

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)	
Central Jefferson County Utilities, Inc.)	
for an Order Authorizing the Transfer)	
and Assignment of Certain Water and)	<u>Case No. SO-2007-0071, et al.</u>
Sewer Assets to Jefferson County)	
Public Sewer District and in Connection)	
Therewith, Certain Other Related)	
Transactions.)	

STAFF’S STATEMENT OF POSITIONS ON ISSUES

COMES NOW the Staff of the Missouri Public Service Commission and, for its Statement of Positions on Issues, states to the Missouri Public Service Commission as follows:

The Staff has submitted a number of data requests to other parties in this case. The responses to those data requests are all due by December 12, at the latest, and Staff has not yet received full responses to all of the data requests. The Staff therefore reserves the right to supplement this Statement of Positions on Issues after it has received and reviewed all of the requested information. If this Statement of Positions needs to be supplemented, the Staff will do so as far in advance of the scheduled evidentiary hearing as possible.

A. ULTIMATE ISSUES OF FACT

1. Would the proposed transfer of the Company’s water and sewer assets to the Sewer District be detrimental to the public interest?

Staff’s Position: Based upon its review of the information available to date, the Staff anticipates that its conclusion regarding the proposed transfer of Central Jefferson County Utilities' (“Company”) water and sewer assets to the Jefferson County Public Sewer District (“Sewer District”) will be that the transfer is not detrimental to the public interest. The Staff

notes, however, that it may be necessary to impose conditions on the transfer. Responses to outstanding data requests may affect the Staff's position on this issue.

2. If the transfer of assets, as proposed, would be detrimental to the public interest, could the Commission impose conditions such that the transfer, as approved, would not be detrimental to the public interest?

Staff's Position: The Staff believes the Commission clearly has the authority to impose conditions that will make the transfer not detrimental to the public interest. However, the Staff also notes that the imposition of such conditions would be subject to the "acceptance" of the affected parties, and could thus result in the transfer not taking place.

B. PRELIMINARY ISSUES OF FACT

1. What connection fees and recurring rates does the Sewer District anticipate that the residents of Raintree Plantation Subdivision will have to pay for water and sewer services immediately after transfer of the assets to the Sewer District?

Staff's Position: The Staff understands that the Sewer District will implement rates that will be sufficient for the Sewer District to pay its obligations under its contract with Environmental Management Corporation ("EMC"), under which EMC will operate and make capital improvements to the facilities the Sewer District is acquiring from the Company. The Staff has requested, but not yet received, information regarding the anticipated rates and fees, and the basis for those rates and fees. Responses to outstanding data requests may affect the Staff's position on this issue.

2. Would such fees and rates thereafter be increased according to a schedule, or upon the occurrence of some event, and if so, how would the amount of such increase be determined?

Staff's Position: The Staff understands that the Sewer District's rates and fees will always depend upon its obligations to pay EMC according to the terms of its contract with EMC. Responses to outstanding data requests may affect the Staff's position on this issue.

3. What ability would the residents of Raintree Plantation Subdivision have to control the operation, management, services and rates associated with the water and sewer services that the Sewer District provides to them?

Staff's Position: Based on the Staff's understanding of the statutory provisions under which the Sewer District was formed (Sections 249.430 to 249.668, RSMo), as described in the Company's applications, the Sewer District is a countywide entity, whose operations will be carried out under the oversight of the board of directors that the County Commission appoints. The "customer control" that exists will thus be realized through interactions with the appointed board of directors and the election of the County Commission. Residents of Raintree Plantation Subdivision will not have direct control over the operation, management, services and rates. Responses to outstanding data requests may affect the Staff's position on this issue.

4. If EMC's initial investment of up to \$1.8 million is not sufficient to build and operate the facilities that are, or will be, needed to provide service to the residents of Raintree Plantation Subdivision, how will the Sewer District fund additional facilities and insure that they are built and available for service when they are needed?

