

LAW OFFICES  
**BRYDON, SWEARENGEN & ENGLAND**

PROFESSIONAL CORPORATION

312 EAST CAPITOL AVENUE

P. O. BOX 486

JEFFERSON CITY, MISSOURI 65102-0486

DAVID V.G. BRYDON  
JAMES C. SWEARENGEN  
WILLIAM R. ENGLAND, III  
JOHNNY K. RICHARDSON  
GARY W. DUFFY  
PAUL A. BOUDREAU  
SONDRA B. MORGAN  
SARAH J. MAXWELL  
CHARLES E. SMARR  
MARK G. ANDERSON  
DEAN L. COOPER

AREA CODE 314  
TELEPHONE 638-7166  
FACSIMILE 638-0427

November 17, 1994

Mr. David L. Rauch  
Executive Secretary  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102

Re: Foxfire Utility Company  
Case No. WA-95-31

Dear Mr. Rauch:

Enclosed for filing in the above-referenced matter, please find an original and fourteen copies of an Amended Application. Would you please see that this is brought to the attention of the appropriate Commission personnel. I thank you in advance for your cooperation in this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:



W. R. England, III

WRE/nh  
Enc.

cc: John Coffman - OPC  
Bill Haas  
Milt Leeds

**FILED**  
NOV 17 1994  
MISSOURI  
PUBLIC SERVICE COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION  
IN THE STATE OF MISSOURI

FILED

NOV 17 1994

MISSOURI  
PUBLIC SERVICE COMMISSION

In the matter of the Application )  
of FOXFIRE UTILITY COMPANY, a Missouri )  
corporation, for 1) permission, )  
approval, and a certificate of )  
convenience and necessity authorizing )  
it to construct, install, own, acquire, )  
operate, control, manage, and )  
maintain a water and sewer system )  
for the public located in an )  
unincorporated area in Stone County, )  
Missouri; 2) authority to borrow up to )  
\$400,000 for purposes of acquiring, )  
constructing and installing utility )  
plant and equipment; and 3) authority )  
to place a mortgage on its plant and )  
equipment to secure said loan. )

Case No. WA-95-31

AMENDED APPLICATION

Comes now Foxfire Utility Company (Applicant) and, for its Amended Application, states to the Missouri Public Service Commission (Commission) as follows:

1. Applicant 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 312 Lafayette, P. O. Box 7017, Jefferson City, Missouri 65102. A copy of Applicant's Certificate of Incorporation and Articles of Incorporation are attached to its original Application and incorporated herein by reference as Exhibit No. 1. Applicant is a public utility proposing to provide water and sewer service to the public subject to the jurisdiction of this Commission.

2. Communications in regard to this Application should be addressed to:

9.

Milton E. Leeds  
Secretary  
Foxfire Utility Company  
312 Lafayette Street  
P. O. Box 7017  
Jefferson City, Missouri 65102  
(314) 634-2699

W. R. England, III  
Brydon, Swearingen & England P.C.  
312 East Capital Avenue  
P. O. Box 456  
Jefferson City, Missouri 65102  
(314) 635-7166

3. Applicant requests permission, approval, and a certificate of public convenience and necessity to install, own, acquire, construct, operate, control, manage and maintain a water and sewer system for the public in an incorporated area in Stone County, Missouri, as legally described in Revised Exhibit No. 2, attached hereto and incorporated herein by reference. A map of the proposed certificated area is attached to Applicant's original Application and incorporated herein by reference as Exhibit No. 3.

4. In accordance with 4 CSR 240-2.060(2)(A)(9), Applicant has prepared a feasibility study which, among other things, contains plans and estimated costs of the utility plant and equipment to be installed; plans for financing; proposed rates and charges; and an estimate of the number of customers, revenues and expenses during the first three years of operation. Said feasibility study is attached to Applicant's original Application and incorporated herein by reference as Exhibit No. 4. In addition, attached hereto and incorporated herein by reference as Exhibit No. 8 is an updated schedule of water and sewer expenses

which Applicant expects to incur in its first years of operation as well as proposed rates necessary to recover said expenses.

5. Applicant's proposed certificated area lies within the limits of the Village of Indian Point, Missouri; however, Applicant has been advised that no formal approval of the Village of Indian Point or Stone County is required for Applicant to provide the water and sewer service as proposed.

6. There are no other public utilities or governmental entities being operated or rendering water and sewer service within the area proposed to be served.

7. Applicant's water and sewer systems will meet all requirements of the Missouri Department of Natural Resources. A copy of the appropriate permits issued by the Missouri Department of Natural Resources are included as an Appendix to the feasibility study (Exhibit No. 4).

