

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

In the Matter of the Application of Emerald)
Pointe Utility Company for Permission,)
Approval and a Certificate of Convenience)
and Necessity Authorizing it to Construct,)
Install, Own, Operate, Control, Manage, and)
Maintain a Water and Sewer System for the)
Public as an Expansion of its Certificated)
Area in Taney County, Missouri)

Case No. WA-2005-0306
Case No. SA-2005-0307
(consolidated)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through Counsel, and for its Staff Recommendation, states the following to the Missouri Public Service Commission (Commission).

1. On March 16, 2005¹, Emerald Pointe Utility Company (Emerald Pointe) filed an Application with the Commission, requesting that it be granted a Certificate of Convenience and Necessity to provide water and sewer service to the public in an unincorporated portion of Taney County, Missouri.

2. Section 393.170(3), RSMo 2000, provides, among other things, that the Commission may issue a certificate if it is "necessary or convenient for the public service". See also *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994), wherein the Commission set forth five criteria that should be met before a certificate may be issued.

3. Based on its investigation of Emerald Pointe's Application, the Staff believes that Emerald Pointe has met the criteria established by the Commission and specified in Section 393.170 (3).

¹ Unless noted otherwise, all dates herein refer to the year 2005.

4. Included in the document that is attached hereto and labeled Appendix A, is the Staff's Official Case File Memorandum (and related attachments), which includes the Staff's recommendations to the Commission regarding the subject Application (see page 4 of the memorandum).

WHEREFORE, the Staff respectfully submits this Staff Recommendation for the Commission's consideration, and respectfully requests that the Commission issue an Order consistent with the provisions of the Staff's Official Case File Memorandum.

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

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Missouri Public Service Commission

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing 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 18th day of April 2005.

/s/ Keith R. Krueger

Keith R. Krueger

Staff Recommendation

Case No. WA-2005-0306

Appendix A

Case File Memorandum & Attachments

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. WA-2005-0306 (lead case, consolidated with SA-2005-0307)
Emerald Pointe Utility Company

FROM: Dale W. Johansen – Project Coordinator
Water & Sewer Department
Graham Vesely – Auditing Department
Matt Barnes – Financial Analysis Department
Jim Merciel – Water & Sewer Department

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|------------------------------|---------------------------|
| <u>/s/ Dale W. Johansen</u> | <u>April 18, 2005</u> |
| Project Coordinator | Date |
| <u>/s/ Keith Krueger</u> | <u>April 18, 2005</u> |
| General Counsel's Office | Date |

SUBJECT: Staff Recommendation for Granting of Certificates of Convenience and Necessity for Emerald Pointe Utility Company to Provide Water Service and Sewer Service in a Described Area in Taney County, Missouri.

DATE: April 18, 2005

BACKGROUND

On March 16, 2005*, Emerald Pointe Utility Company (Emerald Pointe or Company) filed Applications with the Commission, by which it was seeking Certificates of Convenience and Necessity (Certificates) to provide water service and sewer service in Taney County to a small addition to a new development known as Branson Canyon Subdivision. Upon receipt of the Application at the Commission's offices, the Application was entered into the Commission's electronic filing and information system as both a water system application and a sewer system application, with Case Nos. WA-2005-0306 and SA-2005-0307 being assigned.

On March 18, the Commission issued its **Order Consolidating Cases**, making WA-2005-0306 the lead case in which all filings for both cases would be filed.

On March 21, the Commission issued its **Order and Notice** (Notice Order), requiring that notice of the Application be sent to legislators, county officials and media outlets serving the affected area. The Notice Order also set April 7 as the deadline for interested parties to file intervention requests. No requests to intervene were filed by the established deadline, nor have any such requests been filed since.

* Unless noted otherwise, all dates herein refer to the year 2005.

STAFF'S INVESTIGATION

As noted at the beginning of this Memorandum, Staff members from the Auditing, Financial Analysis and Water & Sewer Departments and the General Counsel's Office participated in the Staff's investigation of the Application. All Staff participants and the assigned attorney from the General Counsel's Office were provided the opportunity to review and comment on this Memorandum prior to it being filed. Jim Merciel of the Water & Sewer Department created the initial draft of this Memorandum and comments received from the reviewers were incorporated therein to create this final version of this Memorandum.

THE APPLICATION

The requested service area is a small rectangular area, approximately 150 feet by 300 feet, consisting of a little more than an acre, which is surrounded by the Branson Canyon development. The Branson Canyon development is an area of approximately 85 acres that the Commission approved for inclusion in the Company's certificated service areas in consolidated Case Nos. WA-2004-0581 and SA-2004-0582 (both cases herein referred to as WA-2004-0581). The Commission's order in WA-2004-0581 became effective on December 12, 2004.

