

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

In the Matter of the Application of                    )  
Jefferson County, Missouri for Authority        )        Case No. SM-2012-0423  
To Sell the Utility Assets of Meramec            )  
Sewer Company    )

**MOTION FOR RECONSIDERATION**

COMES NOW Jefferson County, Missouri and for its Motion for Reconsideration respectfully states as follows:

1.       On June 14, 2012, Jefferson County filed its Application For Sale of Utility Assets and its Motion for Expedited Treatment. In that Application, Jefferson County detailed that Meramec Sewer had failed to pay its county / state real property taxes for a period of three years and was delinquent in the amount of over \$72,000. Therefore, Jefferson County sought, “to the extent that such approval is necessary”, Commission approval to sell the utility assets of Meramec Sewer. Furthermore, given the statutory sale date of August 27, Jefferson County sought expedited treatment so that it could proceed with the forced sale on August 27.

2.       On June 20, 2012, the Commission issued its Order Dismissing Case for Lack of Jurisdiction. In that Order, the Commission expressly found that “[c]oncerning the sale of utility assets, §393.190 prohibits *a utility* from selling its assets without Commission approval. Through this application, Jefferson County, not the utility, is seeking to sell the utility’s assets. Section 393.190 is therefore inapplicable.” (emphasis in original).

3.       On July 17, 2012, the Commission issued its Order Extending Effective Date of Order Dismissing Case for Lack of Jurisdiction. In that Order, the Commission

extended the effective date of its Order Dismissing Case for Lack of Jurisdiction until August 27 – the statutorily required date to hold the forced sale of these assets. In the agenda meeting accompanying the issuance of the Order Extending Effective Date, the Commission indicated that the effective date extension was necessitated by the request of the Commission’s General Counsel to look at the statutes and allow him to provide a “good recommendation” to the Commission.

4. Jefferson County does not object to the Commission’s General Counsel’s need to make a “good recommendation.” That said, however, it should be recognized that the Commission’s General Counsel has had several months to review this matter already. As detailed in the Application, Jefferson County was proceeding with its authority to sell the Meramec Sewer assets as provided by Section 140.150. While making its plan for this sale, the County was contacted by a member of the Commission’s General Counsel Office and informed that any sale of the utility assets would require Commission approval. Therefore, the General Counsel apparently deemed himself familiar enough with the statutes, at this point, to make this contact and assert the need for Commission approval.

5. Of utmost concern is the lack of defined procedure for the remainder of this case. Despite extending the effective date, the Commission did not require a response from the General Counsel in advance of that date. By extending the effective date to August 27, and by not mandating an advanced response from the General Counsel, the Commission presumably provides him until the very date of the statutory sale to provide his legal concerns and the basis for the Commission to now assert

jurisdiction.<sup>1</sup> Therefore, Jefferson County would have no opportunity to respond to the General Counsel's recommendation and receive any necessary approval in advance of the sale – required to be held on August 27.

6. Jefferson County, then, asks that the Commission withdraw its previous order and extend the effective date only until August 13. By making the order effective on August 13, the General Counsel will have to file his concerns two weeks in advance of the statutory sale date. This will provide two weeks for: (1) Jefferson County to respond and (2) the Commission to decide the merits of the General Counsel's concerns.

7. It is important to remember that this sale of utility assets has been necessitated by Meramec Sewer's failure to pay county or state real property taxes. This is the mechanism that the General Assembly put in place to ensure that state real property taxes are paid. The Public Service Commission is a part of that same State Government that is funded by the very real estate taxes at issue today.

WHEREFORE, Jefferson County respectfully requests that the Commission reconsider its July 17 Order Extending Effective Date and instead make the June 20 Order Dismissing Case for Lack of Jurisdiction effective on August 13.

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<sup>1</sup> Jefferson County also believes that the unusual process that this case has taken also places it in the position of potentially litigating a legal issue that has been raised by the Commission's General Counsel. The Commission has already held, by a unanimous vote, that it did not have jurisdiction over this matter. Noticeably, despite having over a month, no party, including Meramec Sewer, filed an Application seeking rehearing of the Commission's finding of lack of jurisdiction. Instead, despite no concerns from the utility to be sold, the General Counsel has raised concerns which to date have only been communicated verbally to the Commission and for which Jefferson County will not presumably be allowed to respond until the date of the statutory sale. Ideally, concerns with a Commission Order are addressed in an Application for Rehearing to which the opposing party is allowed to respond. If such an Application for Rehearing has merit, the Commission could then extend the effective date for further consideration. In this case, no written Application for Rehearing was submitted. Instead, Jefferson County is left to blindly deduce the nature of the General Counsel's concerns from the statements made at the July 17 public meeting. One must also wonder whether the General Counsel, if he finds concerns, will file an Application for Rehearing to which Jefferson County will be allowed to respond or if such concerns will lack any transparency.

Respectfully submitted,



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and



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ATTORNEYS FOR JEFFERSON COUNTY,  
MISSOURI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to the following parties of record as provided by the Secretary of the Commission.

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David L. Woodsmall

Dated: July 24, 2012