

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Case No. SM-87-8

In the matter of the joint application of Missouri Cities Water Company and East Central Missouri Water and Sewer Authority for authority authorizing Missouri Cities Water Company to sell, transfer and convey to East Central Missouri Water and Sewer Authority four sewage collection systems serving areas known as St. Peters, Hunting Creek, Belleau Lake Estates and Sandfort Creek, located in St. Charles County, Missouri.

APPEARANCES: Byron E. Francis and John F. Cowling, Armstrong, Teasdale, Kramer, Vaughan & Schlafly, 611 Olive Street, Suite 1900, St. Louis, Missouri 63101-1782, for Missouri Cities Water Company.

W.R. England, III, Hawkins, Brydon & Swearngen, P.C., Post Office Box 456, Jefferson City, Missouri 65102, for East Central Missouri Water and Sewer Authority.

Lorna L. Frahm, Thompson & Mitchell, 200 North Third Street, St. Charles, Missouri 63301, for the City of St. Peters, Missouri.

Carol L. Bjelland, Assistant Public Counsel, Office of Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of Public Counsel and the public.

Thomas M. Byrne, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REPORT AND ORDER

On July 25, 1986, Missouri Cities Water Company (Missouri Cities) and East Central Missouri Water and Sewer Authority (East Central) filed a joint application for authority authorizing Missouri Cities to sell, transfer and convey four sewage collection systems located in St. Charles County, Missouri.

An intervention deadline was established and notice of the application was sent on August 13, 1986. No applications to intervene were received at that time. On February 13, 1987, the Missouri Public Service Commission Staff submitted a proposed procedural schedule, which was adopted by the Commission. On March 24, 1987, the City of St. Peters filed an application to intervene. The request for intervention was granted and the procedural schedule was modified. On April 24, 1987, East Central filed an amendment to its application reflecting the tax impact on political subdivisions which would result from the sale. A prehearing conference was held on April 21, 1987. A hearing was held in this matter on April 23, 1987. The City of St. Peters did not participate in the hearing. Briefs were filed at a later time.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

A joint application was filed by Missouri Cities and East Central requesting authorization for Missouri Cities to sell, transfer and convey the sewage collection facilities located in the areas of St. Charles County known as St. Peters, Hunting Creek, Belleau Lake Estates and Sandfort Creek.

Missouri Cities is a public utility engaged in furnishing water for public and private use and in rendering sanitary sewer service. East Central is a general not-for-profit corporation.

At the prehearing conference, the parties settled several of the issues originally intended for hearing. A Hearing Memorandum And Stipulation was submitted as Late-filed Exhibit No. 1. Said exhibit is hereby received in evidence. That portion of Exhibit 1 which reflects the stipulation is attached to this order as Appendix A, incorporated herein by reference. The stipulation basically reflects the

parties' agreement to allow Missouri Cities to sell, transfer and convey to East Central its four sewer collection systems in St. Charles County.

The Commission finds the stipulation is reasonable and should be accepted. Therefore, the sale is approved. However, two issues remain to be determined. The first issue is whether to share any gain received through the sale of the sewer system with the Missouri Cities ratepayers. The second issue is whether any of the deferred taxes and/or accrued investment tax credits (ITC) not recaptured by the Internal Revenue Service should be refunded to Missouri Cities ratepayers.

1. Gain on the Sale

The original investment in the sewer facilities was approximately \$2.4 million. Of that amount, \$1.4 million was contributions in aid of construction, and approximately \$507,000 was provided by Missouri Cities' ratepayers in the form of depreciation expense. That leaves net plant of roughly \$500,000. Missouri Cities is now proposing to sell those facilities for \$1.4 million.

Both the PSC Staff (Staff) and the Office of Public Counsel (Public Counsel) maintain that Missouri Cities should share the gain it receives on the sale of its sewer facilities by returning to its ratepayers an amount which is equivalent to the depreciation expense they previously provided to Missouri Cities.

Missouri Cities maintains that any gain from the sale of its sewer facilities rightfully belongs to Missouri Cities and its shareholders, since the ratepayers have no right, title or legal interest in the facilities.

