

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
April 17, 2001**

CASE NO: WA-2001-53

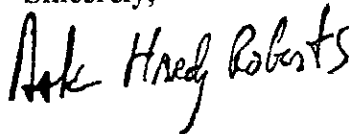
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Dean L. Cooper
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Enclosed find certified copy of ORDER in the above-numbered case(s).

Sincerely,

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

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

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 17th
day of April, 2001.

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,)	<u>Case No. WA-2001-53</u>
Manage and Maintain a Water System for the)	
Public in an Unincorporated Area of Benton)	
County, Missouri.)	

**ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

Procedural History

On July 26, 2000, Foxfire Utility Company filed an application with the Commission, pursuant to Section 393.170, RSMo (2000)¹, 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. An Order and Notice was issued on August 3, 2000, directing any interested party to file its application for intervention no later than August 23, 2000. No applications for intervention were filed.

On December 21, 2000, the Commission directed Staff to file its recommendation whether or not the Commission should approve the application filed by Foxfire no later than February 20, 2001. Staff requested and the Commission granted an extension for the filing of Staff's recommendation from February 20, 2001, to February 27, 2001. On February 27, 2001, Staff

¹ All statutory references are to Revised Statutes of Missouri 2000 unless otherwise indicated.

notified the Commission in its request for an early prehearing conference that it was unable to resolve the issues remaining in this case. On March 7, 2001, the Commission issued its order setting the prehearing conference on March 29, 2001, and requiring the parties to file a proposed procedural schedule by April 5, 2001. At the prehearing conference held on March 29, 2001, Foxfire, Staff and the Office of the Public Counsel reached an agreement and advised the Commission that Staff would file its recommendation no later than April 5, 2001.

On April 5, 2001, Staff filed its recommendation. On April 6, 2001, the Office of the Public Counsel and Foxfire filed their separate pleadings concurring with Staff's recommendations. Foxfire requested that the Commission grant its certificate of public convenience and necessity at its earliest convenience.

Discussion

Foxfire stated that there are no water companies under the jurisdiction of the Commission being operated or rendering the same or similar service within the area to be served. The application stated that there is no municipality located in the proposed service area providing water to customers, no city or county ordinances that apply and no ordinance requiring a franchise for water companies. The Company stated in its application that there is a public need for water service within the area to be served and that the public convenience and necessity will be served by the granting of the authority requested.

In its recommendation, Staff stated that Foxfire is acquiring an existing water system that was constructed by the developer of the area. Staff also noted this water system had not previously been regulated by the Public Service Commission and has not been monitored by the Missouri Department of Natural Resources (DNR). Staff stated that the service area

is a resort-type area on the Lake of the Ozarks serving both full-time and part-time residential water customers.

Staff reported that this water system is typical of the water systems found in resort-type subdivisions. According to Staff's memorandum, this water system has three wells, small diameter plastic piping, no water meters on customer service lines and no master meters at any of the wells. Staff stated that, without meters, it is not possible to determine the capacity of the water system, or to evaluate customer usage. Staff stated that it believes that the water system is generally adequate for ordinary usage. However, Staff indicated that it is possible for water pressure problems to arise either because of well-pump capacity, lack of distribution system capacity, or both.

Foxfire acknowledged that the water system needs to be upgraded and has already obtained an engineering report to prepare to make those improvements to the system. Public Counsel concurred that Foxfire has experience in operating small water systems and has taken steps to prepare to make improvements to the system in order to continue to provide its customers with safe and adequate service.

Staff noted that Foxfire is an existing regulated utility that operates both a water and sewer system near Branson, Missouri. Staff's memorandum indicated that the Commission granted Foxfire's certificate for that service area in Case No. WA-95-31. Staff stated that it is in the public interest that Foxfire be granted a certificate to operate the Spring Branch water system. Staff stated that it believes that Foxfire has the technical, managerial and financial ability to operate the Spring Branch system properly and that Foxfire can provide better customer service than a nonregulated entity.

