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Contingency Fund
Witness: James A. Busch
Sponsoring Party: MO PSC Staff
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MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

DIRECT TESTIMONY

OF

JAMES A. BUSCH

TIMBER CREEK SEWER COMPANY

FILE NO. SR-2010-0320

*Jefferson City, Missouri
November 2010*

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

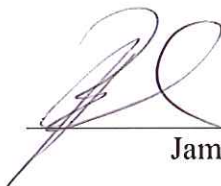
In the Matter of the Application of Timber)
Creek Sewer Company Request for a Rate)
Increase.)

File No. SR-2010-0320

AFFIDAVIT OF JAMES A. BUSCH

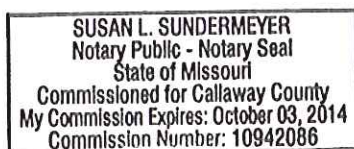
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

James A. Busch, of lawful age, on his oath states: that he has participated in the preparation of the following Direct Testimony in question and answer form, consisting of 10 pages of Direct Testimony to be presented in the above case, that the answers in the following Direct Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.



James A. Busch

Subscribed and sworn to before me this 22nd day of November, 2010.





Notary Public

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DIRECT TESTIMONY
OF
JAMES A. BUSCH
TIMBER CREEK SEWER COMPANY
FILE NO. SR-2010-0320

Q. Please state your name and business address.

A. My name is James A. Busch and my business address is P. O. Box 360, Jefferson City, Missouri 65102.

Q. By whom are you employed and in what capacity?

A. I am the Regulatory Manager of the Water and Sewer Department, Utility Operations Division of the Missouri Public Service Commission (Commission).

Q. Please describe your educational and professional background?

A. I hold Bachelor of Science and Master of Science degrees in Economics from Southern Illinois University at Edwardsville. From April 2005 through January 2008, I worked as a Regulatory Economist III with the Energy Department of the Commission. Previously, I worked as a Public Utility Economist with the Office of the Public Counsel (Public Counsel) from 1999 to 2005. Prior to my employment with Public Counsel, I worked as a Regulatory Economist I with the Procurement Analysis Department of the Commission from 1997 to 1999. I have been employed as the Regulatory Manager of the Water and Sewer Department with the Staff of the Commission (Staff) since February 2008. In addition, I am a member of the Adjunct Faculty of Columbia College. I teach both graduate and undergraduate classes in economics.

Q. Have you previously filed testimony before the Commission?

1 A. Yes. The cases in which I have filed testimony before the Commission are
2 listed on Schedule 1 attached to this testimony.

3 Q. What is the purpose of your direct testimony?

4 A. The purpose of my direct testimony is to present Staff's position in File No.
5 SR-2010-0320. Specifically, I will be addressing the issues of the Public Service
6 Commission Assessment (PSC Assessment) and Contingency/Emergency Repair Fund.

7 **I. EXECUTIVE SUMMARY**

8 Q. Please summarize your direct testimony.

9 A. Staff is opposed to any changes regarding the treatment of the PSC
10 Assessment. Staff is correctly calculating the PSC Assessment and correctly applying it to the
11 investor-owned utilities that are regulated in the State. Furthermore, the manner in which
12 Staff is doing so is consistent with Missouri Statute Section 386.370 RSMo. (2000). Staff
13 also believes that any changes would have many unintended consequences to the utilities in
14 the State. These consequences include more work and oversight for the utilities, especially
15 the small water and sewer utilities that may have a harder time dealing with the additional
16 paperwork and complexity of changing the current system. Also, Staff would need to be
17 expanded to be able to handle the extra case work that would be the result of changes to the
18 PSC Assessment.

19 Regarding the Contingency/Emergency Repair Fund, Staff is interested in pursuing an
20 approach that would provide small utilities an ability to accumulate funds over a period of
21 time through rates to make necessary repairs and replace out-of-date equipment and other
22 plant so that the utilities can maintain the provision of safe and adequate service to their
23 customers. Because many small companies operating in Missouri do not have the ability to

1 raise capital to repair and/or replace critical infrastructure, customers are at a risk of losing
2 these essential services. Staff is interested in creating a reasonable approach to enable small
3 utilities to charge a small amount in rates for these situations as long as all necessary
4 measures are in place to ensure that these funds are properly used only for the purposes in
5 which they were collected.