The Commission has traditionally treated gains resulting from sale of utility assets "below the line." This meant that the gain was left to the company and its shareholders and not considered for purposes of ratemaking treatment. The Commission utilized the theory that ratepayers had no property interest in utility assets and thus were not entitled to benefit from the gain, nor held responsible for the losses which resulted from disposition of utility property. Re. Kansas City Power & Light Company, 21 Mo. P.S.C. (N.S.) 543 (1977).

In 1983, the Commission decided two cases with the same result of below-the-line treatment of the gain, but no longer relied on the theory of shareholder property rights. Instead, those decisions turned on which instruction of the Uniform System of Accounts was more appropriate to that case. Re. Missouri Cities Water Company, 26 Mo. P.S.C. (N.S.) 1 (1983) (hereinafter, Missouri Cities 1983); Re. Associated Natural Gas Company, 26 Mo. P.S.C. (N.S.) 237 (1983). In both the Missouri Cities 1983 and Associated cases, the Commission stated that the result was not indicative of a general policy toward treatment of gains below the line in future cases. In the Missouri Cities 1983 case, the Commission suggested that the gain need not necessarily be treated below the line and went so far as to suggest possible methods of sharing any gain resulting from an appreciated sales price.

In both cases, the Commission considered but did not utilize the reasoning of the District Court of Appeals in Democratic Central Committee of the District of Columbia v. Washington Metropolitan Area Transit Commission, 485 F.2d 786 (D.C. Cir. 1973), cert. denied sub nom., Transit System, Inc. v. Central Democratic Commission, 415 U.S. 935 (1974) (hereinafter referred to as the D.C.C. case).

The D.C.C. case rejected the shareholder property right theory and determined that the treatment of appreciation in value of utility assets while in service should be determined on a case-by-case basis utilizing the following two principles: (1) the right to capital gains on utility assets is tied to the risk of capital losses (gain follows loss principle); and (2) he who bears the financial burden of particular utility activity should also reap the resulting benefit (benefit follows burden principle). D.C.C. case at 806. The Court allowed the Washington Metropolitan Area Transit Commission ratepayers to benefit from the gain resulting from the sale of certain appreciated assets.

The D.C.C. analysis was utilized by the Commission in Re. Missouri Cities Water Company, 28 Mo. P.S.C. (N.S.) 214, 222 (1986) (Steeplechase) "to balance the interests and determine the equities of the allocation of the capital gains." In

that case, the Commission afforded the land sale below-the-line treatment based upon the D.C.C. analysis.

Most recently the Commission decided Re. Kansas City Power & Light Company, 28 Mo. P.S.C. (N.S.) 228 (1986) (Re. KCPL 1986), wherein it again considered the D.C.C. analysis. Although once again determining that below-the-line treatment of the gain was necessitated, the Commission noted that the gain was on a sale of land, a nondepreciable asset, and that a gain resulting from the sale of a depreciable asset presented a more persuasive argument for the sharing of such gain. The Commission pointed out that the lack of a property interest in the ratepayers did not, of itself, dictate below-the-line accounting treatment of the gain. "[T]he accounting treatment should be based on equitable considerations given the facts and circumstances existing in a particular case." Re. KCPL 1986 at 255.

In the instant case, Staff and Public Counsel maintain that the D.C.C. analysis should again be utilized by the Commission. Staff and Public Counsel contend that when the gain follows loss principle is applied, it becomes evident that ratepayers bear the risk of capital losses, such as losses due to extraordinary events, obsolescence, retirement and abandonment of facilities. Staff points out that Missouri Cities has, in fact, actually been allowed to amortize losses attributable to both retirement of plant and abandoned plant. It is Staff and Public Counsel's contention that the ratepayers bear the risk of capital losses and should therefore benefit from any capital gains associated with the sale.

It is Staff and Public Counsel's further contention that the second prong of the D.C.C. test (benefit follows burden) has been met since the ratepayers have borne the financial burden of these depreciable assets by having paid contributions in aid of construction, operational expenses, taxes, and return on the investment, as well as return of the investment through depreciation.

It is their assertion that equity dictates a sharing of the gain which is equivalent to the amount of depreciation expense paid by the ratepayers since both

prongs of the D.C.C. test have been met. Staff asserts that a failure to share the gain would force ratepayers to pay twice for the same sewer plant, once through depreciation expense paid to Missouri Cities, and again through the repayment of \$1.4 million in principal and interest incurred by East Central to purchase the plant.

