

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 11th day of September, 2019.

In the Matter of the Application of Timber)
Creek Sewer Company for a Certificate of)
Convenience and Necessity Authorizing it)
to Construct, Install, Own, Operate,)
Maintain, Control and Manage a Sewer)
System in Clay County, Missouri as an)
expansion of its Existing Certificated Areas)

File No. SA-2020-0013

**ORDER GRANTING CERTIFICATE OF
CONVENIENCE AND NECESSITY**

Issue Date: September 11, 2019

Effective Date: October 11, 2019

Timber Creek Sewer Company (Timber Creek) filed an application on July 24, 2019, with the Missouri Public Service Commission (Commission) requesting a Certificate of Convenience and Necessity (CCN) to install, own, acquire, construct, operate, control, manage, and maintain a sewer system to a single residence in an area adjoining the Oak Brook Subdivision in Clay County, Missouri. Timber Creek is a “water corporation,” a “sewer corporation,” and “public utility” as those terms are defined in Section 386.020, RSMo (2016), and is subject to the jurisdiction of the Commission.

The CCN would allow Timber Creek to expand its service area to a single-family residence that has not yet been constructed. The property owner plans to construct a single-family residence and has requested sewer service from Timber Creek.

The Commission issued notice and set a deadline for intervention requests, but received no requests. On August 28, 2019, the Commission’s Staff filed its

recommendation to approve the expansion of Timber Creek's service area and grant a CCN, for the single residence. Timber Creek wants to charge for sewer service under existing rates, rules, and regulations applicable to its Clay County service area in MO PSC No. 2, 2nd Revised Sheet No. 4 (\$28.50 per month).

Ten days have passed and no party has objected to Timber Creek's application or Staff's recommendation. Thus, the Commission will rule upon the application. No party has requested an evidentiary hearing, and no law requires one.¹ Therefore, this action is not a contested case.²

The Commission may grant a sewer corporation a CCN to operate after determining that the construction and operation are either "necessary or convenient for the public service."³ The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 561 (1991). The *Intercon* case combined the standards used in several similar certificate cases, and set forth the following criteria: (1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed service; (3) the applicant must have the financial ability to provide the service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest.⁴

¹ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

² Section 536.010(4), RSMo.

³ Section 393.170.3, RSMo.

⁴ The factors have also been referred to as the "Tartan Factors" or the "Tartan Energy Criteria." See Report and Order, *In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity*, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994).

There is a need for the service as the property owner has requested service and will construct a single-family residence that will require sewer service. Timber Creek is qualified to provide the service as it already provides sewer service to over 2,171 Clay and Platte County, Missouri, customers. Timber Creek has the financial ability to provide the service as no external financing is anticipated, and the property owner will be responsible for installing a grinder pump and the necessary pressure collection line to Timber Creek's system. The proposal is economically feasible as the expansion will be funded by the property owner. The proposal promotes the public interest because the requested service will provide additional revenue with no increased capital expense, benefiting existing customers in the long-term. Additionally, the single residence will not burden the Oakbrook facility, which is operating at approximately 20 percent of its capacity.

Based on the application and Staff's recommendations, the Commission concludes that the factors for granting a certificate of convenience and necessity to Timber Creek have been satisfied and that it is in the public's interest for Timber Creek to provide sewer service to the requested property adjoining the Oak Brook Subdivision in Clay County, Missouri. Further, the Commission finds that Timber Creek possesses adequate technical, managerial, and financial capacity to operate the sewer system extension. Therefore, the Commission will authorize the expansion of Timber Creek's service area, subject to the conditions described by Staff's recommendation.

Timber Creek's application also asks the Commission to waive the 60-day notice requirement in 20 CSR 4240-4.017(1) (previously 4 CSR 240-4.017(1)). Timber Creek asserts there is good cause for granting such waiver; it has had no communication with the office of the Commission within the prior 150 days regarding any substantive issue

likely to be in this case. The Commission finds good cause exists to waive the notice requirement, and a waiver of 20 CSR 4240-4.017(1) will be granted.

THE COMMISSION ORDERS THAT:

1. Timber Creek Sewer Company is granted a certificate of convenience and necessity to provide sewer service to the property described in the map and legal description Timber Creek provided to Staff⁵, subject to the conditions and requirements contained in Staff's Recommendation, including the filing of tariffs, as set out below:

- a. Timber Creek shall file 1st Revised Sheets 2A and 3A, as 30-day filings, within ten days after the effective date of an order from the Commission approving the CCN, with a metes and bounds description and a map depicting the new service area;
- b. The Commission makes no finding that would preclude it from considering the ratemaking treatment to be afforded in any matters pertaining to utility plant constructed within the new service area, or providing service in the new service area, in any later proceeding.

2. This order shall become effective on October 11, 2019.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur

Clark, Regulatory Law Judge

⁵ Staff Recommendation File No. SA-2020-0013, Memorandum (Filed August 28, 2019).

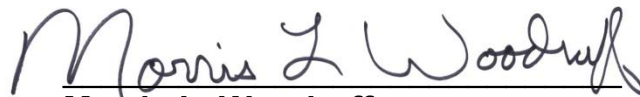
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 11th day of September 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

September 11, 2019

File/Case No. SA-2020-0013

**Missouri Public Service
Commission**

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Timber Creek Sewer Company

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.