file weekly reports on the condition of Mill Creek, with the intent of making the system fully operational. Recently, however, the Commission was informed that MSD has no immediate interest in purchasing Mill Creek, at least not prior to the tariff effective date of October 12, 2005. Through the efforts of Staff, particularly Steve Loethen, and with the cooperation of the owner of Mill Creek, Joseph Afshari, the system is operational. Further Mr. Afshari has contracted with Testing Analysis and Control to operate the facility. As indicated in a pleading filed by Mill Creek on September 28, Testing Analysis and Control will also consider entering into a contract with Mill Creek to control the financial operations of the company. However, Testing Analysis and Control will not consider such a contract unless the Commission approves the proposed tariff, which will provide the company with the necessary revenue to properly operate Mill Creek.

Although the Commission would rather that someone other than Mr. Afshari be financially responsible for Mill Creek, this option is not reasonable in light of the time constraint placed on the Commission of the effective date of the tariff. Aware that Testing Analysis and Control is interested in being financially responsible for Mill Creek, the Commission finds some solace in an entity other than Mr. Afshari being financially responsible for Mill Creek. The Commission will, however, continually and actively seek a replacement for Mr. Afshari.

Section 393.130.1 requires every sewer company to provide safe and adequate service. Section 393.140(2) charges the Commission with the responsibility to investigate the condition of sewer companies under its jurisdiction and empowers the Commission to order reasonable improvements “as will best promote the public interest, preserve the public health and protect those using such . . . sewer system.” The Commission is therefore faced with the dilemma of granting the rate increase under the current ownership or rejecting the tariff and putting the customers of Mill Creek at risk of receiving unsafe and inadequate sewer service. The Commission finds that \$30.11 per month/customer is just and reasonable and necessary to sustain the ongoing costs to operate Mill Creek Sewer safely and adequately. The Commission will therefore approve the proposed tariff, Tariff No. YS-2005-0330.

The Commission has also reviewed the Agreement Regarding Disposition of Small Company Rate Increase Request (including the two supplemental agreements) between Staff, Public Counsel, and Mill Creek, and finding the agreement reasonable will approve it. The Commission shall also direct its Staff to file monthly reports as indicated in the agreement. Lastly, the Commission shall direct its Staff to file a complaint if it finds that the operational funds of Mill Creek are being misused.

IT IS THEREFORE ORDERED:

1. That the following tariff sheet, filed by Mill Creek Sewer, Inc., and assigned Tariff No. YS-2005-0330, is approved for service rendered on or after October 12, 2005:

P.S.C. MO No. 1
3rd Revised Sheet No. 4, replacing 2nd Revised Sheet No. 4

2. That the Agreement Regarding Disposition of Small Company Rate Increase Request, including the two supplements, is approved.

3. That all parties to the Agreement, including the supplements, are directed to comply with its terms.

4. That the Staff of the Commission shall file monthly reports as indicated in the Agreement.

5. That the Staff of the Commission shall file a complaint if it finds that the operational funds of Mill Creek Sewers, Inc., are being misused.

6. That this order shall become effective on October 9, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, and Appling, CC.,
concur.

Gaw and Clayton, CC., dissent, with
joint dissenting opinion to follow.

Jones, Regulatory Law Judge