

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 24th day  
of July, 2009.

In the Matter of the Application of Jerry Reed,     )  
d/b/a Woodland Acres Water System, for a         )  
Certificate of Convenience and Necessity to        )  
Provide Water Service in St. Clair County,         )  
Missouri   )

**File No. WA-2009-0031**

**ORDER APPROVING UNANIMOUS STIPULATION AND AGREEMENT**

Issue Date: July 24, 2009

Effective Date: August 3, 2009

**Background**

Jerry Reed is one of the original developers of the Woodland Acres subdivision and has been operating a water system to serve the residents since 1996. The residents were paying an annual fee of \$200 for service. The Staff of the Missouri Public Service Commission was made aware of the operation when the Department of Natural Resources forwarded a letter to the Commission from a former customer regarding water rates. Upon an investigation Staff found that Mr. Reed was operating the system without a certificate of convenience and necessity from the Commission. Staff then informed Mr. Reed that he needed to file an application for a certificate, which he did on July 21, 2008. The Commission then issued notice of the application and set a deadline for intervention requests. No requests were filed.

After prolonged discussions with Mr. Reed, Staff filed its recommendation on May 29, 2009. Among other things, Staff recommended that the 12 residential customers being served by the system be charged a quarterly fee of \$170.34 for full-time customers

and \$136.27 for part-time customers.<sup>1</sup> Although Mr. Reed agreed with the majority of Staff's recommendations, he took issue with the amount of quarterly rates. His position was that the rates should be \$30 lower. The Office of the Public Counsel also disputed Staff's recommendation with regard to contribution in aid of construction, the lack of a requirement for a rate case in the near future and the lack of a refund/credit provision pending the outcome of that future rate case. In light of these pleadings, the Commission set the matter for a prehearing conference, which was later cancelled upon Staff's filing of a Notice of Agreement. Finally, on behalf of the parties, Staff filed the Unanimous Stipulation and Agreement on July 13.

### **The Agreement**

The parties agree that it is in the public interest for the Commission to grant a certificate of convenience and necessity for water service to Mr. Reed. Mr. Reed agrees to submit a tariff within 30 days after the effective date of this order.

With regard to the concerns of Mr. Reed and Public Counsel, as set out in their responses to Staff recommendation, the parties agreed that full-time customers will be charged \$140.34 per quarter and part-time customers will be charged \$106.27. Mr. Reed will also commence a small utility rate case within 12 months of the effective date of this order. Additionally, the agreed-upon rates will be interim, subject to a customer refund of credit, based upon the rates established in the rate case.

### **Discussion**

The Commission may grant a certificate of convenience and necessity to provide water service upon a determination that doing so is "necessary or convenient for the public

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<sup>1</sup> For some customers, the home in Woodland Acres is a second residence.

service.”<sup>2</sup> In making determinations to grant certificates of convenience and necessity, the Commission has used the following criteria:

- There must be a need for the service.
- The applicant must be qualified to provide the proposed service.
- The applicant must have the financial ability to provide the service.
- The applicant’s proposal must be economically feasible.
- The service must promote the public interest.<sup>3</sup>

Based on the verified application, Staff recommendation and the Agreement, the Commission finds that the above criteria have been met. The certificate will be granted and the Agreement will be approved.

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:

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

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<sup>2</sup> Section 393.170.3, RSMo 2000.

<sup>3</sup> *In re Tartan Energy Company*, 3 Mo. P.S.C. 173, 177 (1994).

company to penalties ranging from \$100 to \$2,000 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 so 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. Jerry Reed, d/b/a Woodland Acres Water System, is granted a certificate of convenience and necessity to provide water service for the public in St. Clair County, Missouri in the area specifically described in the Unanimous Stipulation and Agreement.

2. The Unanimous Stipulation and Agreement is approved and the parties are ordered to comply with its terms.

3. The certificate of convenience and necessity is granted upon the condition set out in the body of this order and those set out in the Unanimous Stipulation and Agreement.

4. Jerry Reed, d/b/a Woodland Acres Water System shall comply with all Missouri statutes and Commission rules.

5. Nothing in this order shall bind the Commission on any ratemaking issue in any future rate proceeding.

6. The certificate of convenience and necessity granted to Jerry Reed, d/b/a Woodland Acres Water System, in this order shall become effective at the same time as the tariff to be submitted by Jerry Reed becomes effective.

7. This order shall become effective on August 3, 2009.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'S. C. Reed', written over a horizontal line.

Steven C. Reed  
Secretary

( S E A L )

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

Jones, Senior Regulatory Law Judge