

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

An Investigation into the Operations,       )  
Management and Financial Capability       )       WW-2013-\_\_\_\_\_  
of Terre Du Lac Utilities, Corp.               )

**REQUEST FOR INVESTIGATION INTO TERRE DU LAC UTILITIES, CORPORATION**

**COMES NOW** the Staff of the Missouri Public Service Commission ("Staff"), by and through its attorney and, for its *Request for investigation into Terre Du Lac Utilities, Corp.*, states to the Missouri Public Service Commission ("Commission") as follows:

1. Terre Du Lac Utilities, Corp. ("TDLU" or "Company") is located in St. Francois and Washington Counties in Missouri, near the city of Bonne Terre, Missouri, and provides water and sewer service to approximately 1,261 residential customers. TDLU was certificated and became a regulated entity in 1973 in Commission Case Nos. 17,887 and 17,888.
2. TDLU is subject to the Commission's jurisdiction pursuant to Section 386.250, RSMo.,<sup>1</sup> as the Company meets the definition of a water and sewer corporation under Sections 386.020 (59) and (49), respectively.
3. TDLU consists of three wastewater treatment facilities. The first is an oxidation ditch which serves approximately 700 homes. The second is a three-cell lagoon that serves approximately 525 homes. The third facility is a small lagoon that serves approximately 20 homes. There are a total of approximately 45 miles of collecting sewers, of which 25 miles are 4-inch force main and 20 miles are mostly 8-inch gravity sewer.

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<sup>1</sup> All references to the Revised Missouri Statutes 2000 as currently supplemented.

The Company currently has two wells that are operational with the ability to produce 100 and 250 gallons per minute, respectively. A third well is not functional at this time. Storage capacity is provided by a 100,000 and a 50,000 gallon elevated tank, adequate to meet average day peak hour flows with a fire reserve. The Company has approximately 100 miles of water mains, mostly 4-, 6- and 8-inch pvc piping.

4. On November 21, 2008, TDLU filed a Request for Rate Increase pursuant to Commission Rule 4 CSR 240-3.050 seeking an increase of \$35,000 in its annual operating revenue for the water system and an increase of \$61,000 in its annual operating revenue for the sewer system. These requests were assigned Case Nos. WR-2009-0218 and SR-2009-0219, respectively.

5. On May 19, 2009, the above-mentioned rate cases were withdrawn and the cases were closed.

6. TDLU has received notifications of inadequacies, Notices of Violation and Letters of Warning on a variety of subjects from the Missouri Department of Natural Resources ("DNR") including, but not limited to, the following areas: delinquency in paying Annual Operating Permit fees to DNR, expired operating permits for the oxidation ditch, failure to have the oxidation ditch operated by a certified wastewater operator, failure to submit a Discharge Monitoring Report timely, lack of fencing around south lagoon, discharged water contaminants, notices of future production capacity concerns, and excess effluent limits.

7. On August 11, 2010, the Office of the Attorney General ("AGO") on behalf of the state of Missouri filed a petition in the Circuit Court of St. Francois County. Since that time, the parties to that lawsuit have attempted to resolve some of the issues, to no

avail. On September 18, 2012, the AGO filed a *First Amended Petition for Preliminary and Permanent Injunction and Civil Penalties* to include violations of the Missouri Clean Water Law.

8. Staff has met with representatives of TDLU on several occasions, including on-site visits to the utility property and facilities, and has several concerns about the system and what needs to be or may be done to improve the system. Staff has communicated those concerns to the Company on numerous occasions. The Company's response to Staff's inquiries often relate to the Company's lack of funds and/or access to capital to make any necessary improvements.

9. Staff has met several times with the AGO and DNR since early 2010 regarding Staff's concerns, DNR's concerns and findings related to this system, the lawsuit filed by the AGO and potential solutions to the Company's problems.

10. Staff has also had meetings with the AGO, DNR, and the Office of the Public Counsel ("Public Counsel") to discuss this Company. On April 18, 2012, Staff met with Company representatives, including the president, an engineering firm that the Company was considering hiring, as well as representatives of DNR, the AGO, and Public Counsel to discuss possible improvements, possible next steps, and proposals of actions to take to address some of the concerns raised by the various entities and presented to the Company. The Company has not provided Staff with any confirmation that the Company has acted on the proposals discussed or addressed the concerns raised in the August 18 meeting.

11. As a result of these meetings, Staff is concerned about the stability of this Company and the possibility of the Company violating the Commission's regulations

and its own tariffs, in addition to the DNR violations already issued regarding this Company.

12. Staff has routinely encouraged the Company to file a rate case but, to date, the Company has not filed another rate request. Without a full rate case or the requested investigative docket, Staff cannot address those concerns appropriately.

13. At this time, Staff does not have enough information to support the filing of a formal complaint against TDLU, but requests the ability to utilize the Commission's investigative power found in Section 386.330.1, RSMo. in order to thoroughly investigate this Company. Staff hereby requests that the Commission open an investigative case to allow Staff the opportunity to fully investigate and analyze the finances, operations and management of Terre Du Lac Corp.

14. An investigative case will make it easier for Staff to review the Company's books and records to determine whether Staff recommends that the Company is providing safe and adequate service<sup>2</sup>, that the health and safety of the residents is not in danger<sup>3</sup> and the Company's earnings are appropriate without the expedited timeline and burden of proof that a formal complaint would allow. It will also provide a formal venue for Staff to continue discussions and share information about this Company with DNR, the AGO, and Public Counsel, as well as any other interested party that intervenes in the case. Further, an investigative case will allow Staff and other parties the opportunity to review the Company's capabilities regarding the concerns the Company has raised regarding financing. Ultimately, an investigative docket will allow Staff to work with other parties to explore all options and hopefully to determine the best

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<sup>2</sup> See Section 393.130 RSMo.

<sup>3</sup> See Section 386.310 RSMo.

course of action for the Company to take to ensure compliance with all rules and regulations and the provision of safe and adequate service into the future.

**WHEREFORE**, Staff respectfully submits this *Request for Investigation into Terre Du Lac Utilities, Corp.* for the Commission's information and consideration and requests that the Commission open an Investigation Case into Terre Du Lac Utilities, Corp.

Respectfully submitted,

**/s/ Rachel M. Lewis**

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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or by electronic mail to all counsel of record on this 19th day of October, 2012.

**/s/ Rachel M. Lewis**