

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

In the Matter of the Application of)
Innsbrook Utilities, LLC, for a Certificate of)
Convenience and Necessity Authorizing it to)
Own, Operate, Control, Manage, Improve,) Case No. WA-2008-0018
and Maintain a **Water** and Sewer System for)
the Public, Located in an Incorporated Area)
of Warren County, Missouri.)

In the Matter of the Application of)
Innsbrook Utilities, LLC, for a Certificate of)
Convenience and Necessity Authorizing it to)
Own, Operate, Control, Manage, Improve,) Case No. SA-2008-0020
and Maintain a Water and **Sewer** System for)
the Public, Located in an Incorporated Area)
of Warren County, Missouri.)

APPLICATION TO INTERVENE OUT OF TIME FOR GOOD CAUSE

COMES NOW Public Water Supply District No. 2 of St. Charles County,
Missouri ("District"), pursuant to 4 CSR 240-2.075, and for its Application To Intervene
Out of Time For Good Cause, respectfully states as follows:

I. 4 CSR 240-2.060 Requirements

1. The District is a public water supply district, and a public corporation, and a political subdivision organized, operating and existing under Chapter 247 RSMo 2000. Its principal office and mailing address is Public Water Supply District No. 2 of St. Charles County, c/o Mike Dougherty, 100 Water Drive, O'Fallon, Missouri 63368, telephone number (636) 561-3737, fax number (636) 625-3712, email address mdougherty@alliancewater.com. The District currently provides water and sanitary sewer service at retail and at wholesale to customers located within the District's service territory in and around St. Charles County and Warren County, Missouri.

2. All communications, correspondence, notices, orders, and decisions regarding this application should be addressed to:

Charles Brent Stewart
STEWART & KEEVIL, L.L.C.
4603 John Garry Drive, Suite 11
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3. As a public corporation and political subdivision of the state of Missouri, the District is not regulated as a public utility by this Commission, and therefore, the remaining provisions of 4 CSR 240-2.060 do not apply.

II. 4 CSR 240-2.075 Requirements

4. The District's peculiar interest in this proceeding is both straightforward and very significant. In its Application for a certificate of convenience and necessity in Case No. WA-2008-0018¹, Innsbrook Utilities, LLC ("Innsbrook") is asking the Commission to grant it a water and sanitary sewer service area in a designated portion of Warren County, Missouri. The proposed water and sanitary sewer service territory requested by Innsbrook lies wholly within the District's existing authorized service territory.

5. Moreover, the service area map contained in Innsbrook's Application (Exhibit B) includes water customers currently served by the District. In fact, there are 718 unmetered District water customers in Innsbrook's proposed service area. The District currently sends one annual bill to the Innsbrook Owner's Association, who then pays the District on behalf of the individual water customers. Annual revenue to the District for

¹ The District notes that a companion sewer certificate case, Case No. SA-2008-0020, also has been filed and suspects that eventually the Commission will order the two cases will be consolidated per the Staff's Motion filed on August 13, 2007. The District does not oppose Staff's *Motion To Consolidate Cases*.

such service is approximately \$150,000.00. The District's ability to continue to pay its financing obligations to support its overall operations and to serve its existing customers is based, in part, on this revenue. In addition, the District has invested significant funds in establishing safe and adequate water infrastructure within the area in order to serve existing and future water customers.

6. The District seeks to intervene as a party in this case in order to protect its peculiar interests and is, at this time, opposed to the Application.

7. The District has a unique interest in this proceeding which is different than that of the general public and that cannot be adequately represented by any other party to this case. The District's interests, and those of its existing water customers, may be adversely affected by a final order arising from this case. Granting the District intervention in this proceeding would be in the public interest if for no other reason than the District is a public corporation and a political subdivision of the state, which operates on behalf and for the benefit of its customers.

8. Pursuant to 4 CSR 240-2.075(5), the Commission may grant applications to intervene after the established intervention date upon a showing of good cause. Good cause exists here in that the District never received any notice whatsoever of the filing of Innsbrook's Application nor of the Commission's *Order Directing Notice and Setting Date for Submission of Intervention Requests* issued on July 17, 2007. That Commission Order set an intervention date of August 6, 2007, which was less than 30 days although no expedited treatment of the Application was requested. The District first learned about this case upon one of its employees recently reading a brief account of the case in a local newspaper, after the intervention deadline had passed. Upon learning of the pendency of

this case from the newspaper article, District personnel contacted the District's regular counsel, who after discussing the matter internally, in turn contacted undersigned counsel to prepare this intervention request. Undersigned counsel required time to review Innsbrook's Application and other case papers, then prepare and receive client approval of this pleading prior to filing. Undersigned counsel moved as quickly as possible to file this pleading in as timely a manner as possible under the circumstances and any delay in filing this pleading was not due to neglect.

9. The District also notes from Staff's August 13, 2007 filing that Innsbrook has yet to file its required Feasibility Study and that the Staff has requested sixty (60) days from the filing of the Feasibility Study to file its recommendation. The District also notes that no procedural schedule has yet been set. As such, granting the District intervention will not delay this proceeding.

WHEREFORE, for all the reasons stated above, Public Water Supply District No. 2 of St. Charles County, Missouri respectfully moves the Commission to grant it intervention out of time for good cause shown in this case.

Respectfully submitted,

/s/ **Charles Brent Stewart**

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ATTORNEY FOR PUBLIC WATER
SUPPLY DISTRICT NO. 2 OF
ST. CHARLES COUNTY, MISSOURI

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on counsel for all parties of record by depositing same in the U.S. Mail, first class postage pre-paid, or by electronic transmission, this 22nd day of August 2007.

/s/ **Charles Brent Stewart**
