

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 21st day of
March, 2018.

In the Matter of the Application of Highway H)
Utilities, Inc. for Authority to Sell Certain)
Water and Wastewater System Assets to the)
City of Waynesville, Missouri, and Pulaski)
County Sewer District Number 1, and, in)
Connection Therewith, Certain Other Related)
Transactions)

File No. SM-2018-0095

ORDER GRANTING AUTHORITY TO TRANSFER ASSETS

Issue Date: March 21, 2018

Effective Date: April 20, 2018

On October 9, 2017, Highway H Utilities, Inc. ("Highway H") filed an *Application and Request for Waiver* seeking authorization from the Commission to sell water and wastewater system assets to the City of Waynesville, Missouri and Pulaski County Sewer District Number 1 ("PCSD"). On October 30, 2017, WM-2018-0094 was consolidated with SM-2018-0095.

The City of Waynesville is a 3rd Class political subdivision and is not subject to Commission regulation. Waynesville currently provides water service to approximately 1,795 customers.

PCSD is a political subdivision and a chapter 204, RSMo, statutory sewer district and is not subject to Commission regulation. PCSD currently provides wastewater service to approximately 4,791 customers

On October 10, 2017, the Commission issued an Order Directing Notice and Setting an intervention deadline. No requests to intervene were received. On February 20, 2018,

the Staff of the Commission filed an amended recommendation stating that the proposed sale of assets was not detrimental to the public interest and urging the Commission to approve the application with special conditions. On March 5, 2018, the Office of the Public Counsel filed *OPC Comment on Transfer of Assets* expressing their opposition to the proposed sale. That comment did not include a request for hearing or other relief, but requested that non-Waynesville residents be notified that the Commission would have jurisdiction to hear complaints under 386.250(3), RSMo; the Commission will not grant that request. Missouri courts have determined that the Commission does not have the authority to regulate municipally owned utilities.¹

Staff's amended recommendation indicated that a customer using 5,000 gallons of water a month would see an approximate increase of 167%, and a sewer increase of 218%. All PCSD customers will have to pay a \$500 one-time fee for funding future capital improvements. Additionally, customers with sewer pump units are required to pay a \$250 one-time fee for initial inspection of the pump units. Staff's Memorandum states: "Staff recognizes that customers would experience a relatively substantial rate impact if these transfers take place as proposed. However, if Hwy H were to remain in business, or if any other utility were to step in to own and operate these assets, then substantial funds would be expended for maintenance and improvements similar to what the City and PCSD are proposing, which would also likely result in rate increases. Additionally, with regard to rates, the customers of Hwy H would not be treated any differently than City and PCSD customers in neighboring areas, since those other customers presently pay the rates being proposed for Hwy H customers."

¹ *Forest City v. City of Oregon*, 569 S.W.2d 330, 332-33 (Mo.App.1978)

Highway H (in response to OPC's comment) noted that the current customers of Highway H would be better served by governmental entities with access to capital necessary to meet increasingly stringent public health and environmental standards. Highway H also noted that PCSD customers will be able to pay the one-time fees over an 18-month time frame.

No party has requested a hearing and the Commission will act based on the joint application and upon Staff's recommendation. The Commission finds that the sale of water and sewer system assets of Highway H to the City of Waynesville and PCSD will not be detrimental to the public interest and should be approved.

IT IS THEREFORE ORDERED:

1. That the sale and transfer of the water system assets of Highway H Utilities, Inc. to the City of Waynesville, Missouri, is approved.

2. That the sale and transfer of the sewer system assets of Highway H Utilities, Inc. to Pulaski County Sewer District Number 1, is approved.

3. The Staff of the Commission recommended several conditions, which the Commission hereby adopts. The transfers are subject to the following special conditions:

a. Highway H is required to notify the Commission of closing on the assets, with each of the two buyers, within five days after each closing;

b. If closing on either the water system assets or sewer system assets does not take place within 30 days following the effective date of the Commission's order approving such, Highway H shall submit a status report within five (5) days after this 30 day period regarding the status of closing, and additional status reports within five days after each additional 30 day period, until closing takes place, or until Highway H, Waynesville, or PCSD determine that the transfer of the assets of either or both of the systems will not occur;

- c. Highway H is authorized to cease providing water and sewer service immediately after closing on the respective assets with Waynesville and PCSD;
 - d. After receiving notice(s) of closing, the respective CCN and tariff authorizing Highway H to provide water or sewer service will be cancelled;
 - e. If Highway H and/or Waynesville and /or PCSD determine that the transfer of any of Highway H's assets will not occur, Highway H shall notify the Commission of such, along with an explanation regarding resolution of the *Agreement for Sale of Water and Wastewater System*; and,
 - f. The Commission makes no ratemaking determination regarding any potential future regulatory oversight, if any.
4. That this order shall become effective on April 20, 2018.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Hall, Chm., Kenney, Rupp, Coleman, and
Silvey, CC., concur.

Clark, Regulatory Law Judge

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 21st day of March 2018.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

March 21, 2018

File/Case No. SM-2018-0095

**Missouri Public Service
Commission**

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**Pulaski County Sewer District
Number 1**

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.