

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 3rd day of
June, 2009.

In the Matter of the Application of Oakbrier Water)
Company, Inc., for a Certificate of Convenience and)
Necessity authorizing it to enlarge and extend its)
Service Area and to Construct, Install, Own, Operate,) **File No. WA-2009-0406**
Control, Manage and Maintain a Water System for)
the Public Located in the Unincorporated area of)
Butler County, Missouri)

ORDER GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY

Issue Date: June 3, 2009

Effective Date: June 13, 2009

On May 12, 2009, Oakbrier Water Company, Inc., filed an application, as set out in the above caption, with the Missouri Public Service Commission. The company currently provides service to Oakbrier subdivision in Butler County. The area the company proposes to serve is adjacent to the subdivision. The company has a rate increase request pending that includes the expanded service area and therefore seeks expedited treatment

On May 13, the Commission issued notice of the application to the Missouri Department of Natural Resources and to the County Commission, members of the General Assembly and media who serve Butler County. Those wishing to intervene were ordered to do so no later than May 22. There were no requests to intervene.

The Staff of the Commission filed its recommendation on May 27. In its Memorandum, Staff informs the Commission that the company currently serves 55 residential customers and two commercial customers. Through its proposed expansion,

the company will serve an additional 6 customers¹ with other customers possibly moving into the expanded service area.

Staff believes that the current rates, rules, service charges and depreciation accrual rates should apply to the expanded portion of the company's service area. Staff also states that the additional customer will have no direct or immediate impact on the existing water system. The system, therefore, does not need to be expanded.

Finally, Staff addresses the Commission's established criteria² with regard to certificates of convenience and necessity. Those criteria are as follows: (1) Is there a need for the company to provide the proposed services? (2) Is the company qualified to provide the proposed service? (3) Does the company have the financial ability to provide the proposed services? (4) Is the company's proposal economically feasible? (5) Does the company's proposal promote the public interest? Staff states that all of these criteria are satisfied. Because the facts set forth in the company's application and Staff's report are undisputed, the Commission incorporates them into this order and adopts them as true.

Upon review of the company's application and Staff's recommendation the Commission concludes that granting the company a certificate of convenience and necessity to serve the expanded area will serve the public interest.

The Commission reminds the company that failure to comply with its regulatory obligations may result in the assessment of penalties against it. These regulatory obligations include, but are not limited to, the following:

¹ In an attachment to its application, the company lists an additional 7 customers. Staff, however, believes that one of those customers is within the current service area. Staff does not take issue with this discrepancy.

² *In re Tartan Energy Company*, 3 Mo. P.S.C. 3d 173, 177 (1994).

A) The obligation to file an annual report, as established by Section 393.140(6), RSMo 2000. Failure to comply with this obligation will make the utility liable to a penalty of \$100 and an additional \$100 per day that the violation continues. 4 CSR 240-3.640 requires water utilities to file their annual report on or before April 15 of each year.

B) The obligation to pay an annual assessment fee established by the Commission, as required by Section 386.370, RSMo 2000. Because assessments are facilitated by order of the Commission, failure to comply with the order will subject the company to penalties ranging from \$100 to \$2000 for each day on noncompliance, pursuant to Section 386.570, RSMo 2000.

C) The obligation to provide safe and adequate service at just and reasonable rates, pursuant to Section 393.130 RSMo, Supp. 2008.

D) The obligation to comply with all relevant state and federal laws and regulations, including but not limited to, rules of this Commission, the Department of Natural Resources, and the Environmental Protection Agency.

E) The obligation to comply with orders issued by this Commission. If the company fails to comply it is subject to penalties for noncompliance ranging from \$100 to \$2,000 per day of noncompliance, pursuant to Section 386.570 RSMo 2000.

F) The obligation to keep the Commission informed of its current address and telephone number.

This certificate is granted conditioned upon the compliance of the company with these obligations. Moreover, if the Commission finds, after conducting a hearing, that the company fails to provide safe and adequate service, or has defaulted on any indebtedness, the Commission shall petition the Circuit Court for an order attaching the assets, and placing the company under the control of a receiver, as permitted by Section 393.145,

RSMo Supp 2008. As a condition of granting this certificate, the company hereby consents to the appointment of a temporary receiver until such time as the Circuit Court grants or denies the petition for receivership.

The company is also placed on notice that Section 386.310.1, RSMo 2000, provides that the Commission can, without first holding a hearing, issue an order in any case, "in which the commission determines that the failure to do would result in the likelihood of imminent threat of serious harm to life or property."

Furthermore, the company is reminded that, as a corporation, its officers may not represent the company before the commission. Instead the company must be represented by an attorney licensed to practice law in Missouri.

THE COMMISSION ORDERS THAT:

1. Oakbrier Water Company, Inc., is granted a certificate of convenience and necessity to serve the proposed expanded service area.
2. Oakbrier Water Company shall abide by the conditions set out in the body of this order.
3. This order shall become effective on June 13, 2009.
4. This case shall be closed on June 14, 2009.

(S E A L)

BY THE COMMISSION



Colleen M. Dale
Secretary

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

Jones, Senior Regulatory Law Judge