

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

In the Matter of the Application of Timber	)	
Creek Sewer Company Application for	)	<b><u>File No. SU-2011-0289</u></b>
Approval of an Accounting Authority Order.	)	

**STAFF RECOMMENDATION TO DENY ACCOUNTING AUTHORITY ORDER**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and submits to the Missouri Public Service Commission (Commission) its Recommendation to Deny Accounting Authority Order (AAO), and respectfully states the following:

1. On March 14, 2011, Timber Creek Sewer Company (Timber Creek) filed an application requesting the Commission's to authorize an AAO to track any additional rate case expenses incurred in Commission Case No. SR-2010-0320 subsequent to the Commission's Report and Order, which was issued on March 30, 2011.

2. In the attached Memorandum (Appendix A), Staff presents its examination, analysis and recommendation that the Commission deny Timber Creek the authorization for the AAO it requested.

**WHEREFORE**, Staff recommends that the Commission adopt its Recommendation as stated in Appendix A and issue an Order denying Timber Creek an Accounting Authority Order for rate case expenses.

Respectfully submitted,

/s/ Jaime N. Ott\_\_\_\_\_

Jaime N. Ott

Assistant General Counsel

Missouri Bar No. 60949

Attorney for the Staff of the  
Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-8700 (Telephone)

(573) 751-9285 (Fax)

[jaime.ott@psc.mo.gov](mailto:jaime.ott@psc.mo.gov)

### **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 11<sup>th</sup> day of April 2011.

/s/ Jaime N. Ott\_\_\_\_\_

## **MEMORANDUM**

TO: Missouri Public Service Commission Official Case, File No. SU-2011-0289  
In the Matter of the Application of Timber Creek Sewer Company Application  
for Approval of an Accounting Authority Order

FROM: Bret Prenger, Auditing Department Staff  
V. William Harris, Auditing Department Staff

/s/ Bret G. Prenger 4/11/11      /s/ Jaime N. Ott 4/11/11  
Auditing Department / Date      Staff Counsel's Office / Date

SUBJECT: Staff Recommendation

DATE: April 11, 2011

## **INTRODUCTION**

On March 14, 2011, in case with Case No. SR-2010-0320, Timber Creek Sewer Company (Timber Creek or Company) filed a request for an Accounting Authority Order (AAO) to allow the Company to track additional incurred rate case expenses not included in rates related to Case No. SR-2010-0320 for potential recovery in Timber Creek's next rate case.

On March 15, 2011, the Missouri Public Service Commission (Commission) opened File No. SU-2011-0289 as the docket for the disposition of Timber Creek's AAO request. In a separate filing on March 15, 2011, the Commission stated Timber Creek's AAO "may include fees for reviewing the Report and Order in File No. SR-2010-0320, for a potential motion for rehearing or responses to other party's motions for rehearing, for getting approved rates on file with the Commission from SR-2010-0320, and any additional legal expenses defending any appellate actions that may result from the Report and Order to be issued in SR-2010-0320." The Commission issued its Report and Order in File No. SR-2010-0320 on March 30, 2011. On April 1, 2011, the Commission issued an order requesting Staff to file a recommendation in File No. SU-2011-0289 no later than April 11, 2011.

## **BACKGROUND**

Accounting Authority Orders are applications made by utilities to the Commission seeking accounting treatment for a category of expense. Section 393.140(8) of the Missouri Revised Statutes states the Commission shall "[h]ave power to examine the accounts, books, contracts, records, documents and papers of any such corporation or person, and have power, after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged, or credited." Section 393.140(8), RSMo (2000). The Commission has the power to issue an AAO to a utility company for treatment for a transaction or group of transactions other than that prescribed by the Uniform System of Account. *In The Matter of the Application of Missouri Public Service for the Issuance of an Accounting Order Relating to its Electrical Operation*, 1 Mo.P.S.C.3d 200, 202 (Dec. 20, 1991). An AAO benefits the utility by

deferring items booked as a regulatory asset rather than as an expense, thus improving the financial situation during the deferral period. *Id.* The recovery, if any, of the regulatory asset is then considered in the utility's next rate case. Generally, while there is no standard recovery period, the Commission has allowed recovery of the regulatory asset, over a five year amortization period.

In the Missouri Public Service Company's request for an AAO the Commission indicated that the AAO is a "request to defer costs from one period to another..." *Id.* at 202. The Commission found in that case that:

Allowable operating expenses are those which recur in the normal operations of a company, and a company's rates are set for the future based upon its past experience for a test year with adjustments for annualizations, normalizations and known and measurable changes. Under historical test year ratemaking, costs are rarely considered from earlier than the test year to determine what is a reasonable revenue requirement for the future. Deferral of costs from one period to a subsequent rate case causes this consideration and should be allowed only on a limited basis.

This limited basis is when events occur during a period which are extraordinary, unusual and unique, and not recurring. These types of events generate costs which require special consideration. These types of costs have traditionally been associated with extraordinary losses due to storm damage or outages, conversions or cancellations...*Id.* at 205.

Thus, an AAO is based on a finding that an item was extraordinary in nature that would otherwise be required to be treated as an expense item in the year the costs were incurred. In that same case the Commission Order further indicated regarding the extraordinary events the following:

The decision to defer costs associated with an event turns on whether the event is in fact extraordinary and nonrecurring. The Commission finds that these are decisions that are best performed on a case by case basis. Factors such as those proposed by Staff as criteria can influence that decision but the primary focus is on the uniqueness of the event, either through its occurrence or its size. *Id.* at 205.

