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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 19th
day of October, 1999.

In the Matter of the Application of McCord)	
Bend Water Company for a Rate Increase)	
Pursuant to the Small Company Rate Increase)	Case No. WR-2000-241
Procedure at 4 CSR 240-2.200, Authority to)	Tariff No. 000000261
Transfer Assets, and for Cancellation of Its)	
Certificate and Tariff.)	

**ORDER GRANTING RATE INCREASE,
APPROVING TARIFF, AND
AUTHORIZING TRANSFER OF ASSETS**

Procedural History:

On September 20, 1999, McCord Bend Water Company (McCord) filed its proposed tariff sheets, with an effective date of October 21, 1999, and cover letter seeking a rate increase pursuant to the Commission's small company rate increase procedure, Regulation 4 CSR 240-2.200(1)(D). The cover letter suggested that McCord also sought authority to sell its assets to the Village of McCord Bend (Village) and, upon consummation of that sale, sought cancellation of its tariffs and certificate.

On September 23, 1999, the Commission issued its Order Directing Filing, requiring McCord to file within ten days the agreement regarding the rate increase. The Order of September 23, 1999, also advised McCord that its requests for authority to transfer assets and for the cancellation of its tariffs and certificate must be sought by filing appropriate applications with the Commission, in compliance with the

Commission's procedural rules at 4 CSR 240-2. On September 23, 1999, McCord filed the agreement.

On October 8, 1999, the Staff of the Missouri Public Service Commission (Staff) filed a motion seeking authority for McCord to transfer its water system assets to the Village. Staff asserts in its motion that the sale is in the public interest and that McCord, Staff, the Office of the Public Counsel (OPC), and the Village all support the proposed sale. Staff further states in its motion that James E. Ames, owner of McCord, has essentially abandoned the water system and that McCord's customers are in danger of not receiving adequate water service if the sale is not approved. Staff further asserts that the agreement of the parties, supporting McCord's proposed rate increase, is conditioned upon the transfer of the water system from McCord to the Village.

On October 12, 1999, Staff filed its Memorandum recommending approval of McCord's proposed rate increase. In its Memorandum, Staff reiterates that Mr. Ames has essentially abandoned the water system.

On October 13, 1999, OPC filed its Statement of Position, stating that OPC supports Staff's motion herein and "believes that, due to the urgent need for the transfer, a waiver of the requirements of Commission Rules 4 CSR 240-2.050(1)(F) and 240-2.060(5) would in this case promote the public interest."

Findings of Fact:

As required by the small company rate increase procedure, 4 CSR 240-2.200, McCord initiated the rate increase request by a letter received by the Commission's Staff on April 12, 1999. Thereafter, by letter dated May 31, 1999, McCord notified each of its 67 customers of the rate increase request. McCord's customers were invited to direct comments or questions to either the Staff or OPC within thirty days of the date of the notice. The correspondence section of the official Commission case file documents some 23 consumer contacts regarding this matter. Of these, three expressed opposition to the proposed rate increase. The others concerned poor service. McCord's letter of May 31, 1999, also advised its customers that a public hearing could be requested. No request for a public hearing was received.

McCord Bend filed on September 23, 1999, an agreement (the Agreement) as to the proposed rate increase, executed by McCord Bend, the Village, OPC, and the Staff. The Agreement contemplates the purchase of McCord's water system assets by the Village, but only on condition that McCord's rates are first raised to an acceptable level. The Agreement states that McCord initiated the present rate increase procedure with the assistance of Staff. Staff's intention has been to assist Mr. Ames in selling the water system to the Village, due to the "extremely poor condition of the Company." Agreement, at page 1.

Staff conducted an audit of McCord Bend and determined that the Company's books support an annual revenue increase of \$12,881, with the

assumption that the Village is the operator of the system.¹ Staff supports the granting of such an increase only on condition that the water system is sold to the Village. The Agreement noted that Mr. Ames, owner of McCord, had "abandoned" the system. Agreement, at page 4.

Attached to the Agreement is a copy of a Management and Acquisition Agreement (M&AA), entered into on September 2, 1999, by McCord, the Village, and Mr. Ames. It provides that the Village would assume full management and control of the water system as of the date of the M&AA. It further provides that Ames will transfer all of his title and interest in the water system to the Village within 24 hours of an order of this Commission approving a rate increase.

