

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

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In the Matter of Carl R. Mills Trust for a)	
Certificate of Convenience and Necessity)	File No. WA-2018-0370
Authorizing it to Install, Own, Acquire,)	
Construct, Operate, Control, Manage and)	
Maintain Water Systems in Carriage Oaks)	
Estates)	
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SUGGESTIONS IN OPPOSITION TO STAFF COUNSEL’S RECOMMENDATION

COME NOW, Intervenors Derald Morgan, Rick and Cindy Graver, William and Gloria Phipps, and David Lott (“Intervenors”), and in opposition to Staff Counsel’s Recommendation, states as follows:

Background

Carl Mills, Jr., (“Mills”) seeks a certificate of convenience and necessity to operate a water system for a small residential community located in Stone County, Missouri. Mr. Mills is not ordinary service provider. He is not an officer of an experienced utility company. He is not a man with extensive industry experience. He is an elderly man that built the residential subdivision. In addition to lacking the requisite experience and knowledge, Mr. Mills lacks the requisite temperament to operate a utility company. His interest in controlling the water system is not motivated by a desire to provide quality water to consumers. Instead, he is motivated to use his control of the water system as a mechanism for controlling his neighbors, neighbors who are dependent on him for access to water. Because Mr. Mills lacks the experience and temperament to provide water services, the Commission should deny his application for convenience and necessity.

Analysis

The Public Service Commission should deny Mills' Amended Application for a Certificate of Convenience and Necessity because Mr. Mills is not qualified to provide utility services. While Rule 4 CSR 240-2.060 covers the technical requirements for granting certificates of convenience and necessity, the Public Commission has articulated substantive requirements it considers when reviewing applications. These requirements include: (1) a need for the service; (2) the applicant must be qualified to provide the proposed service; (3) the applicant must have the financial ability to provide the service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest. *In re: Tartan Energy Co., L.C.*, Case No. GA-94-127 (Mo. P.S.C. 1994).

Mills is not qualified to provide water services and Mills' control of the water system does not promote the public interest.

In considering whether an entity or individual is qualified to provide a utility service, the Commission considers the background, experience, and access to resources. For example, in *In re Tartan Energy Co.*, the Commission considered the qualifications of the officers of Tartan Energy as well as Tartan Energy's access to resources. Case No. GA-94-127 (Mo. P.S.C. 1994). Tartan Energy was owned by Torch Energy Advisors, Inc. and three individuals—Mr. Taylor, Mr. Trusty, and Mr. Boyles. These individuals had an extensive background in the energy industry.

Mr. Taylor was an engineer with a degree in industrial engineering who received continuing professional education over the years in all aspects of the natural gas and petroleum business. He worked for Sun Line Pipe Line in various positions for 17 years and was responsible for starting a subsidiary, Omega Pipeline Company. Mr. Taylor served as president of Omega and Missouri Pipeline and was the current president of Tartan.

Mr. Trusty had similar experience. He had a bachelor's and master's degree in mechanical engineering. Additionally, Mr. Trusty was a Registered Professional Engineer in Oklahoma. He had been employed by Sun Line Pipe for seven years and held various duties. His final position was manager of corporate planning. After that, he joined Omega and served as Vice President of Engineering and Operations. He then became vice president of engineering and operations for Tartan Energy.

Tartan Energy also had access to an energy consultant, Mr. Keith. Mr. Keith held several positions relating to utilities and utility regulation, including a position with the staff of the Kansas Corporations Commission. Unlike Mr. Mills, each of these individuals were well known to the Missouri Public Service Commission and had a wealth of industry experience. Moreover, there was no concern over what would happen to the service if one of these individuals were to leave Tartan Energy. As the Commission observed:

“Tartan’s qualifications do not rest solely on the shoulders of these gentlemen...Tartan is also owned by Torch Energy Advisors Inc. which is involved in the acquisition and management of oil and gas properties, including oil and gas production and development...Torch also recently purchased Panda Resources, which is a gas marketing company. Although Tartan is undecided about whether it intends to use Panda, it at least has knowledge of the existence of gas marketing companies and would likely have access to Panda if needed.”

Because the owners and managers of Tartan were experienced, the “Commission [was] confident that Tartan possesses the necessary knowledge of the natural gas utility industry, including the industry as it has developed in the State of Missouri, as well as of all the requisite technical requirements regarding engineering, safety, and so forth.”

The Commission cannot say the same for Mr. Mills. Unlike Tartan Energy, the quality of water services rests solely on one individual, Mr. Mills. Mr. Mills is not well-versed in the intricacies of utility regulations. He has no extensive experience in water systems. His experience is a developer; not a utility provider. Moreover, he does not have the requisite knowledge of the technical requirements regarding the engineering and water safety. He is not a water company with an organizational system and methods of oversight; he is an elderly man with a vendetta against his neighbors.

Even if Mr. Mills had the requisite knowledge and experience to operate a water system, he has demonstrated that he does not have the temperament or good judgment to operate one. His control of the water system does not promote the public interest. If anything, it threatens it. In fact, Mr. Mills has threatened to terminate water services to paying customers who disagree with him. Mr. Mills—one man—will determine which neighbors get access to a vital resource, water. This is too much power to place in the hands of one man without a mechanism of oversight.

Mills' operation of the water system in the past is further evidence that Mills is unqualified to operate a water system. The water services provided by Mills has been inadequate and potentially unsafe. There is often a pressure and/or flow problem in the subdivision because the tank is excessively large and not properly utilized to provide proper pressure and flow. There have also been problems caused by the change of the pipe sizes. For some time, the chlorine system was not in use and it is not known if it is properly used and maintained in keeping a proper level of chlorine in the drinking water when the tank is in use. No testing is provided to Intervenor regarding the quality and safety of their water. Since the upgrade of the system, the size of rocks found in the home filters has increased and is a major concern as it can cause a major blockage in a home water system. The amount of iron has been a problem and could be

alleviated by a regular flushing out of the system. Mills' inability to safely manage and operate the water system demonstrates such a task should not be left to him.

Finally, Intervenors have concerns about the accuracy or truthfulness of the information Mills used to justify his costs and rates. First, there is no indication that the base costs provided in Appendix E of Mills' Amended Application are related in any way to the cost of the first 3,000 gallons of water usage. Mills has not shown the annual or monthly water usage for any period of time in which he has been collecting data. His base costs are exaggerated and include costs of operation of the sewer system as well as the water system. The costs described in Appendix D of Mills' Amended Application are inaccurate and include the cost of installing the sewer line rather than just the water system. In addition, Mr. Mills has taken credit for the cost of the storage tank that was paid for by Caring Americans. If Mr. Mills cannot be trusted to accurately maintain records related to the costs and expenses of maintaining the water system, he should not be trusted to operate the system. Such a task is too important to leave in the hands of one man. Because Mr. Mills is unqualified in experience and temperament, the Commission should deny his Amended Application for a Certificate of Convenience and Necessity.

WHEREFORE, Intervenors Derald Morgan, Rick and Cindy Graver, William and Gloria Phipps, and David Lott request that the Public Service Commission deny Mills' Amended Application to for Convenience and Necessity and set this matter for an evidentiary hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The below signed counsel hereby certifies that a true and accurate copy of the foregoing was sent to all counsel of record via email on October 22, 2018.

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