Staff's Position: Based on available information, the Staff understands that the only way the Sewer District can currently finance the construction of facilities is through its contract with EMC, under which EMC actually provides the funds for construction projects. As a result, it appears that if additional construction funds are needed, the Sewer District would need to either

acquire bonding capacity or modify its contract with EMC. Responses to outstanding data requests may affect the Staff's position on this issue.

5. What are the terms of the agreement between the Sewer District and EMC for the operation and maintenance of, any improvements to, and the investment in, the water and sewer facilities that serve Raintree Plantation Subdivision?

Staff's Position: The Staff has requested a copy of this agreement, but has not yet received it, and does not know the terms of the agreement. The Sewer District and/or EMC will have to provide information regarding the terms of the agreement.

6. Will the Company transfer to the Sewer District all of the assets, including real property, that are necessary to provide water and sewer services to Raintree Plantation Subdivision?

Staff's Position: Based on its review of the application and related documents filed by the Company, and its general knowledge of the Company's operations, the Staff is not aware of any assets necessary for the provision of water and sewer service that are not being transferred. The assets to be transferred include all of the land upon which the water supply, water storage and wastewater treatment facilities are located, together with the easements that are necessary for the Sewer District to operate and maintain the water and sewer systems.

7. Will the owners of lots in Raintree Plantation Subdivision be obliged, by their Lot Sales Agreements, to pay a water and sewer connection fee of approximately \$1100? If so, identify the entity to whom this obligation is owed and state whether all or part of it will be paid to Raintree Plantation, Inc.

Staff's Position: Based on its review of available documents, it appears to the Staff that lot owners in the Raintree Plantation Subdivision who have not already done so may be obliged

to pay Raintree Plantation, Inc. ("Raintree") a \$700 sewer connection fee and a \$300 water connection fee before commencing construction of any home.

8. What is the status of, and what are the terms of, the "Compliance Agreement" between the DNR, the Sewer District, and EMC, with regard to the facilities serving Raintree Plantation Subdivision?

Staff's Position: Based on the DNR's response to a Staff Data Request regarding this matter, the Staff understands that the copy this document that it has been given is in "near-final" draft form. As a result, the Staff does not know the final terms that will be included in this agreement. The DNR, the Sewer District and/or EMC will have to provide information regarding the details of this agreement.

9. What are the qualifications of the Sewer District and its contractor, EMC, to operate, maintain, and improve the water and sewer facilities that serve Raintree Plantation Subdivision?

Staff's Position: The Staff understands that the Sewer District has little or no experience in operating, maintaining or improving water or sewer systems; however, EMC has a great deal of experience in these areas. The Staff believes that EMC has the necessary qualifications and experience needed to carry out the various responsibilities it will have under its contract with the Sewer District.

10. Once the moratorium on sewer connections is lifted, who will decide which property owners shall be given priority in connecting to the Raintree Plantation sewer system, and how will that priority be established?

Staff's Position: This decision will apparently be made by the Sewer District, but will also at least be influenced by the County's issuance of construction/occupancy permits.

Additionally, and perhaps most importantly, based on the sewage treatment capacity that the Sewer District and EMC will build if the proposed asset transfer takes place, the Staff does not believe there will be a need to establish any hook-up priority. Since the treatment capacity that will be built will accommodate nearly twice as many connections as now exist, the Staff believes it is clear that more than sufficient capacity will be available to satisfy the "pent-up" demand for sewer system connections, and thus that the simple approach of "first come, first served" should be sufficient.

If a hook-up priority "system" is deemed to be necessary or desirable, the Staff believes that property owners in the Raintree Plantation Subdivision should be given priority over potential new customers outside of the development, and further that individual property owners building homes in the subdivision should be given priority over developers that are building "spec" houses in the subdivision.

WHEREFORE, the Staff submits its Statement of Positions on Issues for the Commission's information and consideration.

Respectfully Submitted,

/s/ **Keith R. Krueger**

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first class postage, hand-delivered, transmitted by facsimile or transmitted via e-mail to all counsel and/or parties of record this 8th day of December 2006.

/s/ *Keith R. Krueger*