

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

In the Matter of the Application of Dale Whiteside )	
and Whiteside Hidden Acres, L.L.C. for a )	
Certificate of Convenience and Necessity )	Case No. WA-2009-0261
Authorizing it to Own, Control, Manage, Improve )	Case No. SA-2009-0262
and Maintain a Water and Sewer System for the )	
Public, Located in an Incorporated Area of Hickory )	
County, Missouri )	

**STAFF’S RESPONSE TO APPLICANT’S AMENDED APPLICATION  
AND SUPPORT FOR LEAVE TO AMEND THE APPLICATION  
AND MAINTAIN THE SET PROCEDURAL SCHEDULE**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), through the undersigned counsel, and respectfully submits this Response, pursuant to 4 CSR 240-2.080, to the Missouri Public Service Commission (Commission) stating the following:

**Procedural History**

1. On January 13, 2009<sup>1</sup>, Dale Whiteside and Whiteside Hidden Acres, L.L.C. (original applicants) filed an application for a certificate of convenience and necessity (CCN) for water and sewer systems located in Hickory County, Missouri.
2. On January 27, Staff sent a request to the original applicants to provide additional feasibility information for the water and sewer application, to assist the Staff in preparation of its recommendation.
3. The original applicants agreed to provide the information to the Staff, and Whiteside Hidden Acres L.L.C.’s Amended Application, filed in the Commission’s Electronic Filing and Information System on March 13, is responsive to Staff’s request.

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<sup>1</sup> Unless otherwise stated, all calendar references are to 2009.

## **Response**

4. 4 CSR 240-2.080 allows the parties ten (10) days from the date of filing to respond to any pleading.

5. The Amended Application differs from the January 13 filing in that three changes have been made.

6. First, the caption of the case has changed from the “Application of Dale Whiteside and Whiteside Hidden Acres, L.L.C.,” to only “Whiteside Hidden Acres, L.L.C.” seeking the CCN. Staff avers Whiteside Hidden Acres, L.L.C. is a proper applicant for a water CCN.

7. Second, a feasibility study has been submitted and is attached to the Amended Application.

8. Third, the word “sewer” has been deleted from the caption of the Amended Application. It is the understanding of undersigned counsel that this removal was to represent the original applicants’ withdrawal of the sewer application case, SA-2009-0262. Pursuant to 4 CSR 240-2.116, a formal notice of voluntary dismissal should be forthcoming. Voluntary dismissal is proper as no party has prepared testimony, nor has oral evidence been offered in this case. Staff further avers that a sewer CCN is unnecessary for the original applicants’ sewer system, as at the date of this pleading, the sewer system has fewer than the twenty-five outlets necessary for a Section 386.020 RSMo (Supp. 2008) sewer corporation.

9. 4 CSR 240-2.080 (20) states “[a]ny pleading may be amended within ten (10) days of filing, unless a responsive pleading has already been filed, or at any time by leave of the commission.” While, Staff did not file a responsive pleading, the Amended Application is in

response to Staff's January 27 request. Staff is requesting the Commission allow leave for the Amended Application.

10. Staff requests the Commission maintain the current procedural schedule, as the customers remain on notice of the original January 13 application for a water and sewer CCN, and no applications to intervene were received. Staff is to file its recommendation or a status report in this matter on or before April 7, 2009.

**WHEREFORE**, Counsel for Staff requests the Missouri Public Service Commission issue an order 1) granting leave for Whiteside Hidden Acres, L.L.C's Amended Application; and 2) maintaining the set procedural schedule in this matter.

Respectfully submitted,

**/s/Jennifer Hernandez**

Jennifer Hernandez

Legal Counsel

Missouri Bar No. 59814

Attorney for the Staff of the

Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751- 8706 (Telephone)

(573) 751-9285 (Fax)

**[jennifer.hernandez@psc.mo.gov](mailto:jennifer.hernandez@psc.mo.gov)**

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of March, 2009.

**/s/ Jennifer Hernandez**