

2. One case the Staff did mention during the on-the-record proceeding is *In the Matter of the Application of Seges Partners Mobile Home Park for a Certificate of Convenience and Necessity to Provide Water Service*, Case No. WA-2008-0403 et al. Prior to that case filing, the Staff became aware of billing activity by Seges Partners Mobile Home Park (Seges) upon its residents for water and sewer service usage. After discussions with Seges' counsel as to whether

such activities required certification and regulatory oversight by the Commission, the water application case and the consolidated sewer application case, Case No. SA-2009-0401, resulted.

3. The Staff's *Memorandum* filed for the consolidated cases is attached hereto in part (without work papers) as Attachment A. Seges' activities are very similar to those engaged in by the Respondents in this case. The undersigned has cited relevant portions of the *Memorandum* from page two (2) that concern Seges' rental units and billing activities:

Seges owns the area to be served, which is a twenty-five acre property divided into 114 lots, and which was originally developed in the 1970's. *Each lot is outfitted with a concrete slab for placement of a single-family residential manufactured home.* There are currently sixty-one residential customers receiving both water and sewer service in the development. This level of customers has remained relatively consistent over the past 3 years. Therefore, Staff has assumed this customer level for ratemaking purposes.

The property receives wholesale water service from Callaway County Public Water Supply District No. 1 (PWSD1) and wholesale sewer service from the City of Holts Summit (City). *Seges does not own or maintain either a water supply or a wastewater treatment facility; only the water distribution and wastewater collection pipelines.* A master meter is in place where the PSWD1 water main enters the serviced area, and Seges is billed for water and sewer service once per month based upon usage as recorded by that meter. PWSD1 charges Seges \$0.25/100 gallons for water and the City charges Seges a monthly customer charge of \$14.13/pad in the park plus \$0.27/100 of water usage. The City and PWSD1 have each declined to serve the residents of the mobile home park as individual customers.

Seges installed water meters at each residence in 2007 and began billing the residents of the park for both water and sewer, based upon actual usage, at that point. *Seges has been billing the customers at a rate of \$0.34/100 gallons for water and \$1.16/100 gallons for sewer; both based upon metered water usage. The Company's intent was to recoup at least some of the cost of water and sewer service Seges has been paying to the PWSD1 and the City, as well as promote conservation of water in the park as there were occurrences of misuse and waste by some of the residents.*

(emphasis added).

4. Case No. WC-2008-0079, *The Staff of the Missouri Public Service Commission v. Universal Utilities, Inc., and Nancy Carol Croasdell*, is another instance where the Commission

found water and sewer corporations through the billing of water and sewer service charges to tenants of rental property. In that case, the Staff alleged that Universal Utilities, Inc. (Universal) billed the tenants of the Blue Acres Mobile Home Park for water and sewer services, and that the tenants agreed to purchase such services from Universal. The Staff also alleged that Universal charged tenants extra fees such as monthly service fees, administrative fees and late payment fees.

5. In *Universal Utilities*, the Commission found that the Staff had established its allegations and that Universal and Respondent Nancy Carol Croasdell were water corporations, sewer corporations, and public utilities at each and every location they billed in Missouri.

**WHEREFORE**, the Staff submits this filing for the Commission's information and consideration in compliance with the Commission's directive at the January 3, 2011 oral argument.

Respectfully submitted,

**/s/ Jennifer Hernandez**

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above was served upon the attorneys/parties of record via electronic mail to Lowell D. Pearson, attorney for Aspen Woods Apartment Associates, LLC, at [lowell.pearson@huschblackwell.com](mailto:lowell.pearson@huschblackwell.com); Craig S. Johnson, attorney for National Water & Power, Inc., at [cj@cjaslaw.com](mailto:cj@cjaslaw.com); Paul A. Boudreau and John J. McDermott, attorneys for the National Apartment Association at [paulb@brydonlaw.com](mailto:paulb@brydonlaw.com) and [jmcdermott@naahq.org](mailto:jmcdermott@naahq.org); and the Office of the Public Counsel at [opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov) this 7<sup>th</sup> day of January 2011.

**/s/ Jennifer Hernandez**

**MEMORANDUM**

**Case No. WA-2008-0403 et al**  
(consolidated with SA-2009-0401)  
**Seges Partners Mobile Home Park, LLC**

TO: Missouri Public Service Commission Official Case File

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

James Russo – Water & Sewer Department

Kim Bolin – Auditing Department

Arthur Rice – Engineering and Management Services

/s/ Jerry Scheible  
Project Coordinator

July 24, 2009

/s/ Shelley Brueggemann  
General Counsel's Office

July 24, 2009

SUBJECT: Staff Recommendation Regarding the Application Seeking Permission, Approval, and Certificate of Convenience and Necessity for Seges Partners Mobile Home Park, LLC to Provide Water and Sewer Service in a Described Area in Callaway County, Missouri.

