

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

In the matter of the application of Timber Creek)
Sewer Company, for permission, approval, and)
a certificate of convenience and necessity)
authorizing it to construct, install, own, operate,)
control, manage and maintain a sewer system)
for the public located in an unincorporated area)
in Clay County, Missouri.)

Case No. SA-2005-0467

**STAFF'S REQUEST FOR EXTENSION
OF TIME TO FILE RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through Counsel, and for its Request for Extension of Time to File Recommendation states the following to the Missouri Public Service Commission (Commission).

1. On June 6, 2005¹, Timber Creek Sewer Company (Company) filed its Application for a certificate of convenience and necessity (certificate) to provide sewer service to an unincorporated area in Clay County, Missouri known as the Johnson Ridge Subdivision.

2. On July 8, the Staff filed a Status Report, in which it stated that it planned to file its recommendation in this case by August 29.

3. Due to the press of other business, including the preparation and filing of a petition for an extraordinary writ in the Southern District of the Court of Appeals, Staff's counsel inadvertently overlooked the August 29 filing.

4. On September 1, the Commission issued an order directing the Staff to file a recommendation in this case by no later than September 16.

¹ Unless noted otherwise, all dates herein refer to the year 2005.

5. The Staff is currently unable to file its recommendation for this case because of issues regarding the Company's application to the Missouri Department of Natural Resources (DNR) for construction and operating permits for the facilities that will be needed to provide service in the requested area. (The Staff does not yet know when the MDNR will complete its permit review process, but does not anticipate that it will be completed in time for the Staff to be able to file its recommendation by September 16, as ordered by the Commission.)

6. On August 26, Martin Hummel of the Commission's Water & Sewer Department spoke with Willis Sherry, the President of the Company, about the status of the DNR's permit review process. Mr. Hummel asked Mr. Sherry if the Company would object to the Staff not filing its recommendation in this case until two weeks after the DNR's Kansas City Regional Office's permit review process is completed and the public notice(s) for the DNR permits have been published. Mr. Sherry stated to Mr. Hummel that the Company did not object to this approach. (This is the same approach being used in Case No. SA-2005-0297, which is another case in which the Company has applied for a certificate to provide service in a separate unincorporated area in Clay County known as the Oakbrook subdivision.)

7. There are no customers awaiting service in the area that the Company proposes to serve, and the Staff has been informed that no homes will be constructed in the proposed service territory until the fall of this year, at the earliest.

8. Rule 4 CSR 240-2.050 (3) (B) provides that when an act is required to be done by order of the Commission within a specified time, the Commission, at its discretion, may permit the act to be done after the expiration of the specified period, where the failure to act was the result of excusable neglect.

9. In this case, although the Staff said it planned to file a recommendation by August 29, there was no Commission order that it do so. To the extent that the Staff has failed to act, the failure was the result of excusable neglect.

10. Based on the above, the Staff believes that an additional extension of time for filing its recommendation is reasonable, and requests that it not be required to file its recommendation until two weeks after the DNR publishes the public notice(s) regarding the Company's required DNR permits. In order for the Commission to be able to know when the Staff will file its recommendation under this approach, the Staff will file a notice in this case upon being notified that the DNR has published its public notice(s) regarding the permits.

WHEREFORE, the Staff respectfully requests that the time for filing its recommendation in this case be extended as requested herein.

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission

P.O. Box 360
Jefferson City, MO 65102
573-751-4140 (telephone)
573-751-9285 (facsimile)
keith.krueger@psc.mo.gov (e-mail)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 1st day of September 2005.

/s/ Keith R. Krueger