

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

In the Matter of the Application of Dale Whiteside)
and Whiteside Hidden Acres, L.L.C. for a)
Certificate of Convenience and Necessity) Case No. WA-2009-0261
Authorizing it to Own, Control, Manage, Improve)
and Maintain a Water and Sewer System for the)
Public, Located in an Incorporated Area of Hickory)
County, Missouri)

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW Whiteside Hidden Acres, L.L.C. (WHA or Company), the Staff of the Missouri Public Service Commission (Staff), and the Office of Public Counsel (OPC), collectively known as the Signatories, and respectfully submit this *Unanimous Stipulation And Agreement* to the Missouri Public Service Commission (Commission) stating the following:

Stipulated Facts

The Signatories stipulate to the following facts:

1. On January 13, 2009, WHA filed an *Application* for a certificate of convenience and necessity (CCN) for water and sewer systems located in Hickory County, Missouri. The *Application* was assigned File Nos. WA-2009-0261 and SA-2009-0262.
2. On January 15, 2009, the Commission issued its *Order Directing Notice And Setting Date For Submission Of Intervention Requests*, allowing applications to intervene until February 17, 2009. No person or party applied to intervene.
3. On February 3, 2009, Staff conducted an on-site investigation of the service area. Additionally, the Staff reviewed the Company's overall plans for providing service to the area, its technical, managerial and financial capacities, and the applicable depreciation rates for the system.

4. On March 13, 2009, WHA filed an *Amended Application* for WA-2009-0261. The *Amended Application* removed “Dale Whiteside” as an applicant, and only requested authority to own, operate, control, manage, improve, and maintain a water system for the public in an unincorporated area of Hickory County, Missouri. On May 21, 2009, WHA filed a *Notice Of Voluntary Dismissal Of Application* in SA-2009-0262.
5. Also on May 21, 2009, Staff submitted its *Staff Recommendation*. The Staff subsequently provided WHA and OPC the work-papers developed during the investigation.
6. Pursuant to negotiations held subsequent to WHA’s and OPC’s receipt of the work-papers of the Staff’s investigation, the Signatories entered into this unanimous agreement regarding the proposed disposition of the *Amended Application*.
7. Additionally, the Signatories stipulate to the facts in Attachment E, and incorporate those facts by reference herein.

Agreement

The Signatories hereby agree:

8. To jointly recommend it is in the public interest that the Commission grant WHA a certificate of convenience and necessity for the provision of water service to the Cedar Haven, Holly Court, and Sportsman Retreat subdivisions, and the commercial campground areas as defined by the following service area: the SW 1/4 of the SW 1/4 of section 13, T36N, R22W (which includes the Whiteside Hidden Acres campground), the NW 1/4 of the NW 1/4 of Section 24, T36N, R22W (which includes the Holly Court Subdivision), the NE 1/4 of the NE 1/4 of Section 23, T36N, R22W (which includes the subdivision of Cedar Haven), and the

S 1/2 of the SE 1/4 of Section 14, T36N, R22W (which includes the subdivision of Sportsman's Retreat).

9. That the CCN be effective on the same date as the effective date of the Company's new tariff sheets to be submitted, as described herein;
10. For the purpose of settlement, the ratemaking income statement attached hereto as Attachment A accurately reflects the agreed-upon total annualized cost of service for the Company, in the amount of \$13,485.
11. That the weighted cost of capital worksheet, attached hereto as Attachment B, includes consideration of a capital structure of 100.00% equity for the Company and a return on equity of 9.50%, which accurately reflects the agreed-upon total annualized cost of service for the Company and provides the basis for the ratemaking income statement referenced in paragraph nine (9) above.
12. That the schedule of depreciation rates attached hereto as Attachment C, and incorporated by reference herein, which includes the depreciation rates used by the Staff in its revenue requirement analysis, should be the prescribed schedule of water plant depreciation rates for the Company.
13. That the service charges of \$25 per returned check, \$25 disconnect/reconnect fee with shutoff valve available, \$360 disconnect/reconnect fee when installation of meter setting is necessary to establish a shutoff valve, and a late fee of \$5 per month are reasonable charges that shall be included in the Company's tariff.
14. That the residential unmetered rate of \$46.12 per quarter, and a metered rate of \$15.65 per quarter plus \$2.26 per 1000 gallons of use, the development of which is shown on the Cost of Service Allocation attached hereto as Attachment D, are designed to generate

revenues sufficient to recover the agreed-upon total annualized cost of service for the Company.

