

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

**In the Matter of the Application of)
Kimberling Investments, Inc., to Sell)
and Transfer its Water Franchise,)
Kimberling Investments Inc. Water)
Company, to Christian Associates of)
Table Rock Lake.)**

Case No. WM-2008-0229

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and, for its Staff Recommendation, states to the Missouri Public Service Commission as follows.

1. On January 10, 2008, Kimberling Investments, Inc. and Christian Associates of Table Rock Lake filed their Joint Application for Sale of Water Supply System and Cancellation of Certificate in this case.

2. On January 23, 2008, the Commission issued its Order Directing Notice and Order Directing Filing, in which it ordered the Staff to file its recommendation or a preliminary response to the application by no later than February 22, 2008.

3. Attached hereto as Attachment A is the Staff Memorandum regarding its review of the application for approval of sale of assets and cancellation of certificate. If the transfer of assets is approved, neither Kimberling Investments nor Christian Associates of Table Rock Lake will be providing any utility service to the public. The Staff recommends that the Commission issue an order granting Kimberling Investments authority to transfer its water utility assets and cease providing service, requiring the parties to notify the Commission after the transfer of assets takes place, and cancelling Kimberling Investments' certificate of convenience and necessity.

WHEREFORE, the Staff submits its Recommendation for the Commission's consideration.

Respectfully submitted,

/s/ Keith R. Krueger

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

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or e-mailed to all counsel of record on this 22nd day of February 2008.

/s/ Keith R. Krueger

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. WM-2008-0229
Kimberling Investments

FROM: James Merciel – Water and Sewer Department

<u>/s/ James Busch</u>	<u>2/22/08</u>
Manager – Water and Sewer Department	Date
<u>/s/ Keith Krueger</u>	<u>2/22/08</u>
General Counsel's Office	Date

SUBJECT: Staff's Recommendation for Approval of Transfer of Assets and Cancellation of Certificate of Convenience and Necessity

DATE: February 22, 2008

BACKGROUND

On January 10, 2008 (unless noted otherwise, all dates herein refer to the year 2008), Kimberling Investments, Inc. ("KI" or "the Company") and Christian Associates of Table Rock Lake (CATRL) filed a JOINT APPLICATION FOR SALE OF WATER SUPPLY SYSTEM AND CANCELLATION OF CERTIFICATE with the Public Service Commission ("Commission"), seeking to sell and transfer the water utility assets owned and operated by KI to CATRL, then after the transfer is accomplished, to cancel KI's Certificate of Convenience and Necessity (Certificate) and its current tariff to provide water service to the public, thereby relieving it of its obligation to provide water and sewer service in its service areas.

On January 23rd the Commission issued its **Order Directing Notice and Order Directing Filing**, in which it ordered notice to be sent to state and local officials and the news media, set February 13th as the date by which others should file an application to intervene and by which parties should request a hearing in this matter, and set February 22nd as the date for the Staff to file either a recommendation or a preliminary response to the filing.

As of the date of this memorandum, no parties have sought to intervene in the matter, and the Staff has not received any inquiries from any party.

DESCRIPTION OF THE SERVICE AREA, AND THE INVOLVED PARTIES

The Commission has exercised regulatory authority over the subject water system since February 14, 2000, the effective date of a Certificate issued to a company named Hotel Associates, Inc. in Case No. WA-99-137. At the time, the water system went along with some real estate that had

been foreclosed upon by a bank, all of which Hotel Associates, Inc. acquired. Hotel Associates, Inc. sold the water system, along with the real estate, to KI with the approval of the Commission in Case No. WM-2001-435. The real estate consists of rental condominiums and some commercial office space. CATRL represents that it now owns all of the involved real estate, and will be using all of the real estate solely for its own purposes, such as an emergency and special need shelter for families and victims of violence, and will not sell or lease property to others. Since there are no individual property owners, renters or customers involved, there is no service provided to the public, and thus no water service requiring a need for regulation.