On October 8, 1999, Staff filed its motion seeking authorization for McCord's sale of its water system to the Village. Staff states therein that it filed the motion because McCord was unable or unwilling to file appropriate applications as required by Commission rule, 4 CSR 240-2. Staff reiterates that Ames has abandoned the system and states further that customers are in danger of inadequate water service. In fact, as the M&AA attached to the Agreement shows, the Village took over operation of the water system on September 2, 1999. Staff states that the Village's operation of the water system has been satisfactory in all respects. In fact, the Village has authorized a bond issue to fund capital improvements to the water system.

Staff's motion states that McCord's "business registration was forfeited in 1989 for failure to file annual reports with the Secretary

¹That is, the calculation does not provide for any return on assets.

of State[.]” The company’s actual name was McCord Bend Utility Company rather than McCord Bend Water Company. The sale of the water system will deprive Stone County, Missouri, of approximately \$7.00 in annual tax revenue. Staff urges approval of the sale as required by the public interest.

On October 12, 1999, Staff filed its Memorandum recommending that the rate increase be granted, the proposed tariff approved, and the sale of assets approved. The Staff reiterated therein the points previously made in the Agreement and in its motion of October 8, 1999.

Finally, on October 13, 1999, OPC filed its Statement of Position urging the Commission to grant Staff’s motion.

Conclusions of Law:

The Commission has jurisdiction over rate increase requests by private water utilities and over the transfer or sale of assets by such utilities. Sections 393.150 and 190, RSMo 1994. Pursuant to its authority at Section 386.410.1, RSMo Supp. 1998, the Commission has promulgated its rule relating to Small Company Rate Increases, 4 CSR 240-2.200.

The requirement for a hearing is met when the opportunity for hearing 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). Since no one has asked permission to participate or

requested a hearing in this case, the Commission may grant the relief requested based on the pleadings.

The Commission has reviewed the Agreement and cover letter, the attachments to the Agreement and cover letter, Staff's motion and Memorandum, the proposed tariff filed by McCord Bend, and OPC's Statement of Position. The facts available to the Commission show that the actual cost of providing water service requires additional annual revenue in the amount herein contemplated. Therefore, the Commission concludes that the proposed water rate increase, recommended by Staff and supported by OPC, is just and reasonable and will approve it.

The Commission has reviewed the proposed tariff sheet filed by McCord Bend and determines that it is intended to implement the rate increase herein approved. Therefore, the Commission will approve the proposed tariff sheet.

The facts available to the Commission also show that the public interest requires the prompt transfer of the water system assets from McCord to the Village. Therefore, the Commission will approve the transfer of those assets. Upon completion of the transfer, the Staff shall immediately so advise the Commission so that McCord's certificate and tariffs may be cancelled.

IT IS THEREFORE ORDERED:

1. That the annual revenue increase of \$12,881 sought by McCord Bend Water Company and set out in the Agreement executed by McCord Bend Water Company, the Staff of the Missouri Public Service

Commission, the Office of the Public Counsel, and the Village of McCord Bend, is hereby approved, effective October 21, 1999.

2. That the proposed tariff sheet filed by McCord Bend Water Company on September 20, 1999, Tariff No. 000000261, is approved for service rendered on or after October 21, 1999. The specific sheet approved is:

P.S.C. Mo. No. 1

2nd Revised Sheet No. 4, Cancelling 1st Revised Sheet No. 4

3. That the motion filed by the Staff of the Missouri Public Service Commission on October 8, 1999, is granted.

4. That the parties herein are authorized to do all lawful acts necessary to consummate the sale and transfer of water system assets contemplated in the Agreement from McCord Bend Water Company, including its successors, owners, or trustees, to the Village of McCord Bend.

5. That the Staff of the Missouri Public Service Commission shall promptly file an appropriate pleading in this case to advise the Commission that the transfer referred to above has been completed.

6. That this order shall be effective on October 21, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer,
and Murray, CC., concur.
Schemenauer, C., absent.

Thompson, Deputy Chief Regulatory Law Judge

RECEIVED

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION