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State of Missouri

Governor

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May 4, 2001

Mr. Dale H. Roberts  
Secretary/Chief Regulatory Law Judge  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED**<sup>3</sup>

MAY 04 2001

Missouri Public  
Service Commission

**Re: Foxfire Utility  
Case No. WA-2001-53**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **JOINT SUPPLEMENTAL PLEADING REGARDING NOTICE PROVIDED TO THE CUSTOMERS IN THE AFFECTED AREA OF BENTON COUNTY, MISSOURI**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,

*Ruth O'Neill for JRC*

M. Ruth O'Neill  
Assistant Public Counsel

MRO:jb

cc: Counsel of Record

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

**FILED<sup>3</sup>**  
**MAY 04 2001**

Missouri Public  
Service Commission

In the Matter of the Application of Foxfire )  
Utility Company for a Certificate of )  
Convenience and Necessity Authorizing )  
It to Construct, Install, Own, Operate, )  
Control, Manage and Maintain a )  
Water System for the Public in an )  
Unincorporated Area of Benton County, )  
Missouri )

Case No. WA-2001-53

**JOINT SUPPLEMENTAL PLEADING REGARDING NOTICE PROVIDED  
TO THE CUSTOMERS IN THE AFFECTED AREA OF BENTON  
COUNTY, MISSOURI**

COMES NOW, Foxfire Utility Company (Foxfire), the Staff of the Missouri Public Service Commission (Staff) and the Office of the Public Counsel (Public Counsel) and respectfully submits to the Missouri Public Service Commission (Commission) this supplemental pleading, and attachments, for the Commission's consideration. The purpose of this pleading is to describe the methods of notice which have been provided or will be provided to the residents of the Spring Branch Service Area in Benton County, Missouri, for which the Commission granted Foxfire a certificate of convenience and necessity on April 17, 2001. The Spring Branch system provides water service to Arrowhead Lakes Estates and Lakewood Village in Benton County, near Edwards, Missouri. Prior to this application, the system had been operated by a developer of the property and had not been subject to the Commission's jurisdiction.

Attached to this pleading are the following designated exhibits:

EX. 1. Letter of May 3, 2000, from Foxfire Utility Company to Spring Branch Water customers, announcing the proposed transfer of ownership of the water system;

EX. 2. The Order and Notice from the Commission directing the Commission's Records Department to provide notice of the application to various entities, and setting a deadline for intervention, along with verification from the Commission Records Department of the parties to which the Order and Notice were sent.

EX. 3. Press release sent by the Commission regarding the application, along with a list of the media outlets and lawmakers to which the release was sent.

EX. 4. Letter, dated May 2, 2001, which Foxfire is sending to customers in the Spring Branch Service Area regarding the completion of the application process before the Commission and the upcoming changes in management and rate structure.

WHEREFORE, the parties respectfully request the Commission to take notice of the information provided.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: Ruth O'Neill by *gpc*  
M. Ruth O'Neill (#49456)  
Assistant Legal Counsel  
P O Box 7800  
Jefferson City, MO 65102  
(573) 751-1304  
(573) 751-5562 FAX

MISSOURI PUBLIC SERVICE COMMISSION

By: Cliff Spodgrass  
Cliff Spodgrass  
Senior Counsel (#52302)  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-3966  
(573) 751-9285 fax

FOXFIRE UTILITY COMPANY

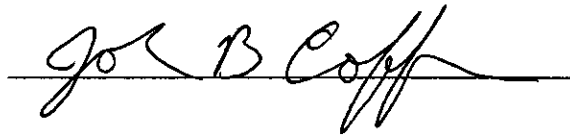
By: Dean L. Cooper by *gpc*  
Dean L. Cooper (#36592)  
Brydon, Swearingen & England P.C.  
P. O. Box 456  
Jefferson City, MO 64102-0456  
(573) 635-7166  
(573) 635-3847 fax

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 4<sup>th</sup> day of April 2001:

Cliff Snodgrass  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City MO 65102

Dean L. Cooper  
Brydon, Swearingen & England, PC  
P. O. Box 456  
Jefferson City, MO 65102

A handwritten signature in cursive script, appearing to read "Joe B. Coffey", is written over a horizontal line.

