

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

In the Matter of the Small Company Rate Increase)
of Timber Creek Sewer Company.) **Case No. SR-2010-0320**

**THE OFFICE OF THE PUBLIC COUNSEL’S RESPONSE TO TIMBER CREEK
SEWER COMPANY’S LATE FILED EXHIBIT RE
ADDITIONAL RATE CASE EXPENSE**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response to Timber Creek’s Late Filed Exhibit Re Additional Rate Case Expense states as follows:

1. On February 25, 2011, Timber Creek Sewer Company (Timber Creek) submitted a late-filed exhibit on rate case expense. In its filing, Timber Creek requested that the Missouri Public Service Commission (Commission) authorize an additional \$5,540.00 in attorney fees between the period of February 1, 2011 through February 25, 2011 as well as an additional \$1,094.62 in estimated, future mailing costs for customer notice of the outcome of this case.
2. Timber Creek also requested that the Commission keep the record open in this case for additional late-filed exhibit filings of additional rate case expense incurred in this case up to five days before the time the Commission is prepared to issue its Report and Order.
3. Public Counsel now states that it objects to Timber Creek’s request for additional rate case expense.
4. The additional attorney fees requested by Timber Creek are outside the test year and true-up period for this rate case. The expenses claimed by the utility are also well beyond the evidentiary hearing. The number of hours claimed and the rate of \$200/hour for the services of

Mr. Finnegan beyond the evidentiary hearing are exorbitant and unreasonable given the nature of the case before the Commission and the small size of the utility. Therefore, it is unjust and unreasonable for these unconscionable fees to be included in customers' rates.

5. Additionally, Timber Creek requests that the Commission authorize an estimated amount for mailing a separate notice to customers informing of them of the outcome of this case. These estimated costs have not been incurred by Timber Creek and therefore represent future costs which have not been subject to a prudence review. In its request, Timber Creek makes no attempt at saving customers money by combining the notice into a regularly scheduled bill mailing. Instead, Timber Creek is proposing to charge the customers for a full mailing, whether it is necessary or not and whether it is economical or not. Bills go out monthly and will certainly go out as soon as possible when new rates will be charged. Therefore, it is unjust and unreasonable to include the full cost of a separate mailing in customers' rates.

6. Timber Creek's request that the Commission keep the record open in this case for additional late-filed exhibit filings of additional rate case expense incurred in this case up to five days before the time the Commission is prepared to issue its Report and Order violates Public Counsel's due process rights. Once an exhibit is filed, Public Counsel must be given an opportunity to respond. Allowing late-filed exhibits up to five days before the Report and Order is issued will foreclose Public Counsel's opportunity to perform a sufficient prudence review and provide a proper response, and will thus violate Public Counsel's due process rights. Therefore, it is unjust and unreasonable to grant Timber Creek's request that additional late-filed exhibit filings of additional rate case expense incurred in this case be allowed up to five days before the time the Commission is prepared to issue its Report and Order.

WHEREFORE, Public Counsel respectfully submits its Response.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By:_____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 4th day of March 2011:

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