

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 4th day of
May, 2011.

In the Matter of the Application of Timber Creek)	
Sewer Company Application for Approval of an)	<u>File No. SU-2011-0289</u>
Accounting Authority Order.)	

**ORDER REGARDING APPLICATION FOR AN
ACCOUNTING AUTHORITY ORDER**

Issue Date: May 4, 2011

Effective Date: May 14, 2011

Background

On March 14, 2011, Timber Creek Sewer Company filed an application for an Accounting Authority Order (“AAO”) that would allow Timber Creek to preserve expenses, which were not included in rate case expenses in File No. SR-2010-0320, for potential recovery in Timber Creek’s next rate case. The Commission’s Staff and the Office of the Public Counsel oppose the request, arguing that Timber Creek has not satisfied the standard for a grant of an AAO, because rate case expenses are not extraordinary. Staff also believes that customer growth will allow Timber Creek the opportunity to recover these costs.

Legal Standard for Granting an AAO

Missouri Courts have recognized the Commission's authority to defer expenses and costs through an AAO pursuant to Section 393.140(4) and (8), RSMo, 2000,¹ which provide:

393.140. The commission shall:

(4) Have power, in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by gas corporations, electrical corporations, water corporations and sewer corporations engaged in the manufacture, sale or distribution of gas and electricity for light, heat or power, or in the distribution and sale of water for any purpose whatsoever, or in the collection, carriage, treatment and disposal of sewage for municipal, domestic or other necessary beneficial purpose. It may also, in its discretion, prescribe, by order, forms of accounts, records and memoranda to be kept by such persons and corporations. Notice of alterations by the commission in the required method or form of keeping a system of accounts shall be given to such persons or corporations by the commission at least six months before the same shall take effect. Any other and additional forms of accounts, records and memoranda kept by such corporation shall be subject to examination by the commission.

(8) Have power to examine the accounts, books, contracts, records, documents and papers of any such corporation or person, and have power, after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.

In prior Commission cases, AAO's have issued for what the Commission characterized as "extraordinary expenses," but no law restricts the Commission's statutory authority to grant an AAO for any particular type of expense.

¹ *State ex rel. Aquila, Inc. v. Public Service Comm'n of State*, 326 S.W.3d 20, 27 -32 (Mo. App. 2010); *State ex rel. Office of Pub. Counsel v. Mo. Pub. Serv. Comm'n*, 301 S.W.3d 556, 567-68, 569-70 (Mo. App.2009); *State ex rel. Mo. Gas Energy v. Pub. Serv. Comm'n*, 210 S.W.3d 330, 335-36 (Mo. App. 2006); *State ex rel. Office of Public Counsel v. Public Service Comm'n of Missouri*, 858 S.W.2d 806, 811-812 (Mo. App. 1993). "This is not retroactive ratemaking, because the past rates are not being changed so that more money can be collected from services that have already been provided; instead, the past costs are being considered to set rates to be charged in the future." *State ex rel. Missouri Gas Energy v. Public Service Comm'n*, 210 S.W.3d 330, 336 (Mo. App. 2006).

Timber Creek responded to Staff and Public Counsel's arguments asserting that it is attempting to avoid a repetition of losing certain rate case expenses as what had occurred in its prior rate case; File No. SR-2008-0080. Timber Creek also observes that the Commission just granted, and Staff did not object to, a similar order in File No. ER-2010-0355 so that Kansas City Power and Light Company ("KCPL") could defer consideration of unrecovered rate case expenses. Timber Creek notes that KCPL's expenses may be significantly larger than its own, but the inability to recover its expenses, proportionally to the size of its company, could be just as devastating.

Decision

The Commission will deny Timber Creek's application for an AAO. The Commission does not believe that Timber Creek has articulated a sufficient reason for the AAO, because rate case expenses are routine expenses. Additionally, the Commission notes that no party sought a writ of review of this matter, and the amount of rate case expense incurred between the last update to expenses and the final order in this case can be recovered as indicated by Staff, through increased customer growth.

THE COMMISSION ORDERS THAT:

1. Timber Creek Sewer Company's application for an Accounting Authority Order to allow the company to save expenses not included in rate case expenses in File No. SR-2010-0320 for potential recovery as rate case expenses in its next rate case is denied.

2. This order shall become effective on May 14, 2011.
3. This file shall close on may 15, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Clayton and Kenney, CC., concur.
Davis and Jarrett, CC., dissent.

Stearley, Senior Regulatory Law Judge