

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of	)	
Timber Creek Sewer Company, for	)	
Permission, Approval, and a Certificate	)	
of Convenience and Necessity	)	
Authorizing It to Construct, Install,	)	Case No. SA-2010-0100
Own, Operate, Control, Manage and	)	
Maintain a Sewer System for the	)	
Public, Located in an Unincorporated	)	
Area in Clinton County, Missouri	)	

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and submits its *Staff Recommendation* as follows:

1. On September 21, 2009, Timber Creek Sewer Company (Timber Creek or Applicant) filed an *Application* with the Missouri Public Service Commission (Commission) seeking permission, approval, and a certificate of convenience and necessity authorizing Applicant to install, acquire, build, construct, own, operate, control, manage, maintain and extend a sewer system for the public within the Proposed Service area in Clinton County, Missouri. The Commission initially approved Timber Creek's Certificate of Convenience and Necessity in Case No. SA-95-110.

2. On September 22, 2009, the Commission filed *Notice of Application, and Order Setting Deadline for Intervention and Directing Staff to File Recommendation*. The deadline for invention was October 13, 2009. Staff was ordered to file a recommendation no later than October 20, 2009.

3. On October 20, 2009, Staff filed a *Motion for Extension of Time* seeking additional time to gather facts to make its determination until November 13, 2009.

4. Staff is recommending that the Commission approve the *Application* for the expanded Certificate for Convenience and Necessity. See *Staff Memorandum* attached hereto as Exhibit 1.

5. According to Section 393.170.3 RSMo (2000), the Commission has the “power to grant [a certificate of convenience and necessity]. . . whenever it shall after due hearing determine that such construction or such exercise of the right, [or] privilege . . . is necessary or convenient for the public service. The Commission may by its order impose such condition or conditions as it may deem reasonable and necessary.”

6. The Commission established five criteria in *In re Tartan Energy Company*, 3 Mo. P.S.C. 3d 173, 177 (1994) that should be considered when making a determination in an application case; (1) there must be a need for the service; (2) the applicant must be qualified to provide the service; (3) the applicant must have the financial ability to provide the service; (4) the applicant’s proposal must be economically feasible; and (5) the service must promote the public interest.

7. In the *Staff Memorandum* attached hereto, Staff has determined that the Company has met all five criteria set forth in *In re Tartan Energy Company*, thus establishing a need for a CCN for the expanded service area.

8. The Commission need not hold a hearing, if, after proper notice and opportunity to intervene, no party request such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989). No party or individual has requested a hearing, thereby the Commission need not hold a hearing to grant a CCN to the Company.

9. Timber Creek currently has Case No. SA-2010-0063 pending before the Commission.

10. Timber Creek is current on its Annual Report filings and current on its PSC Assessments.

**WHEREFORE**, Staff respectfully requests the Commission issue an order granting Timber Creek Sewer Company a certificate of convenience and necessity to provide water service to the service area described in the *Staff Memorandum* attached hereto.

Respectfully submitted,

/s/ Jaime N. Ott

Jaime N. Ott  
Assistant General Counsel  
Missouri Bar No. 60949

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Missouri Public Service Commission  
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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 this 13<sup>th</sup> day of November, 2009.

/s/ Jaime N. Ott

## MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
Case No. SA-2010-0100 (Timber Springs, Clinton County)  
Timber Creek Sewer Company

FROM: Martin Hummel – Water & Sewer Department  
William Harris – Auditing Department

<u>/s/ Martin Hummel</u>	<u>November 13, 2009</u>
Utility Engineering Spec.	Date

<u>/s/ Jaime Ott</u>	<u>November 13, 2009</u>
Staff Counsel's Office	Date

SUBJECT: Staff's Recommendation for Granting a Certificate of Convenience and Necessity

DATE: November 13, 2009

### BACKGROUND

On September 21, 2009<sup>1</sup>, Timber Creek Sewer Company (TCS or Company) filed an Application for a certificate of convenience and necessity (Certificate) to provide sewer service to Timber Springs Estates (TSE) Subdivision, in Clinton County near Trimble, Missouri.