6 **II. BACKGROUND**

7 Q. Please briefly explain Case with File No. SR-2010-0320.

8 A. Timber Creek Sewer Company (Timber Creek or Company) sent a letter to the
9 Commission requesting an increase in its total annual sewer service operating revenues on
10 May 10, 2010. Upon receipt of this letter and under the Small Utility Rate Case Procedure (4
11 CSR 240-3.050), Staff proceeded to do a complete audit and investigation of the Company's
12 books, records, and operations. After months of investigation and settlement discussions,
13 Public Counsel, Staff, and the Company executed a Unanimous Partial Agreement Regarding
14 Disposition of Small Sewer Company Revenue Increase Request (Partial Disposition
15 Agreement), on October 7, 2010. Since the Partial Disposition Agreement did not resolve all
16 of the issues in this case, a Request to Open Contested Case and Schedule a Prehearing
17 Conference was also filed on October 7, 2010. After discussions among Staff, the Company
18 and Public Counsel, a Joint Procedural Schedule and Joint Motion for Approval of Procedural
19 Agreements, was filed on October 18, 2010. In that document the remaining issues not
20 agreed to in the Partial Disposition Agreement were disclosed. Those issues are:

- 21 a. Timber Creek Staff Compensation/Timesheets/Overtime;
- 22 b. Rate Case Expenses;
- 23 c. Alternative Energy Gas Well Cost Recovery;

1 d. PSC Assessment; and

2 e. Contingency/Emergency Repair Fund.

3 Q. Who else from Staff will be filing Direct Testimony?

4 A. In addition to my testimony, Staff expert Bret G. Prenger will be filing
5 testimony regarding Payroll and Overtime. Staff expert V. William Harris will be filing
6 testimony regarding Rate Case Expense. Staff expert Martin Hummel will be filing testimony
7 regarding the Alternative Energy Gas Well. Staff expert Nila Hagemeyer will be filing
8 testimony regarding time sheets. For a further description of Staff's audit and investigation in
9 this case, please review the testimony of Mr. Prenger.

10 **III. PSC ASSESSMENT**

11 Q. Please explain the PSC Assessment issue.

12 A. In its initial letter requesting an increase in operating revenues, Timber Creek
13 indicated that increases in the PSC Assessment was one of the expenses driving the need for
14 an increase in operating revenues. However, the PSC Assessment for year 2011 actually
15 decreased from its level for year 2010. Through discussions it became apparent that the
16 Company's issue with the PSC Assessment was more than just its amount. Timber Creek has
17 indicated in various forums that it would be interested in creating a pass-through of the PSC
18 Assessment to be placed on its customer's bills. It is Staff's understanding that the issue in
19 this proceeding is the creation of a pass-through of the PSC Assessment on the customer's
20 bills rather than the amount of the PSC Assessment.

21 Q. Has this issue been fully explained by Timber Creek?

22 A. No. This issue was not addressed in Timber Creek's initial letter opening this
23 case. Staff is not sure of Timber Creek's intentions regarding this issue. Therefore, in its

1 direct testimony, Staff will briefly discuss this issue as it understands it, and recommend that
2 no changes be made at this time. Staff, however, does reserve the right to further explain its
3 position in rebuttal and surrebuttal testimony, assuming Timber Creek's proposal is revealed
4 in its filed direct testimony.

5 Q. Does Staff agree that a special pass-through for the PSC Assessment should be
6 included on customer bills?

7 A. No.

8 Q. Why?

9 A. The PSC Assessment is a charge to each entity regulated by the Commission.
10 This charge is defined in Section 386.370 RSMo. (2000). The charge is the mechanism
11 approved by the Missouri Legislature to fund the operations of the Commission. Thus, the
12 PSC Assessment is a regular cost of doing business for the regulated utilities and Staff does
13 not believe that this single expense should be treated any differently than the other expenses
14 incurred by the regulated utilities to provide service in the state.