Missouri Cities does not deem the D.C.C. analysis appropriate in this case due to a substantial difference in facts between the D.C.C. case and the instant matter. The company points out that the Missouri Cities 1983 case did not utilize the analysis, although presented with facts similar to the instant case. The company contends the ratepayers have no right to any of the gain. In support of its position, the company cites Reinhold v. Fee Fee Trunk Sewer, Inc., 664 S.W.2d 599 (Mo. App. 1984) (Reinhold), wherein the ratepayers were not allowed to recover any portion of contributions in aid of construction upon the sale of the sewer company's assets. The company draws an analogy between contributions in aid of construction and depreciation to demonstrate that ratepayers have no right to any of the gain on the sale unless they can show that legal title would revert to the ratepayer upon the occurrence of some specified condition.

In the Commission's opinion, consistency with past decisions and the Commission's perception of the persuasive decisions in this jurisdiction require below the line treatment of the proceeds herein involved.

As we have pointed out before, the decision in the D.C.C. case placed substantial reliance for invoking the benefit follows burden principle on the fact that the involved asset was real estate which posed absolutely no risk of financial loss to the shareholders. Because land prices were steadily increasing, any potential for loss to the shareholders was nonexistent. Re Associated, 1983, at 242. In the instant case, as in Associated, the controversy does not involve the proceeds of an asset being withdrawn from service by a continuing utility. On the contrary, the involved sale is a partial liquidation of the company by the disposition of all

of the operating systems in St. Charles County. The utility customers as well as the utility systems are being transferred to another entity which will continue to operate the systems for the customers' benefit.

In the case of a complete liquidation of the company, the proceeds would inure to the benefit of the shareholders. We are of the opinion that a partial liquidation should achieve the same results.

We are also of the opinion that below the line treatment is consistent with Reinhold, which also involved the total transfer of an operating system to a purchaser which would thereafter continue to operate the system for the benefit of the transferred customers. In Reinhold the Court of Appeals rejected the contention that the utility customers acquired any interest or title to property actually contributed by the ratepayers. We perceive little difference between paying for property by way of initial contribution or by reimbursement for the property in the form of depreciation. In either event, the only reasonable expectation on the part of the contributing ratepayer is that of service and not of interest in the property.

Many of the cases cited in favor of above the line treatment involve rate-making treatment for utilities which continue to operate after the retirement of assets which are no longer suitable for use in utility service. Such is not the case here. The proceeds from the disposition of the entire operating systems should be given below the line treatment.

2. Investment Tax Credits (ITC)

Missouri Cities has accumulated \$59,000 in its Deferred Taxes Account. At least \$26,000 of that money will be recaptured by the Internal Revenue Service. The remaining \$33,000 represents investment tax credits. Until the time of completion of the sale, it is unknown exactly how much of those ITCs will be recaptured by the ratepayers.

Investment tax credits are credits granted to businesses by the government for making certain types of investments. ITCs reduce the amount of tax liability incurred by the business.

The controversy herein stems from the question of who supplies the loan, the government or the ratepayers. The Staff and Public Counsel maintain it is a loan from the ratepayers and should be refunded to them if there is an excess amount not recaptured by the IRS. The company claims it is a loan from the government and since it is a credit, the ratepayers have paid nothing and do not deserve a refund.

The Commission finds that the government gives the credit to the company but that the ratepayers actually pay the credited amount up front to the company. That amount is to be flowed back to the ratepayers over the book life of the underlying asset. The Commission finds that since the asset in question is being sold, the only way to flow that money back to the ratepayers is through a refund of any amount not recaptured by the IRS. Hence, the Commission is directing the company to refund any portion of the ITCs which are not recaptured.

The Company shall file with the Commission within 30 days of the date of sale the calculation of the amount of ITCs not recaptured by the IRS. The parties to this case will then have 10 days to determine whether they agree with the figures or the matter should be scheduled for Commission determination. Once the amount to be refunded is agreed upon, Missouri Cities shall distribute that amount to its sewer customers of record as of the date of sale. The amount distributed shall be in the form of a credit to the water bill of each of the company's former sewer customers on the systems being sold.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions.

Missouri Cities Water Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, R.S.Mo. 1986.

The Commission may accept a stipulation and agreement in disposition of any contested matter when it appears that the proposed settlement is fair and equitable to all concerned. The Commission concludes that the stipulation of the parties concerning the sale to East Central Missouri Water and Sewer Authority of Missouri Cities Water Company's four sewage collection systems located in St. Charles County, Missouri, is reasonable and is approved.