On September 22, the Commission issued its *Order and Notice* regarding the Company's Application. The *Order and Notice* directed the Commission's Records Department and Information Office to send out its standard public notices regarding the Application and also established a deadline of October 13 for interested parties to submit requests to intervene in the case. No requests to intervene in the case were submitted to the Commission. On October 20 the Commission granted a Motion for Extension of Time for the Staff to file its recommendation no later than November 13. This Recommendation is based on information known to the Staff at this time.

TCS was incorporated in September 1994 and was granted a certificate to provide sewer service in its first service area in Case No. SA-95-110 on May 18, 1995. Additional areas have been added to TCS's certificated service area in subsequent cases. Currently, the Company's primary certificated service areas are all located in Platte County, near Platte City. TCS also has two noncontiguous subdivision service areas in Clay County. TCS currently has Case No. SA-2010-0063 pending before the Commission which requests a certificate to provide sewer service to an area east of Platte City.

TCS's proposed area to serve TSE is west of Highway 169, south of Highway Z near Trimble, Missouri. Timber Springs Homes Association has a wastewater treatment plant currently serving this area which will be transferred to TCS upon a signed agreement between the Company and homeowners association.

<sup>1</sup> Unless noted otherwise, all dates herein refer to the year 2009.

TCS plans on making improvements to the plant in conjunction with the renewal of the Department Natural Resources discharge permit due for renewal in March 2010.

### **Staff's Findings and Conclusions**

The Company proposes to use the same rate, \$34.74 per month per customer, as has been approved for its Platte County service areas, along with a one-time Contribution-in-aid-of-Construction charge of \$2,650 per new customer. As proposed in the Application, the Staff believes that the Company's proposed rates, charges and rules should be applied to the Timber Springs Estates service area.

Regarding the Company's depreciation rates, the Staff believes that TCS should apply its existing Commission-approved depreciation rates from Case No SR-2008-0080 to this new service area.

Subsequent to the Commission granting TCS a certificate for the subject service area, TCS will need to amend its existing tariff by filing both new and/or revised tariff sheets for the Commission's approval. The new tariff sheets will need to include a map and a written description of the new TSE service area. The Applicant's proposed service area written description and map does not specifically define the service area. After discussion between Staff and the Applicant, the Staff recommends the following description to be used in the tariff: the North ½ of the Northeast ¼ of section 22 and all of section 15 south of Route Z Township 54 North Range 33 West in Clinton County, Missouri.

The transfer of assets (primarily the wastewater treatment plant) and payment of the homeowners contribution toward planned improvements **is contingent upon finalizing the agreement between the homeowners association and Company**. The final agreement has to allow 30 days consideration by the homeowners prior to being approved by a vote of the homeowners.

### **THE TARTAN ENERGY CRITERIA**

**Is there a need for the proposed services, and is there a need for the Company to provide the proposed services?**

There is a need for sewer service which is currently being provided by the homeowners, but which the homeowners have requested TCS provide. The Company's proposal to provide service and improve the plant is a sound answer to that need, and there is no other sewer system or sewer utility available near the proposed expanded area.

**Is the Company qualified to provide the proposed service?**

Based on its investigation and its familiarity with TCS, the Staff believes that TCS has the technical, managerial and financial capacities necessary to provide the proposed service. The operations supervisor has several years experience operating the wastewater system near Platte City and this is his full time professional occupation. The owner/manager also has extensive experience with sewer utility service.

**Does the Company have the financial ability to provide the proposed services?**

TCS's tariff extension rule provides that the developer/customer requesting service will construct and transfer the sewer collection system at no cost to TCS for its perpetual operation and maintenance. The operation, maintenance, and billing will be provided by the same personnel that provide those services in TCS's other service areas. Currently, TCS provides service to about 1,320 customers and is financially sound.

**Is the Company's proposal economically feasible?**

The Staff believes the proposal to utilize the Company's existing monthly rate of \$34.74 as the initial rate for this new area is reasonable. While future adjustments of monthly rates will likely occur due to changes in operating expenses and customer growth as is normal for most sewer utilities, the Staff does not expect that those adjustments will be extraordinary based on the information available at this time. It is anticipated that any significant capital expenditures will coincide with significant customer growth and TCS has a CIAC charge of \$2,650/connection which will offset investment in new treatment capacity.

