

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

In the Matter of the Application of	)	
Highway H Utilities, Inc. for Authority to Sell	)	
Certain Water System Assets to the City of	)	File No. _____
Waynesville, Missouri, and, in Connection	)	
Therewith, Certain Other Related Transactions.	)	

**APPLICATION AND MOTION FOR WAIVER**

COMES NOW Highway H Utilities, Inc. (Highway H), and, pursuant to Section 393.190, RSMo 2000, 4 CSR 240-2.060 and 4 CSR 240-3.605, states the following to the Missouri Public Service Commission (Commission):

**BACKGROUND INFORMATION**

1. Highway H is a Missouri corporation duly organized and existing under the laws of the State of Missouri with its principal office and place of business located at Post Office Box 308, H Highway East Outer Road, Waynesville, Missouri. Highway H is engaged in the provision of water and sewer service pursuant to certificates of convenience and necessity issued by this Commission in Cases Nos. WA-90-26, WA-91-127, WA-91-128, WA-2004-0588, WA-2009-0316 and SA-2009-0317.

2. Highway H is a public utility as that term is defined in Section 386.020(32), RSMo 2000. As such, Highway H is subject to the jurisdiction, regulation, supervision, and control of the Commission insofar as it provides water and sewer service to the public in the State of Missouri. A certified copy of Highway H's Certificate of Corporate Good Standing as issued by the Secretary of State of the State of Missouri was submitted in Case No. WA-2004-0588 and is incorporated by reference in accordance with Commission Rule 4 CSR 240-2.060(1)(G). Highway H has no pending action or final unsatisfied judgments or decisions

against it from any state or federal agency or court which involve customer service or rates.

Highway H has no annual report or assessment fees which are overdue.

3. Waynesville is a political subdivision of the 3<sup>rd</sup> Class organized and existing under the laws of Missouri and has its principal office at 601 Historic 66 West, Waynesville, Missouri, 65583. It owns, operates and maintains electric, natural gas and water distribution systems. Waynesville currently provides water service to approximately 1,795 customers

4. Communications in regard to this Application should be addressed to the undersigned counsel.

### **THE TRANSACTION**

5. Highway H and Waynesville have entered into an Agreement for Sale of Water System (Agreement) dated December 21, 2011, a copy of which is marked **Appendix A**, and attached hereto. Pursuant to the Agreement, Waynesville agrees to obtain and acquire certain water facilities of Highway H, known as the Hunter's Pointe Water System, as specifically described in the Agreement under the terms and provisions further described in the Agreement. After the proposed sale, Highway H would maintain and continue to own and operate its sewer and remaining water assets as a regulated sewer and water corporation regulated by the Commission.

6. Because Highway H is a water (and sewer) corporation doing business in the State of Missouri, it is subject to the provisions of Section 393.190.1, RSMo 2000, which states, in pertinent part, that "no . . . sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public . . . without having first secured from the Commission an order authorizing it so to do."

### **ADDITIONAL INFORMATION**

7. The Waynesville City Council approved an ordinance on December 15, 2011, approving the Agreement and authorizing the Mayor to sign the Agreement on behalf of Waynesville. See **Appendix B** attached hereto.

8. Highway H's verification of authority authorizing the sale of the subject assets and related transactions contemplated by the Agreement is attached as **Appendix C**.

9. It is unclear what impact the sale of assets may have on the tax revenues of relevant political subdivisions.

### **PUBLIC INTEREST**

10. The proposed sale of the specified assets of Highway H and the related transactions are not detrimental to the public interest of the State of Missouri. The Hunter's Pointe Water System will be acquired by Waynesville, a municipal corporation and experienced operator of water systems. The sale of these assets will not impair Highway H's ability to serve its remaining water and sewer customers.

### **CONTINGENT REQUEST FOR WAIVER**

11. This case is not likely to be a contested case within the meaning of Commission rule 4 CSR 240-4.020(2) because previous applications addressing the same issues presented in this filing have generally not become contested proceedings. However, in the event that the Commission nevertheless concludes that the filing of this Application is likely to be a contested case, Applicants request a waiver of the sixty (60) day notice for good cause shown as permitted by Commission rule 4 CSR 240-4.020(2)(A).