15. That WHA will commence a Small Utility Rate Case, pursuant to 4 CSR 240-3.050, within twelve (12) months of the effective date of a Commission order granting the Company a CCN.
16. That the rates agreed to in paragraph thirteen (13) will be interim, subject to a customer refund or credit, based upon the rates established in the Small Utility Rate Case required in paragraph fourteen (14).
17. That WHA will submit a tariff within 30 days after the effective date of a Commission order granting the CCN, including a map and written description of the service area, and customer rates and miscellaneous service charges, and a requirement that commercial customers install meters as a condition of service, with the tariff sheets to bear an effective date that is at least 30 days from the date the tariff sheets are submitted to the Commission.
18. That WHA will include a rule in its tariffs that requires current and future commercial customers to install a company approved meter as a condition of service.
19. That Staff will conduct a review of WHA's operations fourteen (14) months from the effective date of the approved tariffs.
20. That WHA will install meters on Whiteside Hidden Acres Campground and Cedar Haven Campground within thirty (30) days of the effective date of a Commission order approving a CCN. Confirmation of commercial meter installation shall be submitted to the Manager of the Water and Sewer Department within fourteen (14) days of meter installation.

21. That the WHA water system will have a certified operator within thirty (30) days of the effective date of a Commission's order approving a CCN, to make weekly on site observations of the well and system, take weekly recordings of the well master meter, complete monthly bacteriological sampling, and to be in compliance with DNR regulations.
22. That WHA will evaluate the feasibility of installing residential meters with a written evaluation to be submitted to the Manager of the Water and Sewer Department by January 31, 2010;
23. That WHA will develop a distribution system map showing pipe by size, valves, and service connections by January 31, 2010. WHA will provide a copy of this map to the Manager of the Water and Sewer Department by January 31, 2010.
24. That WHA will install flush valves capable of flushing the system pipes at 3 feet per second water velocity by May 31, 2010.
25. That WHA will submit meter reading data quarterly, beginning with the effective date of a Commission order approving a CCN and continuing for two full years of operation, to the Manager of the Water and Sewer Department.
26. That WHA will commence and maintain accounting records starting with the effective date of a Commission order granting a CCN, including but not limited to, customer billing, employee time, invoices and receipts.
27. That WHA will maintain all of its financial records in accordance with the Commission approved 1973 Uniform System of Accounts (USOA), as revised in July 1976.

28. That WHA acknowledges that the Staff will, and the OPC may, conduct follow-up reviews of the Company's operations to ensure that the Company has complied with the provisions of this *Unanimous Stipulation And Agreement*.
29. That WHA acknowledges that the Staff or the OPC may file or continue prosecuting a formal complaint against it, if the Company does not comply with the provisions of this *Unanimous Stipulation And Agreement*.
30. That the above agreements satisfactorily resolve all issues identified by the Signatories regarding the Company's *Amended Application*, except as otherwise specifically stated herein.

Contingent Waiver Of Rights

The Signatories hereby agree:

31. This *Unanimous Stipulation And Agreement* is being entered into solely for the purpose of settling the issues in this case. Unless otherwise explicitly provided herein, none of the Signatories to this *Unanimous Stipulation and Agreement* shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost determination or cost allocation or revenue-related methodology. Other than explicitly provided herein, none of the Signatories shall be prejudiced or bound in any manner by the terms of this *Unanimous Stipulation And Agreement* in these or any other proceeding regardless of whether it is approved.
32. This *Unanimous Stipulation and Agreement* has resulted from negotiations among the Signatories and the terms hereof are interdependent. If the Commission does not approve this *Unanimous Stipulation And Agreement* unconditionally and without modification,

then it shall be void and no Signatory shall be bound by any of the agreements or provisions hereof, except as explicitly provided herein.

33. If the Commission does not approve this *Unanimous Stipulation And Agreement* without condition or modification, and notwithstanding the provision herein that it shall become void; neither this *Unanimous Stipulation And Agreement* nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with §536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this *Unanimous Stipulation And Agreement* had not been presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this *Unanimous Stipulation And Agreement* shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not considered as part of the administrative or evidentiary record before the Commission for any purpose whatsoever.