**Does the Company's proposal promote the public interest?**

TCS's proposed sewer service is at the request of the homeowners of TSE. As such, it is in the public interest. Additionally, the presumption in these types of cases is that if the other four criteria are met then this criterion is also met.

**ADDITIONAL INFORMATION**

The Staff has reviewed TCS's compliance history regarding the submittal of its Commission annual reports and the payment of its Commission assessments. Based on that review, the Staff notes that TCS has historically been and is now current on the submission of its annual reports and the payment of its assessments.

The Staff notes that TCS currently has SA-2010-0063 pending before the Commission which contemplates an additional service area in Platte County, and the Staff believes that this neither case will impact the other case.

Extensive tariff revisions are not necessary to approve this Application.

The Staff has reviewed TCS's current operations and found it to be diligently operating its facilities. The Company has a record of cooperation with the Staff and the DNR regarding its operations, and the DNR has not issued any notices of violations to TCS for any of its systems. The Staff has contacted the DNR personnel at their Kansas City Regional Office about TCS current status.

**STAFF'S RECOMMENDATIONS**

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

- 1) Grants TCS a certificate for the provision of sewer service to the Timber Springs Estates area as requested in its Application **contingent upon a finalized contract transferring the wastewater treatment plant and collection system.**
- 2) Approves the Company's initial monthly customer rate of \$34.74, general service charges and depreciation rates to be applicable to the proposed service area;
- 3) Approves TCS's existing contribution-in-aid-of construction (CIAC) charge for the Company's Platte County service area to apply to future customers (that do not exist as of the date certificate approval) in the proposed service area,
- 4) Directs TCS to submit new and revised tariff sheets for its existing tariff within 60 days after the date the Commission issues its order granting the certificate and **final written agreement with the homeowners**, with the tariff sheets to bear an effective date that is at least 30 days from the date the tariff sheets are submitted to the Commission;
- 5) Directs TCS to submit proof to the case file for this case that it has obtained clear title to new treatment facilities and the land upon which the treatment facilities are located, and that easements providing for the necessary access for the operation and maintenance of the collection system have been provided;
- 6) Directs TCS to note the number of customers in each of its service areas separately in the annual reports it submits to the Commission;
- 7) Directs TCS to maintain its books and records in a manner sufficient to allow for area-specific cost-of-service analyses to be performed for the proposed service area and the existing service areas so that area-specific rates can be developed if needed in the future; and,
- 8) Makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to the granting of the requested certificate, including future expenditures by TCS, in any later proceeding.

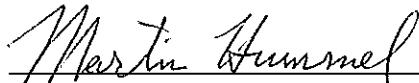
In addition to the above, the Staff notes this case should remain open for receipt of the tariff filing discussed in item 4 above, the receipt of the Staff recommendation regarding the tariff filing and the issuance of the Commission's order regarding approval of the tariff filing.

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF MISSOURI**

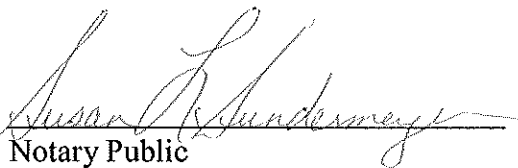
**AFFIDAVIT OF MARTIN HUMMEL**

STATE OF MISSOURI     )  
                                  )     ss     CASE NO. SA-2010-0100  
COUNTY OF COLE     )

COMES NOW Martin Hummel, being of lawful age, and on his oath states the following: (1) that he is a Utility Engineering Specialist in the Missouri Public Service Commission's Water & Sewer Department ; (2) that he participated in the preparation of the foregoing Staff's Recommendation for Granting a Certificate of Convenience and Necessity; (3) that he has knowledge of the information presented in the foregoing Recommendation; and (4) that the information presented in the foregoing Recommendation is true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Martin Hummel

Subscribed and sworn to before me this 13th day of November, 2009.

  
\_\_\_\_\_  
Notary Public



SUSAN L. SUNDERMEYER  
My Commission Expires  
September 21, 2010  
Callaway County  
Commission #06942086