**EX. 1**

Wednesday, May 02, 2001 4:07 PM

573 632 6057

Garah and Joy Helms 573-632-6057

p.01

Foxfire Utility Company  
J23 Fox Creek Road  
Jefferson City, MO 65109

## Foxfire Utility Company

312 Lafayette, P.O. Box 7017  
Jefferson City, MO 65102  
573 634 2699 or 800 624 5252

May 3, 2000

Spring Branch Water Customer

Dear Customer:

This is to inform you that Foxfire Utility Company acquired the Spring Branch Water Company effective today.

Foxfire Utility Company is a full time provider of water and sewer services to customers in Missouri and owns and operates a separate water and sewer system near Branson, Missouri. Our office is in Jefferson City at 312 Lafayette Street.

Our plans for the Spring Branch Water system are to certificate the system with the Missouri Public Service Commission and to make appropriate improvements to the system to provide a safe and reliable water supply available to you, our valued customers at reasonable rates.

At present, the only changes you need to note are who to contact in the event of a leak or other service related problem. Please call our office at 1-800-624-5252 for service. Our office hours are 8:00 am to 5:00 pm Monday through Friday, holidays excluded. The phone is answered 24 hours per day for emergencies.

Please continue to make your scheduled payments for water service to the same address as you always have.

Thank you. We will keep you informed of significant developments related to the water supply.

Sincerely,

  
Rick Helms  
President

c.c. James Merceil, Missouri Public Service Commission

**EX. 2**

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of the Application of )  
 Foxfire Utility Company for a Certificate )  
 of Convenience and Necessity Authorizing )  
 it to Construct, Install, Own, Operate, ) Case No. WA-2001-53  
 Control, Manage and Maintain a Water )  
 System for the Public in an Unincorporated )  
 Area of Benton County, Missouri )

**ORDER AND NOTICE**

On July 26, 2000, Foxfire Utility Company (Foxfire) filed an application with the Commission requesting an order granting a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain a water system for the public in an unincorporated area of Benton County, Missouri, known as Arrowhead Lake Estates and Lakewood Village.

The Applicant stated that Foxfire is a corporation duly organized and existing under the laws of the State of Missouri with its principal place of business located at 312 Lafayette, Jefferson City, Missouri 65101. The Applicant stated that Foxfire is engaged in the provision of water service and is subject to the jurisdiction of the Commission.

The Applicant stated that there is no other same or similar utility service, regulated or nonregulated, available in the proposed service area, being operated or rendering the same or similar service within the proposed service area. Further, the Applicant stated that

A

there are no municipalities located within the proposed service area and no consent to franchise from a county is required for completion of this project. Foxfire stated that it has purchased, subject to this regulatory approval, the Spring Branch Water System, which has provided water in the proposed service area and has not previously been regulated by the Commission.

Foxfire attached as Appendix 2 its feasibility study, which contains the estimated costs of the facilities in the proposed service area, proposed rates and charges, and an estimate of the number of customers, revenues and expenses. Foxfire stated in Appendix 2 that the proposed service area is a water system started 30 years ago by the developer who also lived in the service area. The developer provided drinking water to the people who purchased homes and constructed their own on a lot purchased from the developer on a minimal or less than cost basis. Foxfire's feasibility study stated that the developer has sold to Foxfire because he does not want to operate the growing utility and because of his focus on his other business.

Foxfire stated that the proposed service is largely part-time users, noting that the system serves 108 part-time weekend or summer users, and 63 full-time customers, all of which will need adequate water service. The feasibility study stated that the current water system is not in compliance with state standards, which Foxfire will correct. Foxfire stated that there is and will be a public need for water service within the area proposed service area and that the

public convenience and necessity will be served by the granting of the authority herein requested.

