

At a session of the Public Service Commission held at its office in Jefferson City on the 10th day of December, 1993.

ORDER APPROVING SALE AND TRANSFER AND
APPROVING THE ISSUANCE OF A
CERTIFICATE OF CONVENIENCE AND NECESSITY

Warren Woods is a water system owned and operated by a subdivision Board of Trustees in rural Jefferson County, Missouri. It is not presently

regulated by the Commission. The principal place of business is located at: c/o Mark Branson, Board of Trustees, Warren Woods Subdivision, 5893 Roger Road, House Springs, Missouri 63051. KMB is a Missouri corporation regulated by the Commission, organized and existing for the purpose of operating as a water and sewer corporation. At present it owns and operates five water systems in Jefferson and Franklin Counties, Missouri, with Commission approval to purchase a sixth system. KMB employs local operators to handle day-to-day operational matters of each water system in its various service areas. Its principal place of business is located at: c/o Danny E. Dowell, President, Post Office Box 29197, St. Louis, Missouri 63126; and Ray Dickhaner, Attorney at Law, Post Office Box 937, Hillsboro, Missouri 63050.

Applicants state that the water system serving Warren Woods is operated by the Warren Woods Subdivision Board of Trustees (Trustees) and is not subject to Commission jurisdiction. The water system consists of 23 single family residences in Jefferson County, Missouri. The water system consists of a single well, a ground storage tank, and distribution piping. On March 21, 1993, the Applicants entered into a contract for the sale of the water system from Warren Woods to KMB. A copy of the contract is attached to the Application. Thirteen of the 23 residents voted in favor of the contract with three voting against it. The remaining seven residents did not vote. The rate for water service for a residential customer was agreed upon in the contract and with Commission approval would be a \$27.50 per month flat rate. KMB agreed in the contract to make certain water system improvements.

On December 2, 1993, the Staff filed its recommendation. Staff states that the Trustees are experiencing operational problems and that capital improvements need to be made to the water system. Staff does not believe that the Trustees are capable of adequately addressing these problems. Staff states that KMB is committing itself to solve the operational problems and correct the

deficiencies of the water system with three improvement projects. Staff states that KMB has agreed to complete these projects within two years of the effective date of the issuance of a Certificate of Convenience and Necessity to serve the subdivision. The capital improvement projects consist of: (1) constructing a connection to Public Water Supply District No. 6 of Jefferson County within the first year (this water connection is basically to be for emergencies and to serve as a backup supply), (2) constructing a new well house within the second year, and (3) installing new hydropneumatic tanks, high service pumps, and new electric controls within the second year.

Staff believes that the agreed-upon \$27.50 flat monthly rate is reasonable when the estimated costs of the proposed improvements are taken into consideration. To make sure of the reasonableness of the rate, Staff proposes review of KMB's records and operations pertaining to Warren Woods after a period of 24 months from the effective date of the certificate. KMB has agreed that after actual expenses and construction costs are determined at the end of the 24-month period, it will adjust rates accordingly in a rate case. KMB further agrees that in the event it is determined the rate should be reduced, customers will be refunded the difference as a credit for water bills. However, if a refund is necessary, the credit may be divided over more than one month if the credit amount jeopardizes KMB's financial integrity, but will not exceed six months. On November 29, 1993, KMB filed a letter in the case file substantially agreeing to all of Staff's proposals. Staff recommends that the Commission approve the proposed transfer and sale subject to the filing of appropriate tariff sheets with a map and legal description of the service area.

An opportunity for hearing has been provided and no proper party has requested an opportunity to present evidence. Pursuant to *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d

494, 496 (Mo. App. 1989), the Commission will consider the case based upon the verified Application and attachments.