Staff reviewed the available financial information and recommended proposed customer rates for the Spring Branch water system. Staff

recognized the current net rate base of \$15,412 attributable to the Spring Branch water system. Staff recommended Foxfire implement flat rates of \$22.28 per month for full-time residential customers and \$19.00 per month for part-time residential customers. Staff based its rate design on the fact that there are 63 full-time residential customers, with an assumed water usage of 4,500 gallons per month, and 108 part-time residential customers, with an assumed usage of 2,000 gallons per months. Staff stated that Foxfire will need to submit new tariff sheets for its existing tariff, including a written description, a map of the proposed service area, and customer rates for the Spring Branch service area, to the Commission for approval.

Staff also recommended that a new account for computer equipment be added to Foxfire's existing Commission-approved depreciation rate schedule. Staff requested that the Commission approve the water depreciation rate schedule attached to the Staff's Recommendation marked as Attachment 2.

Staff proposed that a future rate review be performed to analyze the adequacy of these proposed rates and to check for possible over-earnings related to the Spring Branch service area. Because there is already some information available regarding operations, Staff recommended that the rate review be conducted once Foxfire has accumulated 12 additional months of records regarding its operation of the Spring Branch water system.

Public Counsel and Foxfire both agreed that Foxfire has complied with Section 393.170, RSMo, and with Staff's recommendations. Public Counsel also stated that the customers at Spring Branch will gain the protection afforded by regulation and oversight of their system by the Commission and by requiring the system to meet DNR's standards for safe operation. Public Counsel also agreed that the 12-month rate review period recommended by Staff will place all parties in a better position to reach a comprehensive determination of appropriate and reasonable rates. Public Counsel agreed

that granting Foxfire a certificate of convenience and necessity is in the public interest.

Since no proper party filed an application to intervene and there are no outstanding requests for hearing, the Commission determines that an oral hearing is not necessary and the Applicant may submit evidence in support of its Application by verified statement.²

Upon review of the pleadings, the Commission finds that it is necessary and convenient for the public interest for Foxfire 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.³ The Commission will approve the application subject to the conditions recommended by Staff.

IT IS THEREFORE ORDERED:

1. That Foxfire Utility Company is granted a certificate of public convenience and necessity 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, as requested on July 26, 2000.

2. That the customer rates recommended by the Staff of the Commission for Foxfire Utility Company's use in the Spring Branch water service area are approved.

3. That Foxfire Utility Company shall file new tariff sheets for its existing tariff, including a map, a written description of the Spring Branch water service area, and the approved customer rates for the service area.

² State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989).

³ Section 393.170, RSMo.

4. That the Staff of the Commission shall conduct a rate review for the Spring Branch service area after Foxfire Utility Company has accumulated an additional 12 months of records regarding Foxfire Utility Company's operation of the Spring Branch water system.

5. That Foxfire Utility Company shall apply and follow the schedule of proposed depreciation rates presented by the Staff of the Missouri Public Service Commission as Attachment 2 to Staff's Recommendation filed April 5, 2001.

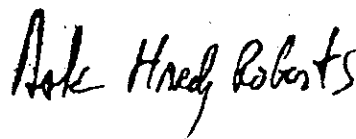
6. That nothing in this order shall be considered a finding by the Commission of the value for ratemaking purposes of the properties, transactions or expenditures herein involved.

7. That the Commission reserves the right to consider the ratemaking treatment to be afforded the properties, transactions, and expenditures herein involved in a later proceeding.

8. That this order shall become effective on April 27, 2001.

9. That this case may be closed on April 28, 2001.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer, Murray,
Simmons, and Gaw, CC., concur.

Register, Regulatory Law Judge

ALJ/Secretary:

Register, Jne

Date Circulated

4-10

WA-2001-53
CASE NO.

Lampe, Chair

KS

Draimer, Vice Chair

KS

Murray, Commissioner

KS

Simmons, Commissioner

KS

Gaw, Commissioner

KS (with?)

Agenda Date

4-17

Action taken:

5-045

Must Vote Not Later Than

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 17th day of April 2001.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