34. In the event the Commission accepts the specific terms of this *Unanimous Stipulation And Agreement* without condition or modification, the Signatories waive their respective rights to present oral argument and written briefs pursuant to §536.080.1 RSMo 2000; their respective rights to reading of the transcript by the Commission pursuant to §536.080.2 RSMo 2000; their respective rights to seek rehearing pursuant to §536.500 RSMo 2000; and their respective rights to judicial review pursuant to §368.510 RSMo 2000. This waiver applies only to a Commission order approving this *Unanimous Stipulation And Agreement* without condition or modification issued in this proceeding and only to the issues that are resolved hereby. It does not apply to any matters raised in

any prior or subsequent Commission proceeding nor any matters not explicitly addressed by this *Unanimous Stipulation And Agreement*.

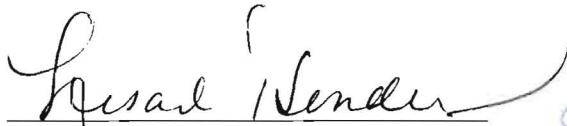
Right to Disclose

The Signatories hereby agree:

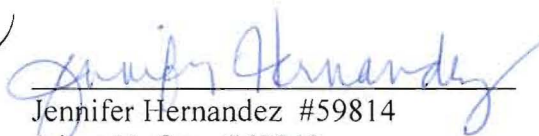
35. The Staff may file suggestions or a memorandum in support of this *Unanimous Stipulation And Agreement*. Each of the Signatories shall be served with a copy of any such suggestions or memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's suggestions or memorandum, responsive suggestions or a memorandum, which shall also be served on all Signatories. The contents of any suggestions or memorandum provided by any Signatory are its own and are not acquiesced in or otherwise adopted by the other Signatories to this *Unanimous Stipulation And Agreement*, whether or not the Commission approves and adopts this *Unanimous Stipulation And Agreement*.
36. The Staff also shall have the right to provide, at any agenda meeting at which this *Unanimous Stipulation And Agreement* is noticed to be considered by the Commission, whatever oral explanation the Commission requests; provided, that the Staff shall, to the extent reasonably practicable, provide the other Signatories with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to Commission Rule 4 CSR 240-2.135.

WHEREFORE, for the foregoing reasons, the Signatories respectfully request the Commission issue an Order approving all of the specific terms and conditions of this *Unanimous Stipulation And Agreement*.

Respectfully submitted,

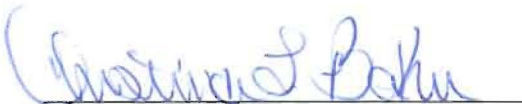


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MAPEKA 5/7/2009

Full Time Cust @ 240 per year
Part Time Customers @ \$125 yr
2 Camp Grounds @ \$125 approx 160
seasonal clients 1 reg customer = 4 camp
sites (Hummel)
1 Restaurant equivalent to 2 customers
Total Customers
Rates

Revenue at current rates

- 1 Operator
- 2 Billing
- 3 Postage
- 4 Meter Reading
- 5 Management
- 6 Chemicals
- 7 Lease of tractor equipment
- 8 Repairs and general maintenance
- 9 Amortization of Startup costs
- 10 Professional Fees
- 11 Insurance
- 12 DNR, Testing & Laboratory Services
- 13 Electric Expense
- 14 PSC Assessment
- 15 Other DNR Fees
- 16 Property Tax
- 17

Total Expense

- 18 Depreciation Expense
- Sub-Total**

- 19 Interest on Debt
- Sub-Total**

- 20 Return on Rate Base & Income Taxes
- Sub-Total**

Total Cost of Service

Cost to Recover in Rates

Overall Revenue Change needed

12/31/2008	12/31/2008
Company Feasibility Study Proposal	Staff Feasibility Study Proposal
Water	Water
23	23
18	21
0	40
1	2
42	86
	\$0.00
\$7,770	\$13,625
\$12,000	\$5,200
\$0	\$400
\$36	\$53
\$0	\$0
\$0	\$2,600
\$0	\$0
\$3,000	\$0
\$2,300	\$1,200
\$0	\$140
\$0	\$0
\$0	\$0
\$600	\$600
\$886	\$1,625
\$0	\$102
\$0	\$0
\$0	\$0
\$0	\$0
\$18,822	\$11,919
\$0	459
\$18,822	\$12,378
\$0	\$0
\$18,822	\$12,378
\$0	\$1,107
\$18,822	\$13,485
\$18,822	\$13,485
\$18,822	\$13,485
\$11,052	-\$140