8. The area requested to be certificated is rapidly being developed into a condominium development immediately south of the Silver Dollar City theme and crafts park. The developer is currently in the final stages of construction of its initial phase of construction of said condominiums. When fully developed, this 50 acre development will contain 89 buildings having six units each for a total of 534 dwelling units. Therefore, a public need exists for adequate water and sewer service within the area proposed to be served and the public convenience and necessity will be promoted by the granting of the authority herein requested.

9. Attached to the original Application and incorporated herein by reference as Exhibit No. 5 is a list of the names and addresses of ten residents residing within the proposed certificated area.

10. In order to finance a portion of the cost of acquiring, constructing and installing the proposed water and sewer system, Applicant proposes to borrow an amount not to exceed \$400,000. The developer of this area has agreed to loan Applicant up to \$400,000 for a period of ten years with an interest rate of not more than 2% over the Chase Manhattan National Bank prime rate. In order to secure the loan, Applicant will be required to give to the lender a Deed of Trust and Security Agreement on Applicant's machinery, furnitures, fixtures, accounts receivables and inventory. The terms of the loan are evidenced by a loan commitment letter which is attached to the original Application and incorporated herein by reference as Exhibit No. 6.

11. The proceeds of the loan will be used by Applicant to purchase, construct, and install part of the water and sewer plant necessary to provide service within the proposed certificated area. None of the purposes to which the proceeds of the loan will be applied are in whole or in part reasonably chargeable to operating expenses or to income.

12. A certified copy of the Resolution of the Board of Directors of Applicant authorizing the proposed loan is attached to the original Application and incorporated herein by reference as Exhibit No. 7.

13. A balance sheet and income statement, with adjustments, showing the effect of the proposed loan upon the indebtedness and capitalization of Applicant are included in the feasibility study attached to the original Application and incorporated herein by reference as Exhibit No. 4.

14. Inasmuch as Applicant is a "start-up" utility company, a five year capitalization expenditure schedule as required by Section 393.200 RSMo. 1986 and 4 CSR 240-2.060(6)(H) is not available.

15. The proceeds of the loan are not anticipated to be used for the purpose of guaranteeing, taking over, refunding, discharging or retiring any bond, note or other evidence of indebtedness, therefore, Applicant is of the opinion that the entire amount of the proposed loan will be subject to the fee schedule as set forth in Section 386.300.1(5), RSMo. 1986.

16. Commission approval of the proposed loan is in the public interest because this is the most effective and economical manner in which to fund a portion of the acquisition, construction and installation of water and sewer system necessary to provide service within the proposed certificated area.

WHEREFORE, Applicant respectfully requests the Commission to issue its order:

1) granting Applicant, permission, approval, and a certificate of public convenience and necessity authorizing it to construct, install, own, acquire, operate, control, manage, and

maintain a water and sewer system for the public, within the area referred to in paragraph 3 hereof;

2) authorizing Applicant to implement rates and charges for the provision of water and sewer service consistent with those contained in Exhibit No. 8, attached hereto;


3) authorizing Applicant to borrow an amount not to exceed \$400,000 and to give as security therefore a Deed of Trust and Security Agreement on Applicant's machinery, equipment, furniture, fixtures, accounts receivables and inventory upon the terms and conditions set forth herein;

4) authorizing Applicant to do and perform, or cause to be done and performed, all such other acts and things as well as to make, execute and deliver any and all documents as may be necessary, advisable or proper to the end that the intent and purposes of this borrowing may be fully effectuated;

5) finding that the money, property and labor to be procured by said borrowing is reasonably required for the purposes specified herein, and that no part of the proceeds shall be reasonably chargeable to operating expenses or to income; and

6) granting such further relief in this matter as the Commission may deem necessary.

Respectfully submitted,

  
\_\_\_\_\_  
Milton E. Leeds, Secretary  
Foxfire Utility Company

*W. R. England, III*

W. R. England, III #23975  
BRYDON, SWEARENGEN & ENGLAND P.C.  
P.O. Box 456  
Jefferson City, Missouri 65102  
(314) 635-7166

STATE OF MISSOURI     )  
                                  ) ss  
COUNTY OF COLE        )

I, Milton E. Leeds, of lawful age, being first duly sworn upon my oath, state that I am the Secretary of Foxfire Utility Company; that I am authorized to execute this Application on behalf of Foxfire Utility Company; and that the facts set forth in the foregoing Application are true to the best of my knowledge, information and belief.

*Milton E. Leeds*  
\_\_\_\_\_  
Milton E. Leeds, Secretary

Subscribed and sworn to before me this 17<sup>th</sup> day of November, 1994.