Proper parties should be given notice and an opportunity to intervene in this matter. The Records Department of the Commission shall send a copy of this order to the county commission of Benton County, as this entity is listed in the current *Official Manual of the State of Missouri*. In addition, the Information Office of the Commission shall send notice of this application to the members of the General Assembly who represent customers in Benton County, and to the newspapers located in Benton County, as listed in the newspaper directory of the current *Official Manual of the State of Missouri*.

The requirement of a hearing is met when an opportunity to be heard has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989).

**IT IS THEREFORE ORDERED:**

1. That the Information Office and the Records Department of the Missouri Public Service Commission shall provide notice as set out herein.

2. That any interested party wishing to intervene in this case shall file an application to do so no later than August 23, 2000 with:

Dale Hardy Roberts, Secretary  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102

and send copies to:

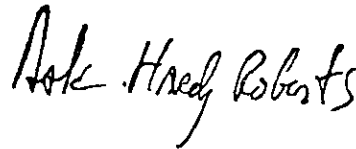
Dean L. Cooper  
Brydon, Swearngen & England, P.C.  
P.O. Box 456  
Jefferson City, Missouri 65102-0456

and

Office of the Public Counsel  
Post Office Box 7800  
Jefferson City, Missouri 65102

3. That this order shall become effective on August 14, 2000.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(S E A L)

Shelly A. Register, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,  
on this 3rd day of August, 2000.

**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 3<sup>rd</sup> day of Aug. 2000.



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**Dale Hardy Roberts**  
Secretary/Chief Regulatory Law Judge

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
August 3, 2000**

**CASE NO: WA-2001-53**

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

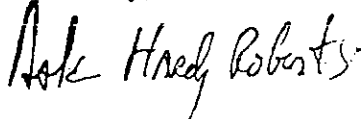
**Dean L. Cooper**  
Brydon Swearngen & England, P.C.  
PO Box 456  
Jefferson City, MO 65102-0456

**General Counsel**  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Rodney Meyer**  
Benton County Courthouse  
P. O. Box 1238  
Warsaw, MO 65355

**Enclosed find certified copy of ORDER AND NOTICE in the above-numbered case(s).**

Sincerely,



**Dale Hardy Roberts**  
Secretary/Chief Regulatory Law Judge

**MAY 03 2001**

**EX. 3**



# PSC NEWS

## MISSOURI PUBLIC SERVICE COMMISSION

**Contact:** Kevin Kelly

**Office:** (573) 751-9300

*Harry S Truman State Office Building  
Room 530*

FY-01-27

### PSC SETS INTERVENTION DEADLINE IN WATER CASE

Jefferson City (August 7, 2000)---Foxfire Utility Company (Foxfire) has filed an application with the Missouri Public Service Commission seeking Commission authority to construct, own and operate a water system in Benton County near Edwards, Missouri. Foxfire is seeking to provide water service to Arrowhead Lake Estates and Lakewood Village.

Applications to intervene and participate in this case must be filed on or before August 23, 2000, with Dale Hardy Roberts, Secretary, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102. Copies of the application should be sent to: Dean L. Cooper, Brydon, Swearingen & England, P.C., P.O. Box 456, Jefferson City, Missouri 65102-0456; and the Office of the Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102.

If no proper party is granted intervention and neither the PSC Staff nor the Office of the Public Counsel requests a hearing, the Commission may determine that a hearing is not necessary and that Foxfire Utility Company may submit its evidence in support of the application by verified statement.

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Case No. WA-2001-53

AUG 07 2000

Benton County Contacts - Media/Legislature

News Editor  
Cole Camp Courier  
P. O. Box 280  
Highway 52  
Cole Camp, MO 65325

News Editor  
Benton County Enterprise  
P. O. Box 128  
107 Main Street  
Warsaw, MO 65355

News Director  
KAYQ  
PO Box 1420  
Warsaw, MO 65355

Senator Larry Rohrbach  
25420 Highway D  
California MO 65018

Representative Delbert Scott  
700 East 7<sup>th</sup>, Box 147  
Lowry City, MO 64763

EX. 4

*Foxfire Utility Company  
323 Fox Creek Rd.  
Jefferson City, MO 65109  
(573) 632-6007, (573) 632-6475 or 1-866-224-2035  
Fax (573) 632-6057 E-Mail: [wmy@socket.net](mailto:wmy@socket.net)*

