

**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 Sewer Assets to )  
Jefferson County Public Sewer District )  
and in Connection Therewith, Certain )  
Other Related Transactions. )

**Case No. SO-2007-0071**

**POSITION STATEMENT OF THE OFFICE OF THE PUBLIC COUNSEL**

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

The Missouri Public Service Commission's (Commission) Rules 4 CSR 240-3.310(D) and 4 CSR 240-3.605(D) requires applications for transfer of a public utility's assets to include a showing that the transfer is not detrimental to the public interest. In this case, the Office of Public Counsel (Public Counsel) alleges that the proposed transfer would be detrimental to the public interest.

The proposed transfer removes the Commission's rate supervision and protection of the customer at a time when Public Counsel alleges overearnings under existing rates. Central Jefferson County Utilities, Inc. (Central Jefferson) proposes to transfer the water and sewer assets to the Jefferson County Sewer District (Sewer District) with capital improvements and operations and maintenance to be provided by Environmental Management Corporation (EMC). Neither the Sewer District nor EMC is regulated by the Commission. Public Counsel has pending complaints with the Commission against Central Jefferson which allege that Central Jefferson's current water and sewer rates and charges are unjust and unreasonable and produce overearnings reflecting a rate of return

in excess of that authorized by the Commission. The proposed transfer agreement among Central Jefferson, the Sewer District and EMC states that the Sewer District will approve an increase in rates. The agreement does not state the exact increase the ratepayers will have to bear. If the proposed transfer is allowed, the ratepayers will no longer have the protection afforded by the Commission to ensure that the rates are just and reasonable. Given Public Counsel's pending overearnings complaint, it is detrimental to the public to allow this transfer that by contract means an automatic increase in the water and sewer utility rates by an unknown amount.

The transfer is also detrimental to the public interest because the agreement is not specific enough to provide the Commission with assurance that the public will not be harmed. The agreement provides for only the maximum that EMC will spend on capital improvements, and is silent on the minimum amount that EMC must spend. Therefore, EMC is not bound by the agreement to spend anything on capital improvements, but it will receive a security interest in all the money paid by the ratepayers. The contract lacks any specific agreement between the parties for continued improvements to the utility to accommodate all planned phases of Raintree Plantation. The maximum amount set in the agreement will only provide the utility with enough capacity to meet current needs plus a small expansion of lots that can be connected. The existing Raintree Plantation plan contains many more lots than is accounted for in the agreement. Therefore, the agreement does not contain enough specifics to assure the Commission that the public would not be harmed.

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?

If the Commission determines that the present proposal does not satisfy the public interest standard, the Commission has the authority to impose conditions on the proposed transfer which are designed to remove the aspects of the transfer that are detrimental to the public interest. The Commission should place conditions on the amount and timing of any rate increase. Since the sewer utility is under an Environmental Protection Agency (EPA) moratorium preventing additional connections to the sewer system, it would be in the public interest for the Commission to require any rate increases be postponed until the EPA moratorium is lifted. In this manner, ratepayers would pay for utility service at the current rate, but they would be assured that their payments are used for the upgrade of the system. Because of the overearnings allegations, EMC will be recouping a portion of its capital improvement costs even at the current rates. Once the EPA moratorium is lifted, the Sewer District would be able to raise rates which would then allow EMC to recoup its remaining costs for the capital improvements.

Conditions should also be required in the agreement among Central Jefferson, the Sewer District and EMC, as well as required of each party, that will provide the Commission with assurance that the proposed transfer will not harm the public. Public Counsel recommends that these conditions include:

- a minimum amount or percentage of the maximum that EMC must spend on capital improvements.

- a preliminary plan on how the Sewer District will address the remaining phases of the Raintree Plantation development.
- a requirement that the Sewer District and/or EMC sign and begin implementation of the Department of Natural Resources' Compliance Agreement as soon as Commission approves the transfer.
- any other conditions that the Commission deems necessary and proper and that will ensure that the transfer is less likely to be detrimental to the public interest.

Respectfully submitted,

OFFICE OF THE Public Counsel

**/s/ Christina L. Baker**

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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 8<sup>th</sup> day of December 2006:

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