The Commission concludes that the company's ratepayers are not entitled to share in the gain received on the sale of operating systems to a purchaser for the purpose of continued operation and assumption of service to existing customers.

The Commission further concludes that any of the investment tax credits not recaptured by the Internal Revenue Service are to be refunded to the company's sewer ratepayers.

It is, therefore,

ORDERED: 1. That the stipulation submitted by the parties agreeing to approval of the sale to East Central Missouri Water and Sewer Authority of Missouri Cities Water Company's four sewage collection systems in St. Charles County is hereby adopted and approved.

ORDERED: 2. That Missouri Cities Water Company be, and is, hereby authorized to accord below the line treatment to the gain on the sale of the sewer properties herein involved.

ORDERED: 3. That Missouri Cities Water Company is hereby directed to refund to its sewer ratepayers of record as of the date of sale any of the Investment Tax Credits not recaptured by the Internal Revenue Service, as discussed herein.

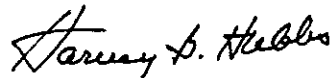
ORDERED: 4. That Missouri Cities Water Company is hereby directed to file with the Commission within thirty (30) days of the completed sale to East Central Missouri Water and Sewer Authority the calculation of the amount of investment tax credits not recaptured by the Internal Revenue Service.

ORDERED: 5. That the parties are hereby directed to determine whether there is agreement as to the figures supplied by Missouri Cities Water Company within ten (10) days of the filing directed in Ordered 6.

ORDERED: 6. That Missouri Cities Water Company is directed to distribute the refund of Investment Tax Credits to its sewer ratepayers in accordance with this order.

ORDERED: 7. That this Report And Order shall become effective on the 7th day of August, 1987.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Musgrave,
Mueller and Hendren, CC., Concur.
Fischer, C., Not Participating.

Dated at Jefferson City, Missouri,
on this 28th day of July, 1987.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the joint application)
of Missouri Cities Water Company and)
East Central Missouri Water and Sewer)
Authority for authority authorizing)
Missouri Cities Water Company to sell,) Case No. SM-87-8
transfer and convey to East Central)
Missouri Water and Sewer Authority four)
sewage collection systems serving areas)
known as St. Peters, Hunting Creek,)
Belleau Lake Estates and Sandfort Creek,)
located in St. Charles County, Missouri.)

HEARING MEMORANDUM AND STIPULATION

On July 25, 1986, Missouri Cities Water Company (Missouri Cities) and East Central Missouri Water and Sewer Authority (East Central) filed a joint application with the Commission, seeking authorization for Missouri Cities to sell, transfer, and convey to East Central its four sewage collection systems located in St. Charles County. On August 13, 1986, the Commission issued an order requiring Missouri Cities to provide notice of this proceeding to all of its customers, and requiring the Commission Secretary to send a copy of the notice to the publisher of each newspaper located within the St. Charles service area of Missouri Cities and the Presiding Commissioner of the St. Charles Commission.

On February 20, 1987, the Commission issued an order adopting a procedural schedule for this docket recommended by the parties. In accordance with the schedule, the Applicants filed their prepared direct testimony and schedules on February 27, 1987, and the Commission Staff (Staff) filed its prepared rebuttal testimony and schedules on March 13, 1987.

On March 24, 1987, the City of St. Peters, Missouri (St. Peters) filed an application for leave to intervene in this proceeding. In an order issued March 27, 1987, the Commission permitted the intervention of St. Peters, and modified the existing procedural schedule. On April 10, 1987, St. Peters filed its prepared

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direct testimony and schedules, and on April 20, 1987, the Applicants filed their prepared surrebuttal testimony and schedules.

All of the parties to this case met at a prehearing conference held on April 21, 1987. As a result of negotiations conducted during the prehearing conference, the parties agreed to settle some of the issues raised in this docket. The parties have agreed to try the remaining issues at a hearing to commence at 10:00 a.m., April 23, 1987.

Stipulations

All of the parties hereby stipulate as follows:

1. That Missouri Cities should be granted authorization to sell, transfer and convey to East Central its four sewer collection systems located in St. Charles County.

