

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

In the Matter of the Petition for an Interim)	
Receiver and for an Order Directing the)	<u>Case No. SO-2014-</u>
General Counsel to Petition the Circuit)	
Court for the Appointment Of a Receiver)	
for M.P.B., Inc. and P.C.B., Inc.)	

**PETITION FOR INTERIM RECEIVER AND INTERIM RATES AND FOR
AN ORDER DIRECTING THE GENERAL COUNSEL TO PETITION
THE CIRCUIT COURT OF FRANKLIN COUNTY FOR THE APPOINTMENT OF A
RECEIVER FOR M.P.B., INC. AND P.C.B., INC. AND
MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and for its petition to appoint an interim receiver, to authorize a circuit court action, and for expedited treatment states:

1. In the event a water or sewer corporation providing service to less than eight thousand customers is unable or unwilling to provide safe and adequate service or has been abandoned, Section 393.145.1¹ provides that the Missouri Public Service Commission (Commission) may, after hearing, order its general counsel to petition the circuit court for the appointment of a receiver. The Commission may also appoint an interim receiver to serve until such time as the circuit court determines whether to appoint a receiver.

2. M.P.B., Inc. and P.C.B., Inc. ("MPB and PCB" or "the Companies") are Missouri certificated public utilities and sewer corporations as defined in Section 386.020. The Companies' registered agent is Nicole Pfeffer, and the agent's mailing address is 505 Brick Church Road, Labadie, MO 63055. Notice should be provided at that address.

¹ All statutory references are to RSMo (2000), as currently supplemented, unless otherwise noted.

3. The Companies currently serve approximately 510 customers – 190 customers for MPB and 320 customers for PCB.

4. The original tariffs under which the Commission authorized MPB to provide sewer service were effective as of January 1, 1987. The original tariffs under which the Commission authorized PCB to provide sewer service were effective as of April 24, 1981.

5. While the Companies served their customers well for many years, recent years have shown a decline in service and operations. Since at least 2008, the Companies have been receiving compliance warnings from the Department of Natural Resources (DNR). Starting in 2010, Staff began receiving reports of difficulties the Companies were having with customers and with operations. On May 18, 2012, MPB and PCB were administratively dissolved by the Missouri Secretary of State for failure to file a correct or current annual registration report. Neither company has submitted a Commission-required Annual Report for the years 2011 and 2012. By August of 2012, the Companies' owners were communicating with Staff that they no longer wished to own or operate the MPB and PCB systems. It is Staff's understanding that, as of right now, customer billing has ceased completely and little to no operations are being performed on the systems.

6. Staff has been in contact with the owners over the past few months. The owners have expressed an increasing desire to abandon the system and are unable and unwilling to provide safe and adequate service. On August 21, 2013, Staff received a letter from the owners confirming they no longer wish to operate the

companies and that they can no longer support the companies with their time and resources. A copy of this letter is attached hereto as Appendix A.

7. Staff has been working with DNR, the Attorney General's office, the Office of the Public Counsel (Public Counsel), and Johansen Consulting Services, LLC (JCS), a potential receiver for the system, as well as potential operators, to determine what is the most efficient and effective way to address the dire circumstances at MPB and PCB. Staff, DNR, Public Counsel, and JCS reached an agreement on how to proceed that includes filing this *Petition*, followed closely by a request for a rate increase, which will include a request for emergency interim rates. A copy of that agreement is attached to this pleading as Appendix B.

8. Pursuant to this agreement, Staff recommends the Commission appoint JCS as an interim receiver to control and be responsible for MPB and PCB until the circuit court makes its determination in this matter

9. Finally, Staff asks the Commission for expedited treatment of this matter. The MPB and PCB sewer system has been effectively abandoned, and the owners are unwilling and unable to operate the system. Therefore, safe and adequate service is in jeopardy. Staff filed this motion as soon as a plan was in place to ensure the effective operation of the utilities and upon receipt of confirmation from the companies' owners that they were indeed abandoning their system. Staff does not expect a request for a hearing in this matter in light of the system owners' communications with Staff and the agreement between Staff, DNR, Public Counsel, and JCS. However, if a hearing is scheduled, Staff recommends that the hearing be scheduled in order to allow resolution of the case before September 15, 2013.

WHEREFORE, Staff asks the Commission to enter an order appointing Johansen Consulting Services, LLC as interim receiver for M.P.B., Inc. and P.C.B., Inc., authorizing the General Counsel to pursue appointment of a receiver for the Companies, and expediting this matter for resolution before September 15, 2013.

/s/ Amy E. Moore

Amy E. Moore
Deputy Counsel
Missouri Bar No. 61759

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)
amy.moore@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first-class postage, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of August, 2013.

/s/ Amy E. Moore

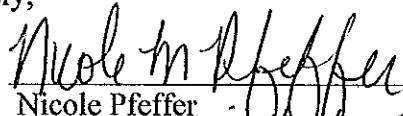
MPB Inc. and PCB Inc.