According to the Application, the subject rectangular area of land was not owned by the developer of Branson Canyon when WA-2004-0581 was filed, and thus was excluded from the service area requested in that case. However, the developer has since acquired the land, and is now in a position to include it as a part of the proposed subdivision, and thus water and sewer service availability is desirable and necessary.

A map showing Emerald Pointe's original service area and the Branson Canyon area is included with this Memorandum as Attachment 1. Another map of Branson Canyon showing the service area requested in the subject Application is included with this Memorandum as Attachment 2.

BACKGROUND OF THE COMPANY

Emerald Pointe is an existing regulated water and sewer utility, having started business as a water and sewer utility as authorized by the Commission in Case No. WA-96-96 to serve a residential and condominium development known as Emerald Pointe, near Branson in Taney County. The Company presently has approximately 260 water and sewer customers with growth of approximately 90 customers per year in the original service area, which excludes Branson Canyon. Mr. Gary Snadon, who is a developer and businessman in the area, owns the Company.

STAFF'S FINDINGS & CONCLUSIONS

By studying the Branson Canyon map, the Staff believes the addition of the requested service area could result in perhaps an additional six to ten customers. These additional customers, as compared to 281 expected customers as proposed in WA-2004-0581, are a very small change. Because of this, the Staff does not believe there is a need to update the required feasibility study information, the feasibility study evaluation, or the Tartan Energy Criteria evaluation, as were discussed and presented in the Staff's recommendation in WA-2004-0581. If anything, the addition of these additional potential customers would create a small positive impact upon the addition of Branson Canyon to the Company's overall certificated service area, and the Staff is thus of the opinion that the addition of the proposed service area is reasonable.

Additionally, the inclusion of the additional service area, and the related customers, proposed in this case does not significantly impact the water and sewer plant capacities beyond that contemplated in WA-2004-0581.

If the requested service area is approved, Emerald Pointe will need to update the map and service area description in its water and sewer tariffs. The Company was ordered to update its tariff in the context of WA-2004-0581, but, after a discussion with the Staff, the Company has requested leave from the requirement to update the tariff as ordered in that case, based on the need for another update if and when the current Application is approved. The Staff believes this request is reasonable, assuming the instant proposal will be approved.

ADDITIONAL MATTERS

The Staff notes that Emerald Pointe is current with regard to the payment of its Commission assessments through fiscal year 2005. Additionally, the Company has no deficiencies regarding the submission of its Commission annual reports. The assessment payment review covers fiscal years 2000 through 2005, and the annual report submission review covers calendar years 1997 through 2004. Jim Merciel of the Water & Sewer Department conducted the assessment payment and annual report submission reviews on behalf of the Staff.

Additionally, the Staff notes that it is not aware of any compliance-related matters involving the Company and the Department of Natural Resources. Also, the only other matter that the Company has pending before the Commission is Case No. WA-2004-581, as noted above. Lastly, the Staff notes that the Company is currently in good standing with the Secretary of State.

STAFF'S RECOMMENDATIONS

Based upon the above, the Staff recommends that the Commission issue an order in this consolidated case that:

- 1) Grants a Certificate of Convenience and Necessity for Emerald Pointe to provide water service in the service area described in the water Application;
- 2) Grants a Certificate of Convenience and Necessity for Emerald Pointe to provide sewer service in the service area described in the sewer Application;
- 3) Requires Emerald Pointe to submit revised water tariff sheets that depict the new service area, and a modified index sheet reflecting the new sheets, with such described service area to include the area proposed in this case and the area approved in WA-2004-0581, as well as pre-existing area;
- 4) Requires Emerald Pointe to submit revised sewer tariff sheets that depict the new service area, and a modified index sheet reflecting the new sheets, with such described service area to include the area proposed in this case and the area approved in WA-2004-0581, as well as pre-existing area;
- 5) Requires Emerald Pointe to properly book all new utility plant placed into service, including the proper booking of contributed plant and contributions-in-aid-of-construction;
- 6) Requires Emerald Pointe to continue to use existing approved depreciation accrual rates; and
- 7) Recognizes that nothing in this Memorandum, or in any order issued by the Commission in this case, shall bind the Commission on any ratemaking issue in any future rate proceeding.

