

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 1st day of
July, 2008.

In the Matter of Lincoln County Utilities Co.'s Application)	
to Sell Its Sewer/Treatment Facilities to the Public Water)	<u>Case No. SM-2006-0369</u>
Supply District No. 1 of Lincoln County, Missouri.)	

ORDER APPROVING TRANSFER OF ASSETS AND DIRECTING FILING

Issue Date: July 1, 2008

Effective Date: July 11, 2008

Syllabus: This order approves the transfer of the assets of Lincoln County Utilities Co. to the Public Water Supply District No. 1 of Lincoln County, and directs Lincoln County Utilities Co. to file an updated statement of the impact of the transfer on the tax revenue of Lincoln County, Missouri.

On March 27, 2006, Lincoln County Utilities Co. (Lincoln Utilities) filed an application with the Commission requesting authority pursuant to Section 393.190, RSMo 2000, to sell its sewer/treatment facility to the Public Water Supply District No. 1 of Lincoln County, Missouri (the Water District). On March 31, 2006, the Commission issued an order adding the Water District as a party to this case, ordering notice sent to the appropriate government entities, officials and media, and setting April 20, 2006, as the deadline for any interested party to request intervention or a hearing. No party requested intervention or a hearing.

On April 24, 2006, the Commission issued its order directing Staff to file a recommendation by May 24, 2006. On May 9, 2006, Staff filed a Status Report advising

the Commission that the parties would require considerable time to accomplish necessary background work and provide Staff with sufficient information for Staff to review the proposed sale and prepare its recommendation. The Commission directed Staff to file periodic status reports regarding the application until such time that a Staff recommendation could be filed unless otherwise ordered by the Commission. Staff timely filed periodic status reports until filing its Nineteenth Status Report on April 15, 2008.

Staff filed its recommendation and supporting memorandum on June 25, 2008. Staff recommends approval of the transactions in time to allow the closing to take place on July 11, 2008, as contemplated by the terms of the sale agreement executed between the Water District and Lincoln Utilities. The Staff further recommends that the Commission order Lincoln Utilities to update its “statement of the impact of the transfer on the tax revenue of Lincoln County, Missouri,” so the Commission can provide that information to the County Clerk of Lincoln County as required by Section 393.190.1, RSMo 2000. Staff also advised the Commission that, since the proposed sale will have a substantial rate impact upon Lincoln Utilities’ customers,¹ Lincoln Utilities will send an additional notice to its customers with its billing scheduled to be sent at the end of June.

The Commission set June 30, 2008, as the deadline to respond to Staff’s recommendation. On June 26, 2008, the Office of the Public Counsel filed a response stating it had no objections to Staff’s recommendation. No additional responses were filed.

Lincoln Utilities is a certificated sewer corporation subject to the jurisdiction of the Commission. The Commission issued a certificate of convenience and necessity to Lincoln

¹ Lincoln Utilities’ approved residential rates are \$6.50 per month, and have been in effect since January 1, 1978. Monthly sewer bills for residential customers with 5,000 gallons wintertime water use would be \$38.80. See: *Staff Recommendation, Memorandum*, p. 2.

Utilities to provide water and sewer service to its service area in the unincorporated area of Lincoln County, Missouri, known as the Old Monroe/Mary Knoll area in Case No. 18,060 in 1974. In 1991 the Commission authorized Lincoln Utilities to sell and transfer its water system to the Water District in Case No. WM-91-266.

The property and assets to be sold include approximately 12.794 acres and related easements located in the unincorporated area of Lincoln County, Missouri, known as the Old Monroe/Mary Knoll area, and all equipment and apparatus incidental to the furnishing of sewer service to approximately 170 residential customers and three commercial customers in that area.

In its application Lincoln Utilities indicated that based upon its 2005 assessment the proposed transfer of assets will result in a loss of property tax revenue of approximately \$1,233.73.00 to Lincoln County, Missouri.

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.² Therefore, the Commission may grant Lincoln Utilities' request based on the verified application after affording notice and an opportunity to be heard to all proper parties.

After considering the verified application of Lincoln Utilities along with the recommendation of Staff and accompanying verified memorandum, and the response of Public Counsel, the Commission concludes that the transactions will "not [be] detrimental to the public interest"³ and that the application shall be granted.

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

³ *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App. E.D. 1980).

The Commission shall order Lincoln Utilities to update its tax impact statement and send the additional customer notice as recommended by Staff. Once the asset transfer is completed, the certificate of service authority held by Lincoln Utilities, along with the tariff on file pertaining to that system, shall be canceled.

IT IS ORDERED THAT:

1. Lincoln County Utilities Co.'s Application to Sell Its Sewer/Treatment Facilities to the Public Water Supply District No. 1 of Lincoln County, Missouri, is approved,
2. Lincoln County Utilities Co. is hereby authorized to sell its sewer system facilities and assets to the Public Water Supply District No. 1 of Lincoln County, Missouri.
3. Lincoln County Utilities Co. and the Public Water Supply District No. 1 of Lincoln County, Missouri, are authorized to execute, enter into, deliver and perform any agreements, and to do any and all other things not contrary to law or the rules and regulations of the Commission incidental, necessary or appropriate to the performance of any and all acts specifically authorized in this order.
4. On or before July 11, 2008, Lincoln County Utilities Co., shall file in this case an updated statement of the impact of the transfer on the tax revenue of Lincoln County, Missouri, to reflect the company's most current property tax assessment.
5. Lincoln County Utilities Co. shall send a copy of the notice included as Attachment D to the Commission Staff's June 25, 2008 Recommendation to each residential and commercial sewer customer on or before July 10, 2008.
6. Lincoln County Utilities Co. shall file notice in this case within 24 hours of completing the customer notice directed in ordered paragraph 5.

7. Within three days of completing the sale of its sewer system facilities Lincoln County Utilities Co. shall file a notice in this case informing the Commission of the completion of the transaction.

8. At the completion of the transfer, Lincoln County Utilities Co., is authorized to cease providing sewer to its service area, and the Commission will issue an order canceling the certificate of convenience and necessity of Lincoln County Utilities Co. and canceling the associated tariff currently on file.

9. This order shall become effective on July 11, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton, Jarrett,
and Gunn, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge