

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

**In the Matter of the Small Company Rate    )  
Increase Request of Timber Creek Sewer    )  
Company    )**

**Case No. SR-2008-0080**

**JOINT MOTION OF STAFF, PUBLIC COUNSEL, AND  
TIMBER CREEK SEWER COMPANY  
TO RESCIND ORDER TO FILE BRIEFS**

**COME NOW** the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel (“Public Counsel”), and Timber Creek Sewer Company (“Timber Creek”) and, for their Joint Motion to Rescind Order to File Briefs, state to the Missouri Public Service Commission as follows.

1. On March 22, 2007, Timber Creek sent to the Commission a letter, requesting an increase of \$120,000 in its total annual sewer service operating revenues, and requesting an increase in its Contribution in Aid of Construction (“CIAC”) connection fee from \$1,600 to \$3,200. Timber Creek submitted this request pursuant to the Commission’s Sewer Utility Small Company Rate Increase Procedure, Rule 4 CSR 240-3.330. The Commission did not open a formal case at that time. On April 6, 2007, Timber Creek gave notice of the said request to its customers.

2. On September 14, 2007, Timber Creek filed tariff sheets proposing to increase its sewer service rates. The tariff sheets were designed to produce an increase of \$129,837 in Timber Creek’s sewer service revenues, and to increase the CIAC connection fee from \$1,600 to \$2,650. The tariff carries an effective date of November 1, 2007. The Commission then opened this Case No. SR-2008-0080 to consider the proposed revisions to Timber Creek’s tariff sheets.

3. On October 16, 2007, the Commission ordered the Staff and the Public Counsel to file, by no later than October 22, 2007, legal briefs regarding the issue of the Commission’s authority

to authorize a rate increase that would provide more revenue than originally requested by the company, and authorized the other parties to the case to also file such briefs.

4. As the Staff reported in a pleading that it filed in this case on October 15, 2007, the Staff has determined that, as of September 30, 2007, Timber Creek requires an annualized operating revenue increase of only \$115,310. Furthermore, pursuant to the provisions of Paragraph (19), on the fourth page of the Disposition Agreement between Timber Creek and the Staff, Timber Creek was obliged to file revised tariff sheets by Friday, October 19, 2007 that would result in a revenue increase of \$115,310. On October 19, Timber Creek did file revised tariff sheets designed to produce a revenue increase of \$115,310. The other parties have not yet reviewed those revised tariff sheets.

5. As Timber Creek has now filed revised tariff sheets that would result in a revenue increase of only \$115,310, as it was obliged to do, the legal issue to be briefed has become moot. This is so, because the Commission will not have to confront in this case the question of whether it has authority to authorize a rate increase that would provide more revenue than the \$120,000 that Timber Creek originally requested in its March 22 letter to the Commission.

6. The Staff and the Public Counsel believe the legal issue that the Commission ordered them to brief is an important issue; however, the Staff and the Public Counsel believe it is not necessary or appropriate to address this issue in this case, in that the issue is now moot.

7. Hunt Midwest Real Estate Development, Inc. ("Hunt") is also a party to this case. Hunt does not join in this motion, but Hunt's counsel has authorized counsel for the Staff to state that Hunt does not object to this motion.

**WHEREFORE**, the Staff, the Public Counsel, Timber Creek, and Hunt respectfully move the Commission for its order rescinding its order that the Staff and the Office of the Public Counsel file written briefs in this case by no later than October 22, 2007.

Respectfully Submitted,

/s/ **Keith R. Krueger**

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ATTORNEYS FOR TIMBER CREEK SEWER  
COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Joint Motion of the Staff, Public Counsel, and Timber Creek Sewer Company to Rescind Order to File Briefs have been mailed with first-class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 19th day of October 2007.

*/s/ Keith R. Krueger*

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