2. That before the Commission issues its order authorizing the proposed sale, East Central shall amend its bylaws to incorporate the following provisions:

- A) The composition of East Central's board of directors shall be altered so that it includes a total of at least six (6) directors. Of these, no more than one-half of the directors may be appointed from the board of directors of Public Water Supply District No. 2 of St. Charles County, Missouri (Water District). No director of the Water District shall be appointed to the board of directors of East Central if he is a customer of East Central. The remaining directors of East Central (those which are not appointed from the board of directors of the water district), shall be elected by the customers of East Central. Ballots shall be mailed to each customer of East Central prior to the election, and the vote of all customers shall

have equal value. There shall be no "subdistricts" for purposes of these elections - the candidate(s) receiving the most votes from all of East Central's customers shall be elected to fill the vacant directorships.

B) East Central shall increase its rates a proportionate percentage for all of its sewer customers. East Central may increase rates disproportionately only when:

I) the rate increase results from specifically identified increases in treatment costs incurred in providing service to the customers whose rates are to be increased; or

II) The rate increase is attributable to specifically identified plant repairs or replacements, associated with plant used to serve the customers whose rates are to be increased.

Copies of the resolutions of East Central's board of directors which adopt the changes in East Central's bylaws described hereinabove shall be filed with the Commission and provided to each of the parties to this case prior to the issuance of the Commission's Report and Order approving this sale.

3. That East Central, the Staff and the Office of the Public Counsel on behalf of the affected Missouri Cities sewer customers shall enter into a contract to be filed with the Commission prior to the issuance of the Report and Order approving this sale. Said contract shall be substantially identical to the draft contract attached hereto as Exhibit A.

4. That Missouri Cities shall mail a notice of this sale to each of its customers in its last bill sent before the effective date of the transfer of the sewer properties to East Central. The wording

of this notice shall be negotiated among the parties to this case and this notice shall be filed with the Commission prior to the issuance of the Report and Order authorizing this sale. This notice shall include the following information:

- A) A statement that the Commission will no longer be responsible for regulating sewer service provided to these customers;
- B) A brief recitation of the terms of the stipulations contained herein and the contract attached hereto as Exhibit A;
- C) An emergency telephone number to be used to report service complaints to East Central.

5. That the prefiled testimony and exhibits of Staff witness Bill L. Sankpill, East Central witness Gregory P. Mattli and St. Peters witness Robert R. Irvin shall be received into evidence without the necessity of said witnesses taking the witness stand.

6. That in the event the Commission accepts the specific terms of this Hearing Memorandum and Stipulation, the parties waive their rights to cross-examine the witnesses named in paragraph 5 with respect to their prefiled testimony and exhibits, and the parties waive their rights to cross-examine any witness concerning the issues stipulated herein.

7. That in the event the Commission accepts the specific terms of this Hearing Memorandum and Stipulation, with respect to the issues stipulated herein the parties waive (1) their respective rights to present oral argument and written briefs, pursuant to Section 536.080(1) RSMo 1986; (2) their rights pertaining to the reading of the transcript by the Commission, pursuant to Section 536.080(2) RSMo 1986; and (3) their rights to judicial review, pursuant to Section 386.510 RSMo 1986.

8. That the agreements in this Hearing Memorandum and Stipulation have resulted from extensive negotiations among the signatory parties and are interdependent. In the event the Commission

does not approve and adopt the terms of this Hearing Memorandum and Stipulation in total, this Hearing Memorandum and Stipulation shall be void, and no party shall be bound by any of the agreements or provisions hereof.

Issues

There are two issues which remain to be tried in this docket. Both issues relate to the disposition of funds held by Missouri Cities if this sale is consummated. The parties have agreed to try these issues at a hearing commencing on April 23, 1967.

1. Gain on the Sale

Missouri Cities believes that the depreciation expenses should not be refunded to the sewer ratepayers of Missouri Cities. Staff's proposal has never been adopted by this Commission for any utility. Further, the proposal is unjust, illegal and beyond the authority of the Commission.

The Staff and The Office of the Public Counsel believe that the gain realized by Missouri Cities as a result of this sale should be shared among the shareholders of Missouri Cities and the sewer ratepayers of Missouri Cities. The gain should be divided so that the ratepayers receive the equivalent of the amount of depreciation expense they have provided to Missouri Cities. Since Missouri Cities will continue to depreciate its sewer properties until this sale is consummated, the precise amount to be refunded is not known at this time, but it is expected to be between \$500,000 and \$550,000.