List of Attachments

Attachment 1: Map of Existing and Proposed Company Service Area

Attachment 2: Map of Branson Canyon Subdivision, with Proposed Subdivision Land Addition

Attachment 1 to Case File Memo

Case No. WA-2005-0306

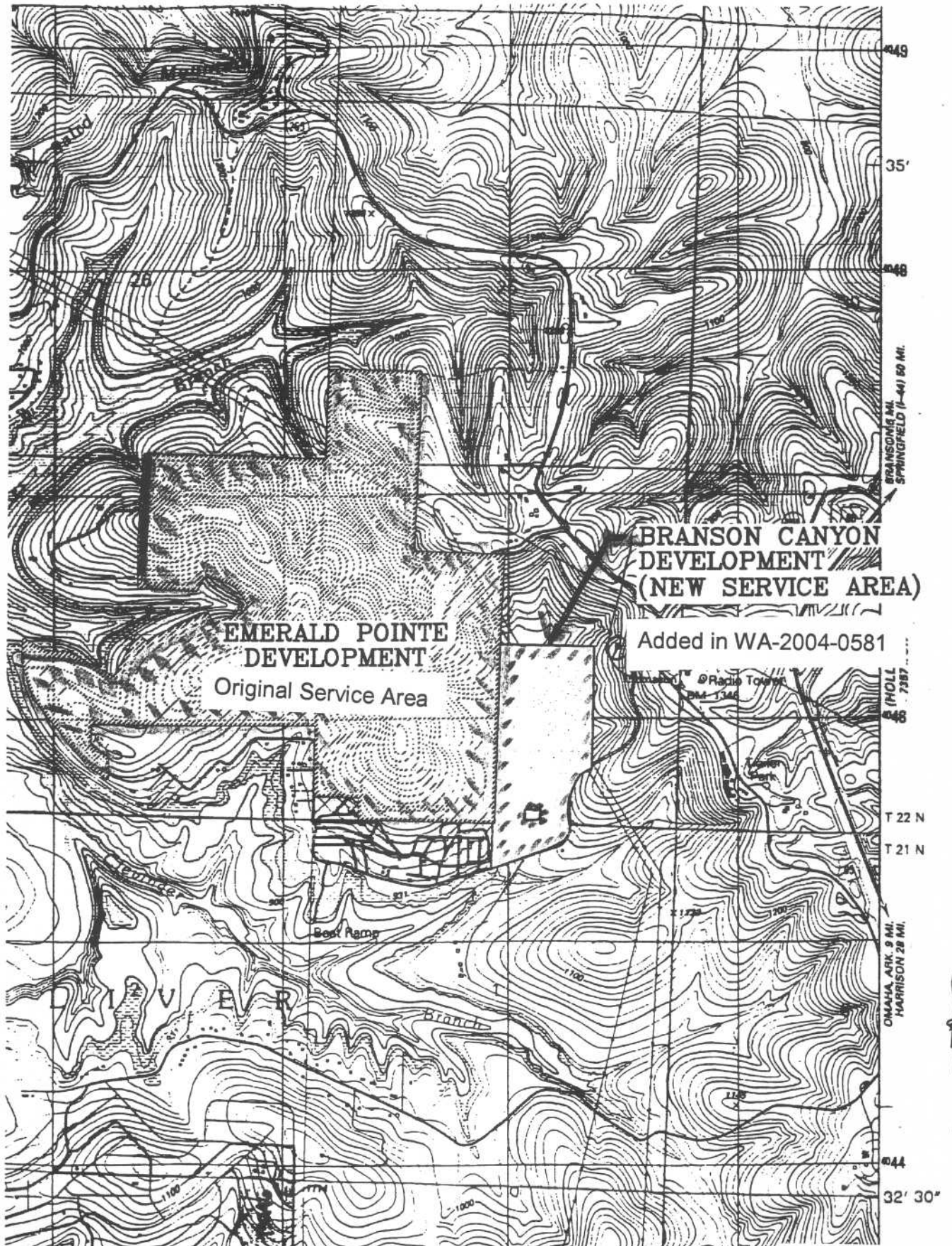


TABLE ROCK QUADRANGLE 20 scale

Attachment 1

Attachment 2 to Case File Memo

Case No. WA-2005-0306

Storage Units
7,400 S.F.

1/2 Acre Boat
and R.V. Storage

Branson Canyon Area

Proposed New Area
(300 ft by 150 ft)

Cabin Sites (30x40 Foot Print)
+/- 80 Acres
261 Units
2.9 Units / Acre

Club Ho.
Pool
Sports Court
Play Ground
Picnic Area

The owner makes no warranty or representation of any kind or character, expressed or implied, with respect to the nature depicted or covered by renderings, drawings, or furnished information provided herein.

For precise details regarding the proposed development, refer to the final survey and final recorded plat. The owners of the property shown and their successors and assigns reserve the right to make zoning, development, ownership, and/or use changes for any portion(s) of the properties. The owner reserves the right to change the property package and plans without further notice.

