

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 28th day
of September, 2010.

In the Matter of the Application of Holtgrewe Farms)
Water Company, LLC, for a Certificate of Convenience)
and Necessity Authorizing it to Construct, Install, Own,) **File No. WA-2010-0281**
Operate, Control, Manage, and Maintain a Water)
System for the Public, Located in an Unincorporated)
Area of Franklin County, Missouri)

**ORDER GRANTING APPLICATION FOR CERTIFICATE OF
CONVENIENCE AND NECESSITY**

Issue Date: September 28, 2010

Effective Date: October 8, 2010

This order grants to Holtgrewe Farms Water Company, LLC, the authority to construct, install, own, operate, control, manage, and maintain a water system. Additionally, the Commission directs the company to file a tariff consistent with the Staff of the Commission's recommendation.

Background

On April 8, 2010, Holtgrewe Farms Water Company, LLC, filed an application with the Commission for authority to provide water service, as described in the above caption. The Commission ordered that notice of the application be issued and informed those receiving such notice of the opportunity to intervene. No applications to intervene were filed. On August 13, the Staff of the Commission filed its recommendation, to which no party responded. Of note, the company also filed a companion application to provide sewer service for the same area.¹

¹ Commission Case No. SA-2010-0282.

Concerned with inherent problems of small water companies serving subdivision, the Commission directed its Staff to file a pleading addressing some of those concerns, including: the prospect of joining the proposed system with established, larger systems; the provision of information to homebuyers regarding potential problems with such a system; fire protection plans; and appropriate time frames for rate reviews. Staff filed its pleading addressing the Commission's concerns to the Commission's satisfaction. Further, Staff facilitated the attendance of Tony Bequette, developer of the subdivision and owner of the water company, at a Commission Agenda meeting to further discuss the Commission's concerns. His responses to Commission concerns supplemented Staff's pleading.

Application

Holtgrewe Farms Water Company, LLC is a Missouri corporation that proposes to provide water service to the public in subdivision on 38 acres outside of Washington, Missouri. There are currently no customers residing in the subdivision.

The source of the water system will be a deep well, located at the highest point of the subdivision, capable of delivering approximately 38 gallons per minute of flow. Applicant states that a public need exists for adequate water service within the proposed area and the public convenience and necessity will be promoted by the Commission granting the requested authority.

Staff Recommendation

The Staff of the Commission filed its recommendation on August 13. Staff recommends that the Commission approve Holtgrewe's application, with conditions, and direct the company to file tariff sheets consistent with Staff's suggested customer charges, fees and depreciation rates.

Staff informs the Commission that the area for which the company seeks service is an unincorporated area of Franklin County near Washington, Missouri, in a new, 47-lot, single-family residential subdivision that is under construction. Staff states that a water district and the City of Washington serve the area but because of the distance to connect to the subdivision it would cost at least as much to construct and operate a new system. This conclusion was reached without considering necessary easements and other issues. Although there are no customers, Holtgrewe forecasts in its feasibility study that all 47 lots would be occupied within five years.

In determining its recommendation, Staff has applied the criteria of *Tartan Energy*² as follows:

- (1) Is there a need for the proposed service, and is there a need for the company to provide the proposed service?

The Staff believes that a need for the proposed service clearly exists since it is desirable for the new proposed homes to have water. The Staff has also reviewed information that indicates that Franklin County Zoning Regulations require a dense subdivision to provide a central water system.

- (2) Is the company qualified to provide the proposed service?

Based on its investigation, the Staff believes the company is capable of providing the proposed service. The owner is experienced in development in the area, is undertaking design and construction of the utility system using qualified consultants, and appears to be proceeding in a professional manner.

- (3) Does the company have the financial ability to provide the proposed service?

The Staff believes the company will be adequately financed. The utility will be financed through the owner in the context of subdivision development, using a combination of bank and owner equity.

- (4) Is the company's proposal economically feasible?

The company's proposal is economically feasible because they will be able to provide service at rates that are comparable to other regulated utility rates.

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

However, ongoing viability of the company depends upon the success of the subdivision development.

(5) Does the company's proposal promote the public interest?

