

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

In the Matter of Cedar Green Land Acquisition, LLC for)
a Certificate of Convenience and Necessity Authorizing)
it to Own, Operate, Maintain, Control and Manage Water)
Systems in Camden County, Missouri)

Case No. WA-2013-0117

In the Matter of Cedar Green Land Acquisition, LLC for)
a Certificate of Convenience and Necessity Authorizing)
it to Own, Operate, Maintain, Control and Manage Sewer)
Systems in Camden County, Missouri)

Case No. SA-2013-0354

**STAFF'S REPLY TO OPC'S OBJECTION
TO STAFF'S RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Reply to OPC's Objection to Staff's Recommendation*, states as follows:

1. On September 25, 2012, Cedar Green Land Acquisition, LLC ("CGLA"), filed its application for a Certificate of Convenience and Necessity ("CCN") with respect to an existing water system serving Cedar Green Luxury Condominiums (the "Condominium") at Camdenton, Camden County, Missouri, immediately adjacent to the Lake of the Ozarks. This application was docketed by the Commission as Case No. WA-2013-0117.

2. On January 15, 2013, CGLA filed its application for a CCN with respect to an existing sewer system likewise serving the Condominium. This application was docketed by the Commission as Case No. SA-2013-0354.

3. The Condominium, as it presently exists, has 51 occupied units out of a projected ultimate development total of 110. CGLA also provides water and sewer service to two single-family residences on the Cedar Green property. The residents of

the Condominium are entirely dependent on CGLA for water and sewer services. CGLA submits a single quarterly bill, for service to all 53 customers, to the Cedar Green Condominium Association, Inc. (the "Association"). All of the customers are members of the Association.

4. CGLA filed its applications in response to Staff's *Complaint* against Respondents CGLA and Gary F. Myers, its owner, charging that Respondents were in the business of selling potable water and sewer services to the public for gain without authorization from this Commission, in violation of § 393.170, RSMo. Staff's *Complaint* further charged that Respondents CGLA and Myers were not providing safe and adequate service, in violation of § 393.130.1, RSMo, in particular because they failed to pay Laclede Electric Cooperative for electric service essential to the operation of the water and sewer service at the Condominium, thereby placing the residents in danger of a loss of water and sewer service. The Commission docketed Staff's *Complaint* as Case No. WC-2013-0087.

5. On February 26, 2013, after due investigation and review, Staff filed its *Recommendation to Approve Applications, with Conditions*. Therein, Staff advised the Commission to grant the requested CCNs and to impose certain conditions to protect the public.

6. On March 8, 2013, the Office of the Public Counsel ("OPC") filed its *Response to Staff's Recommendation*. OPC objected to Staff's recommendation and requested that the Commission (1) determine whether or not the Association is a necessary party to this action and (2) set an evidentiary hearing "to determine the actual

ownership of the water and sewer systems and to determine a just and reasonable cost of service for those systems." OPC based its objection on these grounds:

A. That the ownership and control of the water and sewer systems are in question.

B. That the cost of service reflected in Staff's recommendation is overstated in that the water and sewer systems are contributed property.

7. Staff states that OPC has misunderstood and misinterpreted the documents referred to in its *Response to Staff's Recommendation*. Briefly stated, it is Staff's position that Gary F. Myers, or corporations owned and controlled by him, retain title to the water system and sewer system at Cedar Green. The system assets are not contributed plant. The water system assets owned or controlled by Mr. Myers include a single well, producing 80 gallons per minute, a standpipe storage tank with a usable volume of approximately 35,000 gallons, and short lengths of distribution pipeline to transport water to the single family residences and the two condominium buildings. The sewer system assets owned or controlled by Mr. Myers include an extended aeration treatment facility with a hydraulic capacity of 45,210 gallons per day, a lift station which pumps sewage to the treatment facility, and short lengths of connecting pipeline.

WHEREFORE, Staff prays that the Commission will accept its *Recommendation* and grant the requested CCNs, imposing thereon the conditions proposed by Staff; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

s/ Kevin A. Thompson
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **15th day of March, 2013**, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

/s/ Kevin A. Thompson