

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

**In the Matter of the Joint Application)
of Stoddard County Sewer Company,)
Inc., R.D. Sewer Co., L.L.C. and the)
Staff of the Missouri Public Service)
Commission for an Order Authorizing)
Stoddard County Sewer Co., Inc. to)
Transfer its Assets to R.D. Sewer Co.,)
L.L.C., and for an Interim Rate)
Increase.)**

Case No. SO-2008-0289

**FINDINGS OF FACT, CONCLUSIONS FO LAW
AND ORDER**

FINDINGS OF FACT

1. Joint Applicants including the Staff of the Missouri Public Service Commission filed an Application for the transfer of assets, an interim rate increase, a tariff providing for late fees and monthly payment of bills.
2. The Public Counsel informed the Commission that they are not opposed to the transfer but believed that the interim rate increase as offered by the staff and these Applicants was to high even if subject to refund and even if the transferee was required to apply for a small company rate increase within thirty days of any order of the Commission.
3. The Public Counsel also objected to the proceedings herein on the basis of jurisdiction claiming that Mrs. Carl Bien could not transfer stock in Stoddard County Sewer Company (SCSC) to R.D.Sewer Co., LLC (a Missouri limited liability company) without prior approval of the Commission and therefore Mrs. Bien had to

- be a necessary party to this case. Additionally, the Public Counsel objected to the testimony of witnesses Rodger Williams, Smith & Co. and Randall Shepard, The Bonadio Group who had contracted to provide a financial evaluation and testimony.
4. Around 2002 Arlie Smith of the PSC staff invited Rodger Owens to take over and run Stoddard County Sewer Company (SCSC) after Mr. Bien died in 2000 and SCSC had no other suitor.
 5. Since its inception of SCSC to date SCSC had no rate increases despite inflation, maintenance and equipment issues, effluent issues DNR, and the willingness of R.D. Sewer Co., LLC to run SCSC, make repairs, file assessments and reports with the PSC, spend all the time needed to protect and serve the public.
 6. No one questions the ability and credibility of Rodger Owens. He knows the business. He is competent, experienced, and hard working. There is no evidence to suggest that Owens is not a man of his word and that he does not have the ability to operate safely and adequately as well as efficiently the Sewer Company.
 7. The audit by the Staff in 2002 and the more recent study of the Bonadio Group and Smith and Company support a 100% rate increase in the interim.
 8. All parties agree to refund provision respecting any rate increase.
 9. No one challenges the request to change the tariff for monthly billings and a late fee and the record supports such a finding.
 10. A transfer of assets in this case and canceling the certificate of SCSC and reissuing to R.D. Sewer Co. LLC is not detrimental to the public and is the best way to provide safe and adequate service to the public.

CONCLUSIONS OF LAW

11. The Joint Applicants have met their burden of proof and a transfer of assets per the Application herein is not detrimental to the public.
12. The request for an interim rate increase to 100% of the current rate is granted and is appropriate as a matter of law.
13. All liens recited in the Joint Application, paragraphs 42-43, are void for want of authority from this Commission.
14. The tariffs shall include a provision that R.D. Sewer Co. LLC shall bill monthly. The bills unpaid by the 20th of the Month are late and late fees shall be added in the amount of \$5.00 for each such late month payment.
15. R.D. Sewer shall report quarterly beginning on January 2, 2009, on progress with the
16. Missouri Department of Natural Resources concerning any Notices of Violations and/or agreements settling the issues with that Department.
17. The Motion of the Public Counsel regarding want of jurisdiction in that the entire stock of SCSC was transferred by Mrs. Carl Bien to an LLC namely R.D. Sewer Co., LLC without approval of this Commission is without merit as Section 393.190.2 RSMo does not apply to Limited Liability Corporations.
18. From the date of this Order the Applicant R.D. Sewer Co., LLC has thirty days (30) to file for a small company rate increase.

ORDER

On this the ____ day of September, 2008, it is Ordered that the Application to Transfer assets is granted, an interim rate of _____ is approved subject to refund , the certificate is cancelled to SCSC and a new certificate is issued to R.D. Sewer, Co. LLC, the tariff for

R.D.Sewer Co, LLC shall permit monthly billings with late fees of \$5.00 if a bill is unpaid by the 20th of the Month in which it is due, all liens are void and canceled wherein they have not been approved by this Commission, the Motion in Limine of the Public Counsel to Dismiss for lack of jurisdiction is denied, R.D. Sewer Co., LLC shall file a small rate case within 30 days of this Order and R. D. Sewer Co., LLC shall report quarterly beginning January 2, 2009, as previously ordered in this case to make Status Reports concerning negotiations with the Department of Natural Resources regarding any pending or subsequent Notices of Violations.

Respectfully Submitted,

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ATTORNEY FOR PRIVATE JOINT APPLICANTS

CERTIFICATE OF SERVICE

Foregoing proposed Findings, Conclusions and Order was e-mailed to those on Service list on this the 18th day of September, 2008, and to the Hearings Judge per the instruction of the Commission.

Terry C. Allen