In the past, the Commission typically considers the type and scope of event when authorizing an AAO. When evaluating the appropriateness of an AAO, Staff looks for events of

uniqueness, extraordinary, and nonrecurring in nature to determine whether or not it recommends the Commission authorize or not authorize the use of an AAO.

AAO's have also been used to defer costs where a utility has undertaken an unusually large construction project to mitigate regulatory lag. *State ex rel. Missouri Office of the Public Counsel v. Public Service Commission of Missouri*, 858 S.W.2d 812 (Mo. App. W.D. 1993); *In the Matter of St. Louis County Water Company*, Case No. WR-96-263 (Report and Order, issued Dec. 31, 1996, at p.8). The new asset can be added to rate base only through a traditional rate case, an eleven-month-long process in Missouri and only after the asset has become used and useful in the public service. The Commission has also granted AAO's where utilities have incurred expenses due to "Acts of God," such as ice storms. *In the Matter of Kansas City Power and Light Co.*, 11 Mo. P.S.C.3d 419 (2002). AAO's granted for "Acts of God" facilitate compliance with changing statutes or regulations, such as the Commission's Cold Weather Rule, the Commission's Gas Safety Rules, or a new state statute requiring an accounting change with respect to employee benefits. *see In the Matter of Missouri Gas Energy*, 11 Mo.P.S.C.3d 317 (2002); *In the Matter of Missouri Gas Energy*, 3 Mo.P.S.C.3d 201 (1994). In some isolated instances AAO's are authorized as a tool to mitigate "regulatory lag"-- the passage of time between when an event affecting rates occurs and when the financial impact of the event is actually reflected in the customer rates. To the best of Staff's knowledge, AAO treatment has not been granted for single issue expense items, such as a deferral for rate case expenses like the one requested by Timber Creek.

In Timber Creek's last two rate cases, Case No. SR-2010-0320 and Case No. SR-2008-0080, Staff followed prior Commission precedent by establishing a period through which all rate case expense costs were examined. In Case No. SR-2010-0320, Timber Creek sought to recover rate case expense from Case No. SR-2008-0080 that the Company had failed to seek in that previous case. In Case No. SR-2010-0320, Staff performed an analysis which showed that, due to customer growth and other revenue and expense factors, Timber Creek had recovered the rate case expenses subsequent to Case No. SR-2008-0080. That rate case expense previously incurred was not included in Case No SR-2010-0320.

### **RECOMMENDATION**

Staff does not support the Company's request to initiate an AAO. AAO's are generally issued for extraordinary events and construction projects. Costs incurred after the Commission issues a Report and Order are not the type of expense for which the Commission typically authorizes the use of an AAO. Timber Creek's request to defer rate case expenses does not meet the extraordinary events and construction project criteria used for past AAO's. Due to the unusual nature of the single issue expense item and Staff's expectation of continued customer growth that allows the Company to recover the costs, Staff does not recommend the Commission approve this AAO for rate case expenses.

However, if the Commission chooses to grant the Company's request for the AAO and to grant the tracking of additional rate case expenditures, Staff recommends the Commission issue an order for an AAO that includes language stating that there is no particular ratemaking treatment of the expense at this time, and reserves the right to address treatment of the expense in the next Timber Creek rate case. The recommended language to be used for the AAO could read as follows:

Nothing in the Commission's Order authorizing the use of an Accounting Authority Order for the deferral of costs that typically would be recognized as expenses in the year the costs were incurred, shall be construed as an authorization for the ratemaking treatment of such deferred costs in any future rate case.

AAO's do not result in the Commission determining the ratemaking treatment of the extraordinary cost, but defer such treatment to a future rate case proceeding. Therefore, should the Commission grant Timber Creek its request for an AAO, Staff respectfully recommends that the above or similar language be included in the Order.

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**AFFIDAVIT OF V. WILLIAM HARRIS**

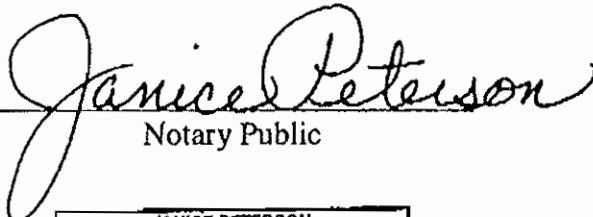
STATE OF MISSOURI     )  
                                   )     ss.  
COUNTY OF COLE     )

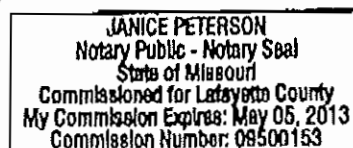
V. William Harris, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was developed by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true and correct to the best of his knowledge and belief.



V. William Harris

Subscribed and sworn to before me this 7th day of April, 2011.

  
Notary Public



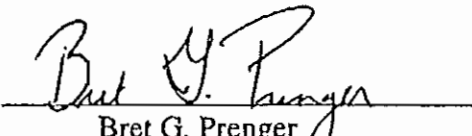
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**AFFIDAVIT OF BRET G. PRENGER**

STATE OF MISSOURI     )  
                                   )     ss.  
COUNTY OF COLE     )

Bret G. Prenger, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was developed by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true and correct to the best of his knowledge and belief.

  
Bret G. Prenger

Subscribed and sworn to before me this 7th day of April, 2011.

  
Notary Public