**Comments
Staff**

Per Company Response to Staff's DR (Eddie Martinez 100 X 52)
\$100 per billing
Water - send out billings once a year - Postage + envelopes

Per the feasibility study
Per the feasibility study

Legal fees, certification

Per the feasibility study
Per the feasibility study
Based on current 2009 PSC Assessment for water
Per the feasibility study

See water & sewer rates worksheet & Rate Base

Per Company Response to Staff's DR. Company has no debt

See Rate Base, Return & Pre-tax return rate worksheet attached

Note 1 Company's numbers based on company's feasibility study

Note 2 Staff numbers based upon feasibility study & Company's responses to DR's

WHITESIDE HIDDEN ACRES

Case No. WA-2009-0261

Weighted Cost of Capital
as of 12/31/08

Capital Component	Capital Dollars	Percentage of Capital	Embedded Cost	Weighted Cost
Common Equity	\$ 9,800.00	100.00%	9.50%	9.50%
Preferred Stock	\$ -	0.00%	0.00%	0.00%
Long-Term Debt		0.00%	0.00%	0.00%
Short-Term Debt	\$ -	0.00%	0.00%	0.00%
Total	<u>\$ 9,800.00</u>	<u>100.00%</u>		<u>9.50%</u>

WHITESIDE HIDDEN ACRES

DEPRECIATION RATES

(WATER)

WA-2009-0261

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEPRECIATION RATE	AVERAGE SERVICE LIFE (YEARS)	NET SALVAGE
SOURCE OF SUPPLY				
311	Structures & Improvements	2.5%	40	
312	Collecting & Impounding Reservoirs	2.0%	50	
314	Wells & Springs	2.0%	50	
316	Supply Mains	2.0%	50	
PUMPING PLANT				
325	Electric Pumping Equipment	10.0%	10	
325.1	Submersible Pumping Equipment	10.0%	10	
325.2	High Service or Booster Pumping Equip.	6.7%	15	
325.3	Shaft-driven Pumping Equipment	5.0%	20	
328	Other Pumping Equipment	4.0%	25	
WATER TREATMENT PLANT				
331	Structures & Improvements	2.5%	40	
332	Water Treatment Equipment	2.9%	35	
TRANSMISSION & DISTRIBUTION				
341	Structures & Improvements	2.5%	40	
342	Distribution Reservoirs & Standpipes	2.5%	40	
343	Transmission & Distribution Mains	2.0%	50	
345	Services	2.5%	40	
346	Meters	10%;5%;3.3%	10;20;30	
347	Meter Installations	2.5%	40	
348	Hydrants	2.0%	50	
GENERAL PLANT				
391	Office Furniture & Equipment	5.0%	20	
392	Transportation Equipment	13.0%	7	9%
394	Tools, Shop, Garage Equipment	5.0%	20	
395	Laboratory Equipment	5.0%	20	
396	Power Operated Equipment	6.7%	15	
398	Miscellaneous Equipment	5.0%	20	

WHA COS allocation

	customer	commodity
total EDU	86	
annual COS	\$13,485	\$3,005
estimated Kgal	4644	\$2.26 per Kgal
cust.charge/qtr	48 customers	\$15.65 per qtr/cust
qtr resid.flatrate		\$46.12

RV parks metered, 40edu	\$4,999.63
Restaurant metered 2 edu	\$368.93
Residential unmetered,44	<u>\$8,116.44</u>
annual revenue estimate	\$13,485.00

BACKGROUND FACTS

On June 19, 2008, the Staff of the Missouri Public Service Commission (Staff) filed a formal *Complaint* against Whiteside Hidden Acres LLC (WHA LLC or Company) and Dale Whiteside (Mr. Whiteside), together know as Respondents, for owning, controlling, or managing a water system and providing service for gain to customers without a Commission approved Certificate of Convenience and Necessity (CCN). The *Complaint* was assigned Case No. WC-2008-0405. On August 18, 2008, the Staff, Respondents, and the Office of Public Counsel participated in a prehearing conference, at which time the parties discussed the Respondents filing an application for a certificate of convenience and necessity from the Commission. On January 13, 2009¹, the Respondents filed an *Application* for Commission authority to own, operate, control, manage, improve, and maintain a water and sewer system in Hickory County, Missouri. The *Application* was assigned Case Nos. WA-2009-0261 and SA-2009-0262.