DATE: July 24, 2009

**BACKGROUND**

On June 8, 2008, Seges Partners Mobile Home Park, LLC (Company or Seges) filed an *Application* with the Commission, seeking a Certificate of Convenience and Necessity (CCN) to provide water service to the existing development with the same name, located in Callaway County in Holts Summit, Missouri (WA-2008-0403). On May 11, 2009, the Company filed a similar application to provide sewer service to the same customers (SA-2009-0401).

On June 8, 2009, the Commission issued its *Order Granting Motion to Consolidate*, designating the subject case number as the lead case, and setting a July 25, 2009, deadline for Staff to issue its Recommendation or Status Report in this case.

Attachment A

### **STAFF'S INVESTIGATION**

Seges owns the area to be served, which is a twenty-five acre property divided into 114 lots, and which was originally developed in the 1970's. Each lot is outfitted with a concrete slab for placement of a single-family residential manufactured home. There are currently sixty-one residential customers receiving both water and sewer service in the development. This level of customers has remained relatively consistent over the past 3 years. Therefore, Staff has assumed this customer level for ratemaking purposes.

The property receives wholesale water service from Callaway County Public Water Supply District No. 1 (PWSD1) and wholesale sewer service from the City of Holts Summit (City). Seges does not own or maintain either a water supply or a wastewater treatment facility; only the water distribution and wastewater collection pipelines. A master meter is in place where the PSWD1 water main enters the serviced area, and Seges is billed for water and sewer service once per month based upon usage as recorded by that meter. PWSD1 charges Seges \$0.25/100 gallons for water and the City charges Seges a monthly customer charge of \$14.13/pad in the park plus \$0.27/100 of water usage. The City and PWSD1 have each declined to serve the residents of the mobile home park as individual customers.

Seges installed water meters at each residence in 2007 and began billing the residents of the park for both water and sewer, based upon actual usage, at that point. Seges has been billing the customers at a rate of \$0.34/100 gallons for water and \$1.16/100 gallons for sewer; both based upon metered water usage. The Company's intent was to recoup at least some of the cost of water and sewer service Seges has been paying to the PWSD1 and the City, as well as promote conservation of water in the park as there were occurrences of misuse and waste by some of the residents.

Seges was not aware that a water or sewer CCN was required, and therefore did not submit any application for such. Commission Staff and Seges have been working toward resolution of the situation since Staff was made aware of it. Ultimately, the Company submitted applications for CCNs for both water and sewer. Seges is a corporation in good standing with the Missouri Secretary of State.

There are no known Missouri Department of Natural Resources (MDNR) compliance issues for the subject water or sewer systems. The water facility operates under MDNR Permit Number MO-2041558. Regular sampling of the water from points throughout the distribution system is required by the permit. MDNR does not require a permit for the sewer collection system.

Items reviewed during Staff's investigation of the subject *Application* included the Company's overall plan for providing the proposed services in the requested service area. Additionally, Staff analyzed the Company's ability to meet the "Tartan Energy Criteria", which are the criteria historically used by the Commission in evaluating CCN applications. The Tartan Energy Criteria, with criterion (1) slightly modified by Staff, are set out later in this Recommendation.

In addition to the above-referenced reviews and analysis, Staff also performed its own cost-of-service analysis and rate calculations for the systems, which will be discussed in more detail later in this Recommendation.

### **THE APPLICATION AND STAFF'S REVIEWS**

#### **WATER SERVICE:**

The area is served by a PVC pipe distribution system with wholesale drinking water provided by PWS D1. The distribution lines were contributed by the Company. The individual water meters installed in 2007 are considered Rate Base. Depreciation of the meters since they were put in use has been accounted for by Staff, leaving \$4,068 as the current Rate Base for the Company. Rate Base plus revenue requirement was used by Staff to determine the following proposed rate:

Monthly Customer Charge: \$12.49

Commodity charge, per 1,000 gallons: \$2.37

Monthly Customer Bill for Average Use of 4,000 gallons/month: \$21.97

The *Rate Base, Expenses and Rate Calculation Worksheet—Water* can be found as "Attachment 1" and the depreciation rates used in determining rates are included in "Attachment 3" of this Memorandum.