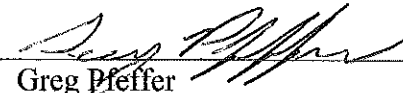
August 5, 2013

To Whom It May Concern:

This letter is to inform you that we as the shareholders of both MPB Inc. and PCB Inc. are placing both utilities into voluntary receivership with the PSC. We are unable to continue to manage and operate these utilities. We apologize for the inconvenience but we can no longer support the companies with our time and economic resources.

Sincerely,


Nicole Pfeffer
PCB, Inc. President & MPB, Inc. President


Greg Pfeffer

RECEIVED
AUG 21 2013

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION

AGREEMENT

This agreement is among Staff of the Missouri Public Service Commission (Staff), the Office of the Public Counsel (Public Counsel), Johansen Consulting Services, LLC (JCS), and the Missouri Department of Natural Resources (DNR). The purpose of the agreement is to set out the expectations of all parties in the matter of having JCS appointed receiver for M.P.B. Inc. and P.C.B. Inc.

- 1) Staff will file a petition with the Commission to appoint Johansen Consulting Services, LLC as interim receiver for the companies and request the Commission allow Staff to go to the Circuit Court of Cole County to have JCS appointed receiver for the companies.
- 2) JCS will file rate cases one working day after the effective date of the Commission orders appointing it as interim receiver for both M.P.B. and P.C.B. Within these requests, a request for emergency rates will be included.
- 3) The emergency rates will consist of additional dollars to support receiver salary and expenses, initial sludge hauling, and initial grass mowing. If sludge removal services can be found for a lower cost than what has initially been discussed, the less expensive costs will be built into rates. The monthly emergency interim rates will be as follows: for M.P.B.'s Lake Virginia service territory, rates will be \$6.04; for M.P.B.'s Villa Ridge service territory, rates will be \$12.26; and for P.C.B., rates will be \$10.44. The emergency rates will be subject to refund if the actual costs of these emergency items are less than the actual amount collected through the emergency rates. If the rate cases are not completed within six months after the effective date of the emergency rates, the emergency rates will all be reduced to \$5.75/month, which represent the dollars needed to support the above-referenced receiver salary and expenses, until the conclusion of the rate cases.
- 4) The emergency rate requests will include a request for expedited treatment.
- 5) Upon the submission of the emergency rate requests, Staff will organize a public meeting to discuss the rate increases and other concerns with the ratepayers.
- 6) There will be no contract operator or certified operator initially.
- 7) Staff will commit to perform periodic inspections of the system and will advise JCS regarding the operations of the systems. DNR will coordinate with Staff to ensure adequate frequency of inspections.
- 8) DNR will coordinate monthly effluent sampling with Staff to ensure contaminants do not reach dangerous levels.
- 9) DNR may post signs stating, "Avoid Contact With Water: Stream May Contain Unsafe Levels of e-Coli" at or near facility outfalls.

10) Staff, Public Counsel, DNR, JCS, and Missouri-American Water Company will continue to pursue a solution that will address contract operations, DNR violations, and future system upgrade requirements.

11) If a satisfactory result cannot be obtained through further negotiations with the parties identified in (10) above, JCS will pursue other options to secure a certified operator.

12) The signatories acknowledge that Section 393.145.6, RSMo contains provisions that provide receivers immunity from personal liability for civil damages under certain circumstances.

13) The signatories acknowledge that JCS as receiver for the systems is neither required nor expected to expend its own funds for the operation and maintenance of, or for making physical improvements to, the subject sewer systems.

14) Based upon the outcome of further negotiations and other operational concerns uncovered during the course of the rate cases, extension or withdrawal of the rate requests will not be opposed if proposed for good cause. However, the Company will seek approval from Public Counsel before any request to withdraw the rate requests is made.

/s/ Amy E. Moore

Amy E. Moore
Deputy Counsel
Missouri Bar No. 61759

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)
amy.moore@psc.mo.gov

/s/ Christina Baker

Christina Baker
Deputy Public Counsel
Missouri Bar No. 58303

Attorney for Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
(573) 751-5565 (Telephone)
(573) 751-5562 (Fax)
christina.baker@ded.mo.gov

/s/ Jeremy Knee

Jeremy Knee
Assistant Attorney General
Missouri Bar No. 64644

Attorney for the Department of Natural Resources
P.O. Box 899
Jefferson City, MO 65102
(573) 751-6579 (Telephone)
(573) 751-8796 (Fax)
jeremy.knee@ago.mo.gov

/s/ Dale W. Johansen

Dale W. Johansen – Manager
Johansen Consulting Services, LLC

915 Country Ridge Drive
Jefferson City, MO 65109
(573) 230-3007
dalewjconsult@gmail.com