15 Q. Is this topic being addressed in other cases in front of the Commission?

16 A. Yes. The Commission opened File No. WW-2009-0386 in May 2009, in order
17 to establish a working group to address issues that were important to the small water and
18 sewer utilities in the state. Based on discussions held so far in that case, one of the major
19 priorities discussed is the PSC Assessment. Staff, Public Counsel, a group of small utilities
20 (led by representatives of Timber Creek), and Missouri-American Water Company have filed
21 their respective opinions regarding PSC Assessments in that case. Further, the Commission
22 held a brief discussion regarding PSC Assessments in its Agenda session held on November
23 10, 2010. Staff, the small utilities (represented by Mr. Derek Sherry of Timber Creek among

1 other small utility representatives) and Missouri-American were present. At that Agenda
2 session, the Commission suggested that the parties work together to come up with a solution
3 to this issue. The parties in File No. WW-2009-0386 have scheduled additional meeting time
4 to continue discussions and to try to work on solutions.

5 Q. What is Staff's recommendation based upon this information?

6 A. Staff recommends that the Commission allow the work that the working group
7 has been and will continue to be doing regarding PSC Assessments to continue and to let any
8 potential changes to the PSC Assessment come from that proceeding rather than try to change
9 the PSC Assessment in this or any other rate case that involves only one utility.

10 Q. Please explain.

11 A. At this time, any changes to the PSC Assessment will have major
12 consequences on not only this company, but on all of the investor-owned utilities in the state.
13 Further, any changes will probably need to be approved by the Missouri Legislature. Trying
14 to determine all of the details that will need to be addressed in the compressed time-frame of a
15 rate case could lead to very bad results for both the companies and the ratepayers. Thus
16 allowing the working group to take the appropriate time to address all of the details and pros
17 and cons of potential solutions is the most reasonable way to proceed in regard to the PSC
18 Assessment.

19 Q. Why does Staff oppose the concept of a pass-through?

20 A. As Staff fully explains in its Staff's Report on Assessments, filed in File No.
21 WW-2009-0386, there are several reasons. The main reason that I will focus on in this
22 testimony is that the PSC Assessment is a cost of doing business just like all other costs and
23 should not be singled out for special treatment on the customer's bills. The companies

1 currently have an amount built into their cost of service and are able to collect in rates from its
2 customers the dollars needed to pay the assessment. This amount is determined in the course
3 of a rate case where all relevant costs, expenses, and revenues can properly be considered. To
4 isolate this one cost violates basic rate-making principles. There are other problems
5 associated with creating a pass-through and Staff will reserve those arguments until it has an
6 opportunity to review any proposal submitted by Timber Creek in this proceeding.

7 **IV. CONTINGENCY/EMERGENCY REPAIR FUND**

8 Q. Please explain the Contingency/Emergency Repair Fund issue.

9 A. This issue was not addressed in Timber Creek's initial letter opening this case.
10 Staff is not sure of Timber Creek's intentions regarding this issue. It is Staff's understanding
11 that the Company may be interested in establishing a "fund" in its cost-of-service that would
12 be devoted to help offset the burden of paying for emergency repairs or other major upgrades
13 that the sewer system may need in the future.

14 Q. How would this fund work?

15 A. Staff is not sure at this time how the fund would work in this case since Staff is
16 unaware of Timber Creek's proposal.

17 Q. Is Staff against a Contingency/Emergency Repair Fund?

18 A. No, not conceptually. The concept of a Contingency/Emergency Repair Fund
19 has been discussed in various forums over the years and is also being addressed by the
20 working group in File No. WW-2009-0386. Staff believes that trying to find solutions to help
21 small utilities raise funds to make necessary repairs and replacements is important. Many
22 small companies simply do not have the funding capacity to make critical repairs and
23 replacements to essential infrastructure to ensure the continued provision of safe and adequate

1 service. However, appropriate consumer safeguards must also be in place if a fund of this
2 type is ever approved.

3 Q. Please explain what safeguards must be in place.

4 A. Staff is cognizant of the financial issues that are impacting small water and
5 sewer companies in the state. One of the ideas to try and resolve one of those issues is to
6 create some sort of Contingency/Emergency Repair Fund. However, the parameters of how
7 the fund would work must be established before Staff would be willing to agree to any type of
8 fund. Restrictions on use of funds, providing for the proper review of the collection of funds,
9 and reporting requirements are just some of the safeguards that must be developed prior to the
10 implementation of any Contingency/Emergency Repair Fund. Therefore, Staff will reserve the
11 right to make a recommendation on this issue until it has had an opportunity to review Timber
12 Creek's proposal in its filed direct testimony.

13 Q. Does Staff view a Contingency/Emergency Repair Fund as a substitute for
14 investment by the utilities in their infrastructure?