After considering the Joint Application and Amended Application, with attachments, other filed documents, and Staff's recommendation, the Commission determines that the proposed sale and transfer would not be detrimental to the public interest and should be approved subject to certain Staff requirements. The Commission determines that after proper notice, no residents of Warren Woods have complained and there have been no intervenors. Furthermore, Public Counsel has taken no position. The Commission finds that the proposed sale and transfer of the Warren Woods water system to KMB would be in the best interests of the residents of Warren Woods as the current owners are unable to meet necessary operational needs and provide necessary capital improvements. Furthermore, the Commission finds that the proposed monthly flat residential rate is fair and reasonable in light of the proposed capital improvements and has been agreed to by all the residential customers. The proposed monthly flat rate is approved on a permanent basis and not interim subject to refund. However, since the proposed rate is supported, in part, for the specific purpose of certain capital improvements to meet certain deficiencies and to provide safe and adequate service, those capital improvements are specifically ordered herein to be made by KMB. The Commission further finds that the sale and transfer may have a positive impact on the political subdivisions in which the facilities are located and that the County Clerk of Jefferson County, Missouri, in which the facilities are located, should be sent a copy of pertinent information regarding tax revenues by the Commission's Records Department. Therefore, based upon the foregoing, the Commission will approve the proposed sale and transfer of the water system of Warren Woods to KMB subject to requirements as set out in the ordered sections herein. The Commission shall grant KMB a Certificate of Convenience and

Necessity to provide water service to Warren Woods Subdivision effective upon the effective date of the tariff sheets to be submitted by KMB as recommended herein.

IT IS THEREFORE ORDERED:

1. That the sale and transfer of the Warren Woods Subdivision water system located in Jefferson County, Missouri, to KMB Utility Corporation be hereby approved.

2. That KMB Utility Corporation shall provide notification to the Commission immediately upon the closing of the sale.

3. That KMB Utility Corporation be hereby authorized to file a tariff sheet with a residential flat rate of \$27.50 per month applicable to the Warren Woods Subdivision service area.

4. That KMB Utility Corporation shall file tariff sheets to include a metes and bounds description and map of the Warren Woods Subdivision service area within ten (10) days of the effective date of this order.

5. That upon the effective date of the tariff sheets to be submitted by KMB Utility Corporation as ordered herein, KMB Utility Corporation be granted a Certificate of Convenience and Necessity to provide water service in the Warren Woods Subdivision service area.

6. That KMB Utility Corporation shall, within two (2) years of the effective date of a Certificate of Convenience and Necessity being issued to KMB Utility Corporation by the Commission as to the Warren Woods Subdivision, complete the following capital improvements projects designed to resolve the present service problems and correct deficiencies in the water system:

(A) Construct a connection to Public Water Supply District No. 6 of Jefferson County, Missouri, within the first year. This water connection is intended to serve as an emergency supply to meet extraordinary peak demand, and to serve as a backup supply until repairs

are made after any failure of the Warren Woods well, or during shut-down of the well or tank for maintenance.

(B) Construct a new well house within the second year.

(C) Install new hydropneumatic tanks, high service pumps, and new electrical controls within the second year.

7. That KMB Utility Corporation be hereby authorized to enter into, execute and perform in accordance with the terms of all other documents reasonably necessary and incidental to the performance of transfer of assets herein described.

8. That nothing in this order shall be considered a finding by the Commission of the reasonableness of the expenditures herein involved, or of the value for ratemaking purposes of the properties herein involved, or as an acquiescence in the value placed upon said properties by Warren Woods Subdivision or KMB Utility Corporation; and the Commission reserves the right to consider the ratemaking treatment to be afforded these transactions, and their resulting cost of capital, in any later proceeding.

9. That the Commission's Records Department shall send a copy of pertinent information regarding tax revenues to the County Clerk of Jefferson County, Missouri.

10. That this order shall become effective on the 21st day of December, 1993.

BY THE COMMISSION

(S E A L)



David L. Rauch
Executive Secretary

Mueller, Chm., McClure, Perkins,
Kincheloe and Crumpton, CC., concur.