The water service is necessary and the company is capable of providing service in the area. As such, it is in the public interest. Additionally, the presumption in these types of cases is that if the other four criteria are met then this criterion is also met.

Pursuant to its audit, Staff recommends that the Commission direct Holtgrewe to file tariff sheets consistent with a monthly customer charge of \$15.10 and a commodity charge of \$4.66 per 1,000 gallons, with a connection charge of \$1,600 serving as Contribution in Aid of Construction. Staff points out that its calculations are not based on full occupancy but rather on occupancy of 40 customers. Staff further states that the company's out-of-pocket expenses will be recoverable at 14 customers and that expenses such as return on investment, depreciation and management salaries will be realized at 40 customers. Staff's assumptions are based on an annual revenue requirement of \$18,439. Staff anticipates that the average customers' monthly bill, based on 5,000 gallons of usage, will be \$38.41.

Finally, Staff recommends that this grant of authority should be conditioned upon the following:

- That the owners and operators should maintain a very detailed check register of all payments for expenditures related to the operation.
- That invoices of all payments for expenditures related to the water utility operations should be maintained.
- That very detailed records regarding all collections of revenues, CIAC fees and any other service charges collected to establish and maintain the utility service should be maintained.
- The owners and operators should establish and maintain a very detailed system of time sheet reporting for any individual(s) who incur wages, a salary, or other payment in the operations of the utility, including a description of the work performed and the number of hours.

- The owners and operators should maintain usage logs so mileage and hours of usage can be verified if vehicles and heavy duty equipment are used.
- The owners and operators should establish and maintain a competitive bid process or some other method of determining whether fair and competitive costs are being incurred for significant expenditures.

To its Memorandum, Staff attached depreciation rates,³ which it recommends the Commission direct the company to implement. The company did not respond to Staff's recommendation.

Discussion

The Commission is authorized, under Section 393.170, RSMo, to grant certificates of convenience and necessity when it determines, after due hearing⁴, that the proposed project is "necessary or convenient for the public service." The term "necessity" does not mean "essential" or "absolutely indispensable," but rather that the proposed project "would be an improvement justifying its costs,"⁵ and that the inconvenience to the public occasioned by a lack of the proposed service is great enough to amount to a necessity.⁶

In its application of this statutory authority, the Commission recognizes the *Tartan Energy* analysis set out by Staff in its Memorandum. Having reviewed the application and Staff's verified Memorandum, the Commission finds that the proposed service is necessary or convenient for the public service and will approve the application. Further, the Commission finds that the conditions suggested by Staff are reasonable and will direct the company to comply with them.

³ Attachment C to Staff's Memorandum.

⁴ There was no request for hearing.

⁵ *Intercon Gas, Inc.*, 848 S.W.2d 597; *State ex rel. Transport Delivery Service v. Burton*, 317 S.W.2d 661 (Mo. App. 1958).

⁶ *Beaufort Transfer Co.* 504 S.W.2d at 219; *State ex rel. Transport Delivery Service v. Burton*, 317 S.W.2d 661 (Mo. App. 1958).

THE COMMISSION ORDERS THAT:

1. Holtgrewe Farms Water Company, LLC's application is approved and the company is granted a Certificate of Convenience and Necessity for water service subject to the conditions suggested by the Staff of the Commission and set out in body of this order.
2. Holtgrewe Farms Water Company, LLC is directed to file tariff sheets consistent with the rates and charges set out in Staff's Memorandum and discussed in the body of this order.
3. The tariff sheets discussed in ordered paragraph 2 shall bear an effective date of at least 30 days after submission, and shall be filed no later than 60 days after the effective date of this order.
4. The depreciation accrual rates, Attachment C to Staff's Memorandum are approved and shall be implemented.
5. The Staff of the Commission is authorized to conduct a rate review within two years of actual operations of Holtgrewe Farms Water Company, LLC's utility system.
6. This order shall become effective on October 8, 2010.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., concurs, with separate
concurring opinion to follow;
Davis, Jarrett, Gunn, and Kenney, CC., concur.

Jones, Senior Regulatory Law Judge