

MEMORANDUM

**Case No. SO-2011-0012– RDG Development, LLC
Application to Sell Sewer Assets**

TO: Missouri Public Service Commission Official Case File

FROM: Jerry Scheible, P.E., Utility Regulatory Engineer- Water & Sewer Department

/s/ Jerry Scheible
Project Coordinator

October 5, 2010

/s/ Sarah Kliethermes
Staff Counsel's Office

October 5, 2010

SUBJECT: Staff Recommendation Regarding the Application of RDG Development, LLC to Sell its Sewer Assets in Callaway County, Missouri to Greenwood Hills Homeowners Association, in Callaway County, Missouri.

DATE: October 5, 2010

CASE FILING SUMMARY

On July 12, 2010 (unless noted otherwise, all dates herein refer to the year 2010), RDG Development, LLC (RDG or Company) filed an Application with the Commission seeking to sell its sewer utility assets to Greenwood Hills Homeowners Association (Greenwood Hills HOA). Greenwood Hills HOA is organized in a manner consistent with the HOA system that was the subject of Commission Case No. WD-93-307, "Rocky Ridge," in which the Commission concluded that HOAs organized consistent with the "Rocky Ridge Criteria," are not within the Commission's jurisdiction.

On July 14, the Commission issued its *Order and Notice*, allowing until August 3 for applications to intervene. The Commission did not receive any intervention requests.

On August 9, the Commission issued its *Order Directing Filing*, in which it issued Staff a deadline of September 8 to file its Recommendation or a Status Report.

On September 8, Staff filed a Status Report in which it anticipated filing its Recommendation on or before October 8.

BACKGROUND

A Certificate of Convenience and Necessity (CCN) was issued by the Commission to RDG on December 9, 2009, to provide sewer service (Case No. SA-2010-0096). The area served is the Greenwood Hills subdivision in Callaway County, Missouri. RDG currently provides sewer service to approximately thirty-three (33) residential customers. The sewer tariff currently on file is designated Tariff No. YS-2010-0397.

Sewer service is provided by a centralized wastewater treatment facility consisting of a two-cell lagoon system with no aeration or disinfection components. The facility operates under Missouri Department of Natural Resources (DNR) Permit Number MO-0121274. The current permit contains a Schedule of Compliance (SOC) that requires disinfection to be added to the lagoon discharge by August of 2011. Greenwood Hills HOA is aware of the requirement and has established a financial plan to comply with the SOC.

The Company is current with regard to filing its annual reports and paying annual assessments with the Commission.

TRANSFER OF OWNERSHIP DETAILS

The buyer, Greenwood Hills HOA, intends to purchase all the assets of the sewer system from RDG. The closing of the sale is to take place within thirty (30) days of the effective date of a Commission Order approving the sale. Upon closing and Commission approval, Greenwood Hills HOA will take over the rendition of sewer service, without interruption, to the current customers.

Greenwood Hills HOA was created in 2010 as a non-profit corporation and is in good standing with the Missouri Secretary of State (SOS). The corporation was organized to manage common property in the subdivision, which will include the sewer system upon the transfer of ownership. After review of Greenwood Hills HOA creation filings with the SOS, the Articles of Incorporation, and the HOA Bylaws (Attachment A), Staff believes that the HOA is organized in a manner consistent with the HOA system that was the subject of Commission Case No. WD-93-307, “Rocky Ridge,” in which the Commission concluded that HOAs organized consistent with the “Rocky Ridge Criteria,” are not within the Commission’s jurisdiction.

RDG is currently authorized to charge \$40.06 per month per residential sewer customer in the effective tariff. Greenwood Hills HOA is proposing to charge each residence “association dues” of \$40 per month. The dues collected will include sewer service as well as maintenance of other subdivision property. This similar charge will result in no immediate rate impact on the customers. The customers voted to approve Greenwood Hills HOA acquiring the assets of the sewer system and the proposed fee structure at an HOA meeting held on September 9.

The impact upon the tax revenues in Callaway County, Missouri by the proposed sale of assets should be negligible as both RDG and Greenwood Hills HOA will be assessed property tax at the same rate on the assets.

STAFF'S CONCLUSION

The Staff, based upon its review, believes that the proposed sale and transfer of assets is not detrimental to the public interest, and therefore recommends approval.

STAFF'S RECOMMENDATIONS

Based upon the above, Staff recommends that the Commission issue an order that:

- 1) Grants RDG Development, LLC the authority to sell and transfer all of its sewer utility assets to Greenwood Hills Homeowners Association as requested in the *Application*;
- 2) Makes no ratemaking determination regarding any potential future regulatory oversight, if any;
- 3) Requires the parties to submit notice to the Commission regarding evidence of the transfer of assets to Greenwood Hills Homeowners Association within three (3) business days after the transfer and Commission approval is effective;
- 4) After the above notice of transfer is received, requires the parties to file a motion requesting the Certificate of Convenience and Necessity held by, and sewer tariff YS-2010-0397 on file for, RDG Development, LLC be cancelled, and grant such request. Should such notice not be received within sixty (60) days of the Commission Order granting the transfer of ownership, ownership of the utility and responsibility to provide sewer service shall revert back to RDG Development, LLC and this case shall be closed; and,
- 5) Clarifies that RDG Development, LLC is not authorized to cease providing sewer services to customers in its service area until the Commission issues an order cancelling its Certificate of Convenience and Necessity and its associated sewer tariff.