

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the application of Martell)
Private Water & Sewer Co., Inc., to sell)
and transfer its franchise, works or system,)
to Public Water Supply District No. 2 of) CASE NO. WM-90-104
St. Charles County, Missouri, and to East)
Central Missouri Water & Sewer Authority)
of St. Charles County, Missouri.)

APPEARANCES: Mark S. Rubin, Attorney at Law, 120 S. Central, Suite 1400,
Clayton, Missouri 63105, for Martell Private Water & Sewer
Co., Inc.

Mark C. Piontek, Attorney at Law, P. O. Box 172, Washington,
Missouri 63090, for Public Water Supply District No. 2 of
St. Charles County, Missouri.

Hearing
Examiner: C. Gene Fee

REPORT AND ORDER

By an application filed on November 20, 1989, Martell Private Water & Sewer Co., Inc. (Martell) requested authority to sell and transfer all of its franchise, works or system, to Public Water Supply District No. 2 of St. Charles County, Missouri (District) and to East Central Missouri Water & Sewer Authority of St. Charles County, Missouri (Authority).

Notice of the proposed transfer was made and no persons intervened to protest. The Commission determined that a hearing was not necessary to resolve the matter and allowed the Applicant to submit its case by verified statements. Those statements and the Commission Staff's recommendation have become the basis for this Report and Order.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

Martell is a Missouri corporation with its principal office and place of business located at 15455 Conway Road, Suite 300, Chesterfield, Missouri 63017.

District is a political corporation of the State of Missouri established and existing pursuant to Chapter 247, RSMo 1986. It presently is providing water in its service area in St. Charles County, Missouri. Said service area includes all of the area presently certified to Martell.

Authority is a not-for-profit corporation duly organized and existing under the laws of the State of Missouri, Chapter 355, RSMo 1986. It presently is providing sewer service in its service area of St. Charles County, Missouri. Said service area includes all of the area presently certified to Martell.

Martell proposes to sell and transfer all of its franchise, works or system necessary and useful in the rendition of water and sewer service to its customers in its certificated area. These properties are more particularly set forth in Exhibit 1, attached to the application as Exhibit 1. A copy of the proposed contract and agreement is attached to the application as Exhibit 2. A certified copy of the resolutions authorizing the proposed transaction of the Board of Directors of Martell, District and Authority are attached to the application and made a part thereof as Exhibits 3, 4 and 5.

The Commission Staff (Staff) has reviewed the proposed transfer and sale and filed its recommendation with the Commission on December 4, 1989. Based upon the application, and exhibits attached thereto, the Staff determines that there would be no adverse effects on the customers of Martell and that the proposed transfer and sale would be in the public interest.

On December 11, 1989, Martell notified all of its customers of the proposed transfer and sale, solicited comments or inquiries by December 29, 1989. In response to the notice the Commission has received two letters objecting to the proposed transfer and sale. The two letters of inquiry appear to be based partly on misconceptions and marginal information about the proposed transfer. The Commission Staff has responded to the two inquiries explaining that the rationale for recommending the proposed transfer is the superior ability of the transferees to continue to render the required level of safe and adequate service.

In the Commission's opinion, the Staff's recommendation should be adopted in disposition of this matter.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions:

The Commission, under Section 393.190, RSMo 1986, must give approval to any sale or transfer of assets of a public utility under its jurisdiction. Based upon the verified application filed by Martell, the supporting exhibits and the recommendation of the Staff, the Commission concludes that the requested approval and authorization should be granted.

It is, therefore,

ORDERED: 1. That the sale and transfer of Martell Private Water & Sewer Co., Inc.'s franchise, works or system, to Public Water Supply District No. 2 of St. Charles County, Missouri and to East Central Missouri Water & Sewer Authority of St. Charles County, Missouri, be, and is, hereby authorized and approved.

ORDERED: 2. That Martell Private Water & Sewer Co., Inc. be, and is, hereby authorized to discontinue providing water and sewer service in its certificated area as of the date of the sale and transfer of its franchise, works or system.

ORDERED: 3. That Martell Private Water & Sewer Co., Inc.'s Certificate of Public Convenience and Necessity be, and is, hereby canceled, along with its tariff.

ORDERED: 4. That this Report and Order shall become effective on 26th day of January, 1990.

BY THE COMMISSION

Harvey G. Hubbs

Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Mueller, Rauch,
McClure and Letsch, CC., Concur.

Dated at Jefferson City, Missouri,
this 16th day of January, 1990.