After conducting an on-site investigation, Staff concluded that the sewer system operated by WHA LLC does not qualify at this time as a Section 386.020 (49) RSMo (Supp. 2008) “sewer corporation”, as it has less than twenty-five outlets. Sewer service is provided to Whiteside Hidden Acres, a recreational vehicle park, owned by Mr. Whiteside. WHA LLC does not intend to become a “sewer corporation” in the future. Thus, the application in Case No. SA-2009-0262 is not needed and a **CCN should not be granted for the sewer system**. Staff has addressed this matter with Mr. Whiteside. While Staff believes the intent of the *Amended Application*, filed March 13, was an implicit withdrawal of the sewer CCN *Application*, no formal withdrawal has been filed in the case. Ms. Henderson has not yet filed a formal withdrawal.

On March 13, at the request of Staff, the Commission received an *Amended Application* on the behalf of WHA LLC solely, for a CCN to provide water service to the Holly Court, Sportsman's Retreat, and Cedar Hills subdivisions, and adjacent area in Hickory County, Missouri. The *Amended Application* included a feasibility study for the water system, and removed the terms “sewer system” and “Dale Whiteside” from the case heading.

The proposed service area has approximately 44 residences, two RV parks (200 total sites) and a restaurant. It is located near Pomme De Terre Lake and Pomme De Terre State Park. The Department of Natural Resources (DNR) has issued a permit to dispense for the water system, and the system is currently providing service.

On February 3, 2009, Staff made an on-site visit to the service area. Staff with Mr. Whiteside observed the well, wellhouse, proximity of the homes and general service area. This included visible surface features of the distribution system and two smaller wells that are not in service. Additional items reviewed during Staff's investigation of WHA LLC's *Application* included the Company's overall plans for providing service to the area, the applicable depreciation rates to the system and the Company's technical, managerial and financial capacities.

Throughout the complaint and application cases, WHA LLC has expressed an interest in other alternatives to Commission regulation for providing water service. Staff and its Counsel have made extensive efforts toward identifying any other alternatives for water service to this area.

¹ Unless noted otherwise, all dates herein refer to the year 2009.

However, there is not a Public Water Supply District available or willing to operate the facilities. There is not a homeowners association or similar body located in the service areas and the service area is not located in a municipality.

Staff has also spoken by phone with the DNR's Southwest Regional Office to verify that DNR requirements are being met. There have been violations in the past that have not been responded to by the Company. Followup by DNR apparently has not happened for lack of personnel time at the DNR. It is not clear to Staff the number or severity of past violations, but the violations appear to primarily be lack of submitting samples on time. It is anticipated, from phone discussions with DNR, that DNR will be doing an additional inspection of the WHA LLC facilities within the next few weeks.

Staff has reviewed WHA LLC's current operations and found that the operation of its facilities is in need of improvement as reflected in the recommendations below. There has been considerable discussion between Staff and WHA concerning observed conditions. The following items are observations made during Staff's investigation:

- A certified operator has not been overseeing the facilities. A certified operator (a requirement of DNR) has formal training and experience in the proper operation of the facilities. Besides recording operating conditions, an important part of what the operator does is to make regular observations of sanitary operating conditions.
- A record of well master meter readings has not been kept. This record assists the understanding of water use and demand. As consequence, a sound evaluation of the capacity and adequacy of the well and storage is very difficult.
- Some of the recent monthly bacteriological samplings were missed or were late.
- There is no map of the piping system and there is not a clear understanding of the location of the water mains and service connections. Most service connections can not be shutoff and there may even be unrecognized customers on the system. There may not be adequate flush valves and therefore the system cannot be flushed if contaminated water were in the system. such as following a main break or an unusual event at the source of supply.
- The RV parks' usage is not metered. As a consequence, proper allocation of costs is difficult, and leak detection even more difficult. However, the owner has stated that he will have meters installed for the RV parks within a couple weeks. At this time there is no plan for the installation of residential meters.

As noted above, there are a number of suboptimum aspects to this water utility operation and the facilities. Also, the regulatory process is new to the owner, Mr. Whiteside. Staff has spent a large amount of time listening to customers and working with the owner to develop a sound understanding of options and needs of drinking water provision for the area in question. There has been considerable discussion with Mr. Whiteside both about the physical facilities and about operating a regulated utility. Staff has made various suggestions to Mr. Whiteside, for which he has taken considerable time to evaluate and pursue. The process of attempting to find someone else to take the system, or contract operate, or provide some contract services, has been time consuming.