

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

In the Matter of Timber Creek Sewer)	
Company, Inc.'s Tariff Designed to)	<u>Case No. SR-2008-0080</u>
Increase Rates for Sewer Service.)	Tariff No. YS-2008-0171

UNANIMOUS STIPULATION

COME NOW Timber Creek Sewer Company, (Timber Creek) Hunt Midwest Real Estate Development, Inc., (Hunt Midwest), the Staff of the Missouri Public Service Commission (Staff) and the Office of the Public Counsel (OPC) (collectively, "the Parties"), and for their Unanimous Stipulation ("Stipulation") state the following to the Missouri Public Service Commission ("Commission").

PROCEDURAL HISTORY

1. Timber Creek submitted a request on March 22, 2007, for an increase of \$120,000 in its total annual sewer service operating revenues and for an increase in its Contribution in Aid of Construction (CIAC) connection fee from \$1,600 to \$3,200. This request was submitted to Staff through the small company rate case provisions of the Commission's rules.

2. On April 6, 2007, customers were given notice of this request. The Staff performed its audit and found that an increase in revenue requirement of \$129,837 was appropriate based on estimates subject to a true-up audit after September 30, 2007.

3. On September 14, 2007, the request became a formal case with the filing of tariffs consistent with an Agreement Regarding Disposition of Small Company Rate Increase Request between Staff and Timber Creek. Those tariffs reflected an intended rate increase of \$129,837 including an increase of the connection fee from \$1,600 to \$2,650. A second notice was sent to

customers on September 19, 2007, explaining the request that was finally proposed. Comments from the public were due to the OPC or to the Commission by October 9, 2007.

4. On October 4, 2007, Hunt Midwest, filed an application for intervention in which among other things it sought further investigation of and hearing on the increase in the CIAC connection fee proposed by Timber Creek. Hunt Midwest's application to intervene was granted by the Commission on October 16, 2007.

5. On October 30, 2007 the Commission approved Timber Creek's tariffs (the "Tariffs") implementing the small company rate case on an interim basis. Giving the matter reconsideration on November 27, 2007, the Commission approved Timber Creek's tariffs on a permanent basis excepting the CIAC connection fee tariff which remained interim subject to refund.

6. In this Stipulation, the Parties have reached an agreement that resolves all issues with respect to the CIAC connection fee proposed in this case. If the Commission approves the Stipulation, Hunt Midwest will end its opposition to Timber Creek's CIAC connection fee interim tariff and will move the Commission to approve the tariff on a permanent basis.

STIPULATION

7. The Parties agree that the Timber Creek CIAC connection fee applicable to each of the forty-seven (47) lots to be platted in Hunt Midwest's Running Horse Phase 3 Subdivision (RH Phase 3) shall be One Thousand Six Hundred Dollars (\$1,600).

8. Hunt Midwest agrees to pay Timber Creek in advance the agreed CIAC connection fee for each of the forty seven (47) lots to be platted in RH Phase 3, a total of Seventy Five Thousand Two Hundred Dollars (\$75,200), not later than three business days after the effective date of an order approving this stipulation.

9. As a specific condition for OPC to join in this stipulation, Timber Creek agrees not to seek reimbursement from the ratepayers in any future rate increase request for the difference between the \$2,650 interim CIAC connection fee and the agreed herein CIAC connection fee of \$1,600 for each of Hunt Midwest's 47 lots to be platted in RH Phase 3.

10. Hunt Midwest and Timber Creek will bear their own costs and attorneys fees.

11. Hunt Midwest will cooperate with Timber Creek and the other parties with respect to the filing of any supplemental or substitute tariffs to effect the terms of this Stipulation if any are deemed necessary. Upon approval of this Stipulation, Hunt Midwest will move, or join in a motion, for Commission approval of Timber Creek's interim CIAC connection fee tariff on a permanent basis.

GENERAL PROVISIONS

12. This Stipulation is being entered into for the purpose of disposing of the issue that is specifically addressed in this Stipulation. In presenting this Stipulation, none of the Parties to this Stipulation shall be deemed to have approved, accepted, agreed, consented or acquiesced to any ratemaking principle or procedural principle, and none of the Parties shall be prejudiced or bound in any manner by the terms of this Stipulation (whether this Stipulation is approved or not) in this or any other proceeding, other than a proceeding limited to enforce the terms of this Stipulation, except as otherwise expressly specified herein. Specifically, this Stipulation shall not be construed as an admission by Timber Creek of any of the grounds asserted by Hunt Midwest for suspension or investigation of the Tariffs. Neither shall this Stipulation be construed as a waiver of Hunt Midwest's right to seek intervention in subsequent cases to challenge any rates, charges or practices proposed by Timber Creek.

13. This Stipulation has resulted from extensive negotiations and the terms hereof are interdependent. If the Commission does not approve this Stipulation without modification, then the Stipulation shall be void and no party shall be bound by any of the agreements or provisions herein, except as specifically provided herein.

14. If the Commission does not unconditionally approve this Stipulation without modification, and notwithstanding its provision that it shall become void, neither this Stipulation, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any party has for a decision in accordance with Section 536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Parties shall retain all procedural and due process rights as fully as though this Stipulation had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever .

15. If the Commission unconditionally accepts the specific terms of this Stipulation without modification, the Parties waive, with respect to the issues resolved herein: their respective rights (1) to call, examine and cross-examine witnesses pursuant to Section 536.070(2), RSMo 2000; (2) their respective rights to present oral argument and/or written briefs pursuant to Section 536.080.1, RSMo 2000; (3) their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo 2000; (4) their respective rights to seek rehearing pursuant to Section 386.500, RSMo 2000 and (5) their respective rights to judicial review pursuant to Section 386.510, RSMo 2000. These waivers apply only to a

Commission order respecting this Stipulation issued in this above-captioned proceeding, and do not apply to any matters raised in any prior or subsequent Commission proceeding, or any matters not explicitly addressed by this Stipulation. This Stipulation contains the entire agreement of the Parties.

16. On or before January 10, 2008, the Staff will file either a pleading or a case file memorandum containing its suggestions in support of this Stipulation, and explaining its rationale for entering into the Stipulation. The Staff will serve the other parties to this Stipulation with a copy of its suggestions and the other parties shall be entitled to file responsive suggestions with the Commission. Responsive suggestions will be filed on or before January 17, 2008, and will also be served on the parties to this Stipulation. The contents of any suggestions provided by the Parties to this Stipulation are its own and are not acquiesced in or otherwise adopted by the other parties to this Stipulation, regardless of whether the Commission approves and adopts the Stipulation.

17. At any agenda meeting at which this Stipulation is noticed to be considered by the Commission, the Staff shall have the right to provide whatever oral explanation the Commission may request; provided, however, that the Staff shall, to the extent reasonably practicable, provide the other parties to this Stipulation with advance notice of when the Staff shall respond to the Commission's request for such explanation once it is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent that it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

WHEREFORE, the Parties respectfully request that the Commission issue an order that approves this Stipulation.

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