2. Deferred Taxes

Missouri Cities believes that no deferred taxes or investment tax credits should be amortized to ratepayers commencing with the implementation of a rate charge. Staff's proposal has never been adopted by this Commission for any utility. The proposal is unjust, illegal and beyond the authority of the Commission. Further, amortization as proposed is beyond the scope of this proceeding.


The Staff and the Office of the Public Counsel believe that the Commission should require Missouri Cities to refund to its sewer


customers any deferred taxes which are not recaptured by the Internal Revenue Service. The amount of these taxes will not be known until Missouri Cities pays its 1987 income taxes, but the Staff and Public Counsel believe that the refund associated with deferred taxes will not exceed \$33,000.

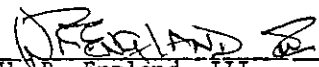
The parties agree that the schedule of witnesses for these proceedings shall be as follows:

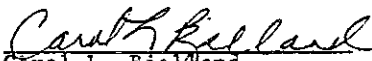
<u>Witness</u>	<u>Party</u>
G. Keith Cardey	Missouri Cities
Lynn E. Bultman	Missouri Cities
William A. Meyer, Jr.	Staff
Garth T. Ashpaugh	Staff


Respectfully submitted,


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DRAFT 4/22/87

AGREEMENT

This Agreement executed the ____ day of April, 1987, between East Central Water and Sewer Authority (East Central), the Staff of the Missouri Public Service Commission (Staff), and the Office of the Public Counsel (Public Counsel)

WITNESSETH:

WHEREAS East Central is desirous of obtaining the approval of the Missouri Public Service Commission (Commission) of a Joint Application of the Missouri Cities Water Company (Missouri Cities) and East Central for authority authorizing Missouri Cities to sell, transfer and convey to East Central four sewage collection systems serving areas known as St. Peters, Hunting Creek, Belleau Lake Estates, and Sanford Creek located in St. Charles County, Missouri, which currently pends before the Commission and is assigned Case No. SM-87-8;

WHEREAS Staff and Public Counsel are desirous of obtaining assurances from East Central that, as a result of the proposed transfer, sewer customers of Missouri Cities will be adequately represented before the Board of Directors of East Central and that the future rates for sewer service which Missouri Cities sewer customers will be required to pay will not arbitrarily be increased or revised;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties agree as follows:

1. East Central promises and agrees (and will amend its Bylaws to so reflect) that:

a. Its Board of Directors shall be increased from five to six members;

b. That three of the six directors shall be members of the Board of Directors of the St. Charles County Public Water Supply District No. 2, and shall not be customers of East Central's sewer system; and

c. That the remaining three members of the East Central Board of Directors will be elected by all of the customers of East Central.

2. East Central promises and agrees (and the Bylaws shall be amended to so reflect) that future increases and/or adjustments in rates charged by East Central to its customers shall be allocated as follows:

a. Increases and/or adjustments in rates due to increases in general operating costs that affect or are attributable to the entire sewer system (e.g., general office expenses, wages, etc.) shall be allocated to all customers of East Central on a pro rata basis.

b. Increases and/or adjustments in rates due to increased costs resulting from specific projects or events (e.g., major repair, replacement or improvement of sewer facilities; changes in contract rates for treatment of effluent, etc.) shall be allocated to those customers who receive the benefit of or are directly responsible for those special projects or events.

3. Staff and Public Counsel shall recommend to the Commission that the transfer of the Missouri Cities Sewer Systems

to East Central is not detrimental to the public interest and shall further recommend that the Commission approve the Joint Application, which is the subject of Commission Case No. SM-87-8.

4. The promises and agreements made herein by East Central shall also be for the benefit of the sewer customers served by Missouri Cities at the time the sewer systems are transferred to East Central, as such sewer customers are intended third party beneficiaries of this Agreement.

5. The term of this contract is an nonrenewable term of seven years that commences on the effective date of the transfer of the sewer systems from Missouri Cities to East Central.

EAST CENTRAL WATER AND SEWER AUTHORITY

By:

Staff of the Missouri Public
Service Commission

By:

Thomas M. Byrne
Assistant General Counsel

The Office of the Public Counsel

By:

Carol Bjelland
Assistant Public Counsel