

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

In the Matter of Carl R. Mills Trust for a)
Certificate of Convenience and Necessity)
Authorizing it to Install, Own, Acquire,)
Construct, Operate, Control, Manage and)
Maintain Water Systems in Carriage Oaks)
Estates)

File No. WA-2018-0370

POSITION STATEMENTS

COMES NOW the Staff of the Missouri Public Service Commission (Staff), and presents its position statements for the evidentiary hearing scheduled for May 1-2, 2019, in this case.

- 1. Does the evidence establish that the water system in Carriage Oaks Estates for which Carl R. Mills is seeking a certificate of convenience and necessity (CCN) is “necessary or convenient for the public service” within the meaning of that phrase in section 393.170, RSMo.?**

Staff reviewed Carl R. Mills’ (Mr. Mills or Applicant) Application based on the five factors the Commission listed in *In Re Tartan Energy*, GA-94-127, 3 Mo. P.S.C.3d 173, 177 (1994): need, qualified to own, operate, control and manage the facilities and provide the service, financial ability, economic feasibility, and promotion of the public interest (Tartan Criteria).

The Parties agree that there is a need for the service, as stated in their *Joint Stipulation of Agreed Upon Facts* filed on April 16, 2019.¹ Based on Staff’s review of the Tartan Criteria, the service is needed,² Applicant is qualified to provide water

¹ EFIS Item 31, *Joint Stipulation of Agreed Upon Facts* ¶ 14 (“There is a need for the service.”); see also Appendix A to the Rebuttal Testimony of Amanda C. McMellen and EFIS Item 11, *Staff Recommendation* at 5 (“There is a need for service. Existing residential customers have, and possible future residential customers will have, a desire and need for water service. Mr. Mills, through one or more affiliated entities, presently operates an existing water system that is utilized to provide such service, and no other water systems are readily available.”). Thus, even without stipulated facts, Staff concludes there is a need for service.

² See note 1, *supra*.

service,³ Applicant has the financial ability to provide water service,⁴ the provision of water service by Applicant is economically feasible,⁵ and the granting of the Application for CCN will promote the public interest.⁶

2. If the Commission grants Mr. Mills a CCN, what conditions, if any, should the Commission deem to be reasonable and necessary, and impose?

Staff recommends that the Commission (1) grant Mr. Mills a CCN, (2) approve the water service area depicted by the map metes and bounds description included with Staff's Memorandum as Attachments A and B, (3) approve a quarterly flat rate for water service of \$271.42,⁷ and impose the following reasonable and necessary conditions:

(4) Require Mr. Mills, as a regulated water utility, to follow all applicable requirements pertaining to regulated water companies;

³ "Mr. Mills has provided safe and adequate water service for this service area in past years. Staff concludes Mr. Mills is sufficiently qualified through experience to provide the service." Appendix A to the Rebuttal Testimony of Amanda C. McMellen and EFIS Item 11, *Staff Recommendation* at 5.

⁴ "Staff's observation of current operations indicates that upgrades and repairs that have required financial resources appear to have been adequate in the past. Mr. Mills has primarily used personal financial resources to address upgrades and repairs." Appendix A to the Rebuttal Testimony of Amanda C. McMellen and EFIS Item 11, *Staff Recommendation* at 5.

⁵ "Mr. Mills' proposal to own and operate the water system serving Carriage Oaks subdivision is economically feasible, based on an observation that operations presently appear to support current expenses. However, if expenses associated with rate base are actually included in rates, then a rate base capacity adjustment similar to Staff's proposal would likely be necessary for feasibility purposes." Appendix A to the Rebuttal Testimony of Amanda C. McMellen and EFIS Item 11, *Staff Recommendation* at 5.

⁶ "As the Commission determined in Case No. GA-94-127, positive findings with respect to the other four standards above will in most instances support a finding that an application for a certificate of convenience and necessity will promote the public interest." Appendix A to the Rebuttal Testimony of Amanda C. McMellen and EFIS Item 11, *Staff Recommendation* at 5. "For the reasons outlined through this Memorandum...Staff asserts that Mr. Mills' request for a CCN serves the public interest. Staff concludes that the points regarding TMF capacities and the Tartan Energy criteria are all met for this case." *Id.*

⁷ Rebuttal Testimony of Amanda C. McMellen, 4:1-2; see also Attachment D-1 to the Rebuttal Testimony of Amanda C. McMellen.

(5) Require Mr. Mills, as a regulated water utility, to create and keep financial books and records for plant-in-service, revenues, and operating expenses (including invoices) in accordance with the NARUC Uniform System of Accounts;

(6) Require Mr. Mills to, going forward, keep and make available for audit and review all invoices and documents pertaining to the capital costs of constructing and installing the water utility assets;

(7) Approve depreciation rates for water utility plant accounts as described and shown on States Attachment E: Schedule of Depreciate Rates for Water Plant;

(8) Require Mr. Mills to submit a complete tariff for water service, as a thirty (30) day filing, within ten (10) days after the effective date of approval of a CCN by the Commission;

(9) Require Mr. Mills, as the regulated water utility, to submit information in this case file indicating he owns pertinent water utility real estate, and has access and control of water-related utility easements throughout the service area, within thirty (30) days after the effective date of approval of a CCN by the Commission;

(10) Extend the requirement for Mr. Mills to submit a rate case before the Commission upon issuance of a CCN, as ordered in the Commission's *Report and Order* issued in WC-2017-0037, to submitting a rate case one year after the effective date of the issuance of a CCN in this case;

(11) Make no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters in any later proceeding;

(12) Require Mr. Mills to distribute to all customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its

water service, consistent with the requirements of Commission Rule 4 CSR 240-13, within thirty (30) days after the effective date of approval of a CCN by the Commission;

(13) Require Mr. Mills to provide to the Customer Experience Department Staff a sample of three (3) bills from the first billing cycle after the effective date of approval of a CCN by the Commission;

(14) Require Mr. Mills to file notice in this case once Staff recommendations Nos. 12-13 above have been completed;

(15) Require Mr. Mills to take water samples for laboratory analysis at least twice per year at approximately six month intervals for bacterial contamination, chlorine residual and iron content, such sample to begin within thirty (30) days of the effective date of a CCN issued by the Commission;⁸ and,

(16) Require Mr. Mills to report the twice-annual water testing results to customers at least annually, beginning within 240 days after the effective date of a CCN issued by the Commission.⁹

(Rebuttal Testimony of James A. Merciel, Jr., PE, Schedule JAM-r3)

WHEREFORE, Staff hereby tenders its *Position Statements* for the Commission's information and consideration.

⁸ This recommended condition was added to those stated in the *Staff Recommendation* in response to suggested water quality issues raised by the Intervenors. *Merciel Rebuttal Testimony*, 2:15-3:3.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and/or counsel of record on this 23rd day of April, 2019.

/s/ Alexandra L. Klaus