15 A. No. In order to maintain viability, utilities must make capital investments in
16 their facilities. Small utilities have shown a reluctance to make capital investments in their
17 facilities. In some cases, this is because the small companies simply do not have the funds to
18 invest. In other cases, the owners seem to be unwilling. Therefore, any discussion on
19 Contingency/Emergency Repair Funds must include placing sufficient restrictions on the
20 utility provider that require real investment on the part of the owner of the company. If small
21 companies want to take advantage of some sort of Contingency/Emergency Repair Fund
22 proposal then the company owner must be willing to also invest in the utility. Without owner

1 investment, all of the burden falls on the consumers and it would be difficult for Staff to
2 require the customers to be the sole provider of capital.

3 Q. If this issue is being discussed by the working group established in File No.
4 WW-2009-0386, why would Staff be interested in potentially agreeing to a
5 Contingency/Emergency Repair Fund in this case?

6 A. Unlike the PSC Assessment that would have an impact on all regulated entities
7 in the state, or at least on all the small water and sewer utilities, Staff believes that a
8 contingency/emergency repair fund may be more conducive to being crafted to meet the
9 particular needs of any given company.

10 **V. RECOMMENDATION**

11 Q. What is Staff's recommendation to the Commission regarding the PSC
12 Assessment in this proceeding?

13 A. Staff recommends that the Commission continue the practice of including the
14 PSC Assessment in the Company's cost of service.

15 Q. What is Staff's recommendation to the Commission regarding a
16 Contingency/Emergency Repair Fund in this proceeding?

17 A. At this time, Staff does not have enough information to make a
18 recommendation regarding a Contingency/Emergency Repair Fund for Timber Creek. Staff is
19 interested in seeing the parameters of Timber Creek's proposal in its filed direct testimony
20 and Staff will make its recommendation in rebuttal testimony.

21 Staff is interested in exploring the development of a Contingency/Emergency Repair
22 Fund based on parameters that would allow a modest collection of funds in rates that would
23 be earmarked for certain types of repairs and/or replacement of critical infrastructure required

1 | for the provision of safe and adequate service. Necessary restrictions along with proper
2 | reporting requirements must be put in place to ensure that all collected funds are not
3 | misappropriated, misused, or otherwise spent on non-essential equipment and on routine
4 | maintenance performed by the Company before Staff can recommend the establishment of a
5 | Contingency/Emergency Repair Fund.

6 | Q. Does this conclude your direct testimony?

7 | A. Yes.

Cases of Filed Testimony
James A. Busch

<u>Company</u>	<u>Case No.</u>
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Laclede Gas Company	GO-98-484
Laclede Gas Company	GR-98-374
St. Joseph Light & Power	GR-99-246
Laclede Gas Company	GT-99-303
Laclede Gas Company	GR-99-315
Fiber Four Corporation	TA-2000-23; et al.
Missouri-American Water Company	WR-2000-281/SR-2000-282
Union Electric Company d/b/a AmerenUE	GR-2000-512
St. Louis County Water	WR-2000-844
Empire District Electric Company	ER-2001-299
Missouri Gas Energy	GR-2001-292
Laclede Gas Company	GT-2001-329
Laclede Gas Company	GO-2000-394
Laclede Gas Company	GR-2001-629
UtiliCorp United, Inc.	ER-2001-672
Union Electric Company d/b/a AmerenUE	EC-2001-1
Laclede Gas Company	GR-2002-356
Empire District Electric Company	ER-2002-424
Southern Union Company	GM-2003-0238
Aquila, Inc.	EF-2003-0465
Missouri-American Water Company	WR-2003-0500
Union Electric Company d/b/a AmerenUE	GR-2003-0517
Aquila, Inc.	ER-2004-0034
Aquila, Inc.	GR-2004-0072
Missouri Gas Energy	GR-2004-0209
Empire District Electric Company	ER-2004-0570
Aquila, Inc.	EO-2002-0384
Aquila, Inc.	ER-2005-0436
Empire District Electric Company (CC)	ER-2006-0315
Kansas City Power & Light (CC)	ER-2006-0314
Union Electric Company d/b/a AmerenUE	ER-2007-0002
Aquila, Inc.	EO-2007-0395
Missouri-American Water Company (Live)	WC-2009-0277
Missouri-American Water Company	WR-2010-0131

CC – Case Coordinator, ER-2007-0291