

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

In the Matter of the Small Company Rate Increase    )  
Of Timber Creek Sewer Company                                )       **Case No. SR-2010-0320**

**CONCURRING OPINION OF  
COMMISSIONER ROBERT M. CLAYTON III**

This Commissioner concurs in the Report and Order granting a rate increase to Timber Creek Sewer Company (Timber Creek). The Order results in rates that are “just and reasonable” and this Commissioner agrees with how most of the issues were resolved. However, this Commissioner disagrees with how the majority decided one issue, which relates to past under-collections of the Public Service Commission assessment (PSC Assessment).

This Commissioner is sympathetic to the vulnerability of small utilities, such as Timber Creek, caused by the volatility in their annual PSC Assessments. The Commission’s assessment allocation percentage for sewer companies was 6.94% for fiscal year 2008, 8.74% for fiscal year 2009, 11.22% for fiscal year 2010 and 9.34% for fiscal year 2011. In its last rate case, Timber Creek was allowed an expense of \$21,998 to cover its share of the PSC Assessment. However, the actual annual expense exceeded that allocation and grew to a high of \$74,381 in 2010. This volatility is particularly troublesome to small companies such as Timber Creek due to their relatively small rate base and number of customers.

Timber Creek argued that it had under-recovered the amount of \$45,902 in the time period since its last rate case due to the PSC Assessment volatility. While Staff argued that Timber Creek recovered these expenses through the growth in the number of its customers, there is no guarantee that future customer growth will adequately address the volatility of future

assessments. Furthermore, while the PSC Assessment might be a relatively insignificant expense to larger utilities, for a company the size of Timber Creek, it could have a significant impact on its “bottom line.” There is no question that this expense is well beyond the utility’s control and is caused by changes in PSC workload and costs.

Utilities should have a fair opportunity to recover their prudently incurred costs. The Commission should be particularly sensitive to challenges faced by small utilities and costs that are outside of their control, including PSC Assessments. This is an expense which is imposed on the company entirely by the Commission. The PSC Assessment for sewer companies has increased because of increases of sewer-related workload and not because of increased staffing at the PSC. In fact, the PSC is operating with 21 fewer FTE since 2004.

Some utilities have argued for a direct pass-through surcharge to insure adequate recovery, but legislative changes would be necessary for such a rate design. Because of the utility’s size, the volatility of the expense and because the cost was out of the utility’s control, this Commissioner would have agreed to a multi-year amortization of the uncollected assessment being included in rates stemming from this case.

For the foregoing reasons, this Commissioner concurs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert M. Clayton III". The signature is stylized with a large, sweeping "R" and a long, horizontal stroke extending to the right.

Robert M. Clayton III  
Commissioner

Dated at Jefferson City, Missouri,  
On this 12th day of May, 2011.