#### **SEWER SERVICE:**

The area is served by a gravity-flow collection system with wholesale sewer service provided by the City. The collection lines were contributed by the company, and no other facilities are owned or maintained by the Company. Therefore, rates have been calculated based upon revenue requirement, as follows:

Monthly Customer Charge: \$19.45

Commodity charge, per 1,000 gallons: \$2.73

Monthly Customer Bill for Average Use of 4,000 gallons/month: \$30.36

The *Rate Base, Expenses and Rate Calculation Worksheet—Sewer* can be found as “Attachment 2” and the depreciation rates used in determining rates are included in “Attachment 3” of this Memorandum.

The Company will need to file a complete water tariff and a complete sewer tariff after the Commission grants the respective CCN for each service. Staff will assist the Company with this task, and anticipates the tariffs will be similar to the Water & Sewer Department’s example tariffs for water and sewer utilities.

### **TARTAN ENERGY CRITERIA EVALUATION**

As noted previously, Staff analyzed the Company's ability to meet the Tartan Energy Criteria, as has historically been done in evaluating certificate applications. Staff's conclusions regarding this matter are set out as follows:

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

A. The water and sewer systems are in place and serving the customers in the proposed service area. The City and public water district have declined to take the customers on individually. The Company wishes to justly pass on the cost of providing the services to the customers based upon metered usage, rather than charge them all a flat rate regardless of actual usage. As a result, Staff believes there is a need for the Company to be the entity providing the services to the area.

**Q. Is the Company qualified to provide the proposed services?**

A. Staff believes that the Company has demonstrated the technical and managerial ability to operate the systems, in that they have been doing so effectively for two years. The Company also has business experience in managing the mobile home park; renting and leasing mobile homes and pads. Additionally, the Company has contracted with an established MDNR certified operator to run the systems.

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

A. The initial investment in the water distribution and sewer collection facilities is being recouped in the pad rental and therefore does not represent a debt that remains to be paid. Staff believes that the Company has the financial capability through bank financing and owner funding to support the already existing utilities,

and will be able to generate sufficient cash flow to remain viable, given the proposed rates.

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

A. Staff, having conducted an audit of investment and expenses, believes the proposal for the water and sewer systems is economically feasible, conditioned upon adoption of Staff's proposed rates. The majority of all potential customers are in place and have been billed for the services in the past, thus it should not be a "new" economic burden on the customers.

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

A. Staff believes the Company's proposal promotes the public interest because the existing central systems are desirable for a good living environment for the involved customers. Further, since the City and PWSD1 are not willing to accept the park residents as individual customers, certificating the Company to charge the customers based on metered usage will distribute the cost of the services more justly than a flat rate to each customer and promote the conservation of resources through accountability.

**STAFF'S CONCLUSIONS**

Staff is of the opinion that the operation of the Company as outlined in its Application is both necessary and convenient for public service, and that the proposed rates to be contained in the Company's tariffs are just and reasonable. There is a need for the services, in that they are currently in operation, and therefore relied upon, for the area. Staff believes the Company has the necessary technical, managerial and financial capacities, in part because a licensed water and wastewater operator has been contracted to operate the systems. Additionally, the owner of the Company is an established business owner in the vicinity and has been managing the operation of the systems for several years.

**STAFF'S RECOMMENDATIONS**

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

- 1) Approves the Certificates of Convenience and Necessity for Seges Partners Mobile Home Park, LLC for providing water and sewer service to the service area described in the *Application*;

- 2) Requires the Company to submit a complete water tariff specifying a monthly Customer charge of \$12.49 plus \$2.37 for each 1,000 gallons of metered usage. The customers will not be billed for service until such time as the tariff is approved and made effective;
- 3) Requires the Company to submit a complete sewer tariff specifying a monthly Customer charge of \$19.45 plus \$2.73 for each 1,000 gallons of metered water usage. The customers will not be billed for service until such time as the tariff is approved and made effective;
- 4) Approves the schedules of depreciation rates attached to this Memorandum for use by the Company.
- 5) Recognizes that nothing in this Memorandum, or in any order issued by the Commission in this case, shall bind the Commission on any ratemaking issue in any future rate proceedings.
- 6) Notes that the Company must abide by all Commission statutes, rules and decisions.

After the Company submits the complete tariffs, Staff will submit an additional recommendation regarding approval of the tariffs.

List of Attachments

Attachment 1: *Rate Base, Expenses and Rate Calculation Worksheet- Water*

Attachment 2: *Rate Base, Expenses and Rate Calculation Worksheet- Sewer*

Attachment 3: *Staff Work Papers; Comments and Recommendations – Arthur Rice*