*Nancy Hanks-Bethards*  
\_\_\_\_\_  
Notary Public

My Commission expires:

NANCY HANKS-BETHARDS  
NOTARY PUBLIC, STATE OF MISSOURI  
MY COMMISSION EXPIRES 7-6-97





REVISED  
EXHIBIT NO. 2

LEGAL DESCRIPTION OF SERVICE AREA

A PART OF STONE COUNTY, Missouri more particularly described as follows:

Beginning at an existing stone at the southeast corner of the Southeast Quarter of Section 30, Township 23 North, Range 22 West; thence North 02 Degrees 33 Minutes 28 Seconds East along the East line of said Section 30, 1,644.12 feet to an existing iron pin; thence North 87 Degrees, 42 Minutes, 13 Seconds West, 1,311.99 feet to an existing iron pin; thence South 02 Degrees 14 Minutes 20 Seconds West, 176.83 feet to an existing Corp Monument # 219-3; thence South 88 Degrees 05 Minutes 47 Seconds East, 31.96 feet to an existing Corp Monument # 219-2C; thence South 88 Degrees 08 Minutes 40 Seconds East, 163.58 feet to an existing Corp Monument # 219-2B; thence South 88 Degrees 09 Minutes 55 Seconds East, 300.31 feet to an existing Corp Monument # 219-2A; thence South 88 Degrees 11 Minutes 34 Seconds East, 150.85 feet to an existing Corp Monument # 219-2, thence South 44 Degrees 09 Minutes 11 Seconds West, 109.61 feet to an existing Corp Monument # 219-1H; thence South 44 Degrees 11 Minutes 55 Seconds West, 159.88 feet to an existing Corp Monument # 219-1G; thence South 44 Degrees 14 Minutes 33 Seconds West, 234.91 feet to an existing Corp Monument # 219-1F; thence South 44 Degrees 12 Minutes 25 Seconds West, 592.66 feet to an existing Corp Monument # 219-1D; thence South 44 Degrees 14 Minutes 05 Seconds West, 330.72 feet to an existing Corp Monument # 219-1C; thence South 44 Degrees 13 Minutes 03 Seconds West, 198.51 feet to an existing Corp Monument # 219-1B; thence South 44 Degrees 14 Minutes 26 Seconds West, 119.60 feet to an existing Corp Monument # 219-1A; thence South 44 Degrees 15 Minutes 53 Seconds West, 249.07 feet to an existing Corp Monument # 219-1; thence South 87 Degrees 56 Minutes 09 Seconds East, 291.80 feet to an existing Corp Monument # 217-8A; thence South 87 Degrees 58 Minutes 59 Seconds East, 372.22 feet to an existing Corp Monument # 217-8; thence South 88 Degrees 05 Minutes 05 Seconds East, 1,326.64 feet to the point of beginning; said tract containing 50.18 acres and being subject to any easements or right-of-way of record; all in Stone County, Missouri.

Foxfire Utility Company  
 Re: WA-95-31  
 Water Expenses

<u>Item</u>	<u>Annual Amount</u>	
Operator Salary	\$ 16,848	
Management Fee	6,000	
Electricity	6,684	
Materials	1,200	
Professional Services	600	
Outside Repairs	996	
Sampling & Testing	1,169	
Travel & Expenses	900	
Vehicle Expenses	2,040	
Insurance	500	
Telephone & Pager	600	
Billing, Collection & Reporting	2,988	
		-----
SUBTOTAL		\$ 40,525
Depreciation	\$ 4,999	
Income Taxes	5,218	
PSC Assessment	7,391	
Return On Equity	23,151	
		-----
SUBTOTAL		\$ 40,759
		-----
TOTAL WATER		\$ 81,284

## PROPOSED RATE:

Meter Cost = \$33,025	534 Customers	\$ 5.15/Month
Commodity Cost = \$48,259	19,224,000 Gal	\$ 2.51/1,000 Gal
Monthly Minimum = \$10.17 (Includes 2,000 Gallons)		

**Foxfire Utility Company**  
**Re: SR-95-32**  
**Sewer Expenses**

<u>Item</u>	<u>Annual Amount</u>	
Operator Salary	\$ 16,848	
Management Fee	6,000	
Sludge Disposal	10,848	
Electricity	14,844	
Materials	1,200	
Professional Services	600	
Outside Repairs	3,000	
Sampling & Testing	1,090	
Travel & Expenses	900	
Vehicle Expenses	2,040	
Insurance	500	
Telephone & Pager	600	
		-----
SUBTOTAL		\$ 58,470
Depreciation	\$ 21,649	
Income Taxes	15,213	
PSC Assessment	6,100	
Return On Equity	52,175	
		-----
SUBTOTAL		\$ 95,137
		-----
TOTAL SEWER		\$ 153,607

**PROPOSED RATE:**

Based on an annual water usage of 19,224,000 gallons.

"Gallonage Charge" Per 1,000 Gallons =  $\$153,607 / 19,224$   
= \$7.99 Per 1,000 Gallons

Minimum Monthly Charge = \$15.98 (Includes 2,000 Gallons)  
Charge Per 1,000 Gallons Over 2,000 Gallons = \$7.99