ADDITIONAL MATTERS

The Company has no delinquencies with regard to paying annual assessments. This is based on a review of the Commission's Administration Division's annual assessments records covering fiscal year 2002 when KI obtained its Certificate through fiscal year 2008. A review of the Commission's Adjudication Division's Data Center records on annual report filings for calendar year 2001, and a review of the Commission's Electronic Filing and Information System (EFIS) annual report records covering calendar years 2002 through 2006 indicates that no annual report was filed for 2001 during which year KI commenced its regulated business, nor for 2002. KI has submitted annual reports for all subsequent years. An annual report for Calendar Year 2007 is not yet due nor filed.

The Staff completed an investigation to determine why the 2001 and 2002 annual reports were not filed and why subsequent enforcement was not pursued. According to the Staff's review, there was a clerical error when entering the Company in the Commission's antiquated docket system after the Certificate was issued, and one result was that the Commission did not send annual report forms to KI in 2001 or 2002. When records for regulated companies were transferred into (EFIS) the error was found and corrected. Since the mistake was an internal error, no action was taken to obtain past annual reports. Since the proposed transaction represents an application to sell and transfer assets, and then cancel the certificate of KI, Staff does not recommend pursuing the missing annual reports at this time. KI has submitted annual reports ever since the error was corrected, providing a 4 year history of the Company. The Staff also does not believe the Commission has any current need for the information that would have been included in the 2001 and 2002 annual reports.

The Company does not have any compliance-related issues involving the Missouri Department of Natural Resources. As stated, CATRL does not actually provide any service to the general public.

Both KI and CATRL are presently in good standing with the Missouri Secretary of State, according to information on that agency's web page.

STAFF'S RECOMMENDATIONS

The Staff, based on its review as herein described, believes that the proposed sale and transfer of assets is not detrimental to the public interest, and therefore recommends approval.

After approval of this transfer of assets is granted by the Commission, and then after the transfer to CATRL is finally completed, Staff further recommends the Commission cancel the Certificate held by and tariff on file for KI.

Based upon the above, the Staff recommends that the Commission issue an order that:

1. Grants KI the authority to transfer its water utility assets and cease providing service, as requested;
2. Makes no ratemaking determination regarding any potential future regulatory oversight, if any;
3. Requires the parties to submit notice to the Commission regarding evidence of the transfer of assets to CATRL within three (3) business days after the transfer takes place.

The Staff further recommends that after the above notice of transfer is received, the Certificate held by, and water tariff on file for, KI, be canceled.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

AFFIDAVIT OF JAMES A. MERCIEL, JR.

STATE OF MISSOURI

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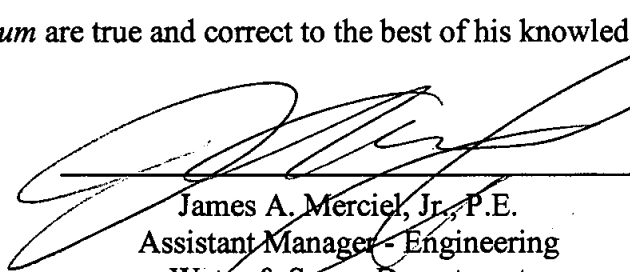
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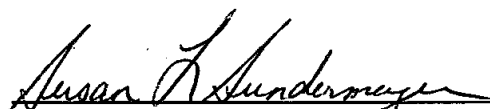
COUNTY OF CALLAWAY

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James A. Merciel, Jr., of lawful age, on his oath states: (1) that he is the Assistant Manager – Engineering in the Water and Sewer Department of the Missouri Public Service Commission; (2) that he participated in the preparation of the foregoing *Memorandum*; (3) that he has knowledge of the matters set forth in the foregoing *Memorandum*; and (4) that the matters set forth in the foregoing *Memorandum* are true and correct to the best of his knowledge, information and belief.


James A. Merciel, Jr., P.E.
Assistant Manager - Engineering
Water & Sewer Department
Utility Operations Division

Subscribed and sworn to before me this 22nd day of February 2008.


Notary Public



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086