May 2, 2001

All Water Customers  
Lake Arrowhead Estates Development  
Edwards, MO

Dear Customer:

As you may recall, Foxfire Utility Company purchased the Spring Branch water system in May 2000. From the time of the purchase until now, the Company has been in the process of seeking final approval of the sale by the Missouri Public Service Commission (PSC). We have also been working with the PSC in the development of rates and charges for service. On April 17, 2001 the Commission granted Foxfire Utility Company a Certificate of Public Convenience and Necessity to provide water service in Spring Branch. A schedule of rates was also approved.

Foxfire Utility Company has and will continue to work towards three goals at Spring Branch:

1. **Water Quality Assurance:** First and most important has been our involvement with the Missouri Department of Natural Resources in developing and implementing an extensive water sampling and testing program. Sampling and testing done in accord with State and Federal guidelines assures that you, our valued customer, receives water that is safe for consumption. As you may have noted, the water supply is now chlorinated. We are pleased to report that based on the samples collected to date, the quality of delivered water is good and meets microbiological and chemical quality requirements. A Consumer Confidence Report that summarizes all bacteriological and chemical testing results for your water supply will be prepared and mailed to you by the Company once each year.

We are aware that there have been intermittent periods where water has been discolored. Please be advised that this discoloration is the result of natural deposits on the walls of the water mains and the discolored water is still safe. Periods of increased use in the spring of each year will frequently result in suspending some of those deposits, which can result in discolored water. Leaks and leak repairs can also cause the same thing to occur. Until appropriate flushing valves are located and

installed, the best thing you can do if you notice this occurring is to turn on an outside faucet and flush until clarity is restored.

2. **Service Reliability:** Another important activity has been the location and repair of leaking water lines. The Company has made over twenty leak repairs since our acquisition. This activity is especially important in Spring Branch due to the small distribution line sizing and low storage volumes currently in service. As you might guess, leak repair is an ongoing program. Your assistance in promptly reporting leaks is very helpful to us.
3. **System Improvements:** The Company has begun improvements to the distribution system. We had a period of extremely cold weather this past winter that resulted in water mains freezing. The affected area resulted in an extended outage for several customers. In response to this problem, the Company (at considerable expense) replaced several hundred feet of main, chipping out solid rock to lower the main and provide more cover that should prevent similar problems in the future. Other improvements to the production, storage and distribution systems remain in the planning stages at this time.

Bills for service will be mailed to you monthly. You may pay in advance if you choose to, but that is no longer a requirement. The rate for full time customers is \$22.28 per month. The rate for part time or seasonal users is \$19.00 per month. Bills will normally be issued on or near the 20<sup>th</sup> day of each month and are for service during the month in which the bill is prepared. Bills are due upon receipt and become delinquent 21 days after issuance. Service may be terminated for non-payment after notice to the customer. Water service may be terminated at the customer's request at any time, however the rates outlined above will still apply and will be charged if the disconnection is not for one year or more. If the service is terminated for non-payment or at the customers request there is a \$10.00 reconnect fee. We work with our customers and normally have very few terminations for non-payment. If for any reason you have difficulty in meeting the above payment schedule, we urge you to contact our office to work out payment arrangements. All payments should be mailed to:

**Foxfire Utility Company  
323 Fox Creek Road  
Jefferson City, MO 65109**

We can be reached by telephone at 573-632-6007 or *toll free 1-866-224-2035*. An actual live person answers the toll free number 24 hours per day. Please restrict after hours, weekend and holiday calls to emergencies only. Billing and other routine matters should be addressed during normal business hours.

Please complete and return the enclosed application for service. This will allow us to establish complete and accurate records which will help us to contact you should the need arise. Thank you for your patience and cooperation.

Sincerely,

Garah F. (Rick) Helms  
President/Treasurer

Joy L. Helms  
Vice President/Secretary

c.c. Jim Merciel, Missouri Public Service Commission  
Dean Cooper, Brydon, Swearngen and England