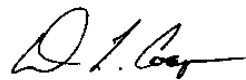
12. The reason for this request relates to the nature of an asset purchase negotiation as that which resulted in the execution of the subject Agreement and the filing of this Application.

Sixty days prior to the filing, the parties did not have an agreement. Further, because of the nature of a transaction such as this, this Application has been filed as soon as possible after the execution of the Agreement. It would serve no purpose to wait sixty days before filing the application for Commission approval. Accordingly, to the extent that the Commission may find it to be applicable, the parties request a waiver from the provisions of Commission Rule 4 CSR 240-4.020(2) to allow for the filing of this Application.

WHEREFORE, Highway H respectfully requests that the Commission issue its order:

- (A) authorizing Highway H to sell the assets identified herein;
- (B) authorizing Highway H to perform in accordance with the terms described in the Agreement that is attached to this Application and to take any and all other actions which may be reasonably necessary and incidental to the performance of the sale; and,
- (C) granting such other relief as may be deemed necessary and appropriate to accomplish the purposes of the Agreement and the Application and to consummate related transactions in accordance with the Agreement.

Respectfully submitted,



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Dean L. Cooper MBE #36592  
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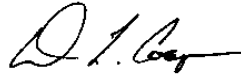
ATTORNEYS FOR HIGHWAY H UTILITIES, INC.

## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail to the following this 11<sup>th</sup> day of January, 2012:

Office of the General Counsel  
Missouri Public Service Commission  
Governor State Office Building  
Jefferson City, Missouri 65101  
[gencounsel@psc.mo.gov](mailto:gencounsel@psc.mo.gov)

Office of the Public Counsel  
Governor State Office Building  
Jefferson City, Missouri 65101  
[opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)

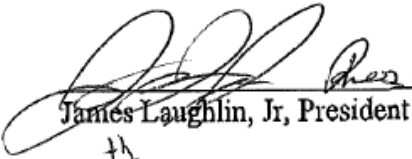


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AFFIDAVIT

State of Missouri     )  
                                  ) ss  
County of Pulaski )

I, James Laughlin, Jr., having been duly sworn upon my oath, state that I am the President of Highway H Utilities, Inc., that I am duly authorized to make this affidavit on behalf of the Highway H Utilities, Inc. and that the matters and things stated in the foregoing Application and appendices thereto are true and correct to the best of my information, knowledge and belief.

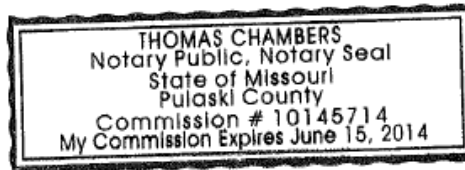
  
James Laughlin, Jr, President

Subscribed and sworn before me this 9<sup>th</sup> day of January, 2012.

  
\_\_\_\_\_  
Notary Public

My Commission expires:

June 15, 2014

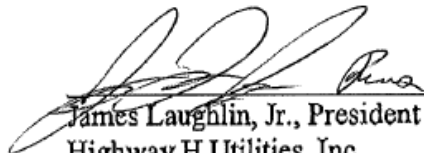


APPENDIX C

VERIFICATION OF AUTHORITY

COMES NOW James Laughlin, Jr., the President of Highway H Utilities, Inc. ("Highway H"), and does hereby verify that Highway H had and has the requisite authority to enter into the Agreement for Sale of Water System dated December 21, 2011, by and between Highway H and the City of Waynesville, Missouri (the "Agreement"), and to carry out all the obligations contained in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereto set his hand the 9<sup>th</sup> day of January, 2012.

  
James Laughlin, Jr., President  
Highway H Utilities, Inc.

State of Missouri                    )  
  ) ss  
County of Pulaski                    )

Subscribed and sworn before me this 9 day of January, 2012

  
Notary Public

My Commission expires:

June 15, 2014

