

**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)	<u>Case No. SO-2007-0071</u>
Jefferson County Public Sewer District)	
and in Connection Therewith, Certain)	
Other Related Transactions.)	

**PUBLIC COUNSEL’S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its
Proposed Findings of Fact and Conclusions of Law states as follows:

PROPOSED FINDINGS OF FACT

1. Central Jefferson County Utilities, Inc. (Central Jefferson) is a public utility that provides water and sewer service to Raintree Plantation Subdivision. Jefferson County, Missouri.
2. Central Jefferson filed an application to transfer its water and sewer utility assets to Jefferson County Sewer District (Sewer District) with capital improvements and operations and maintenance to be provided by Environmental Management Corporation (EMC).
3. Neither the Sewer District nor EMC is regulated by the Missouri Public Service Commission (Commission).
4. Raintree Plantation, Inc. is the developer who developed Raintree Plantation, Subdivision.

5. Raintree Plantation, Inc. is owned and controlled by the same persons who own and control Central Jefferson.

6. The Tri-Party Agreement between Central Jefferson, the Sewer District and EMC has been signed, but is dependent on Commission approval of the transfer.

7. The Tri-Party Agreement between Central Jefferson, the Sewer District and EMC has many of its terms dependent on other documents such as the DNR Compliance Agreement, the Sewer District/EMC Agreement, and the Sewer District/Raintree Plantation, Inc. Agreement.

8. Public Counsel has a pending complaint with the Commission alleging that Central Jefferson is over earning at current water and sewer rates.

9. Public Counsel's pending complaint was filed as a result of a Public Service Commission Staff (Staff) audit of Central Jefferson which determined that both the water and sewer operations were overearning. (Tr. 737)

10. The Tri-Party Agreement states that the Sewer District will approve an increase in rates and allows that increase immediately on day one after the transfer is complete. (Tr. 154-155)

11. The Tri-Party Agreement does not contain a minimum amount that EMC must spend on upgrades at Raintree Plantation Subdivision. (Tr. 75)

12. The maximum that EMC must spend on the capital improvements is \$1.8 million minus the amount paid for the water tower debt minus "customary and reasonable fees." (Tr. 165-166)

13. There is no agreement between EMC and the Sewer District for future expansion beyond the expansion set out in the Tri-Party Agreement. (Tr. 143)

14. The Sewer District has not made a decision on exactly what fees it is going to collect for water and sewer service. (Tr. 202, 230 & 255)
15. The water and sewer rates to be paid by owners at Raintree Plantation Subdivision are subject to change in the future. (Tr. 202-203)
16. No documentation was provided with the proposed rate study by the Sewer District or EMC which would allow a thorough review of the reasonableness of the proposed fees. (Tr. 740)
17. The Sewer District/Raintree Plantation, Inc. Agreement provides for a portion of the money collected from the ratepayers to be given to Raintree Plantation, Inc. (Tr. 205)
18. There is no agreement setting the maximum amount Raintree Plantation, Inc. is entitled to recoup from the ratepayers. (Tr. 268-269)
19. If an owner refuses to pay the connection fee collected on behalf of Raintree Plantation, Inc, the Sewer District and EMC will deny that owner water and sewer service. (Tr. 157 & 263)

PROPOSED CONCLUSIONS OF LAW

20. The Commission's 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.
21. The proposed transfer is detrimental to the public interest because it removes the Commission's rate supervision and protection of the customer at a time when Public Counsel alleges overearnings under existing rates.

22. The proposed transfer is detrimental to the public interest because the Tri-Party Agreement is not specific enough to provide the Commission with assurance the public will not be harmed.

23. The proposed transfer is detrimental to the public interest because the same parties that caused the situation will still be in the background, collecting money from the ratepayers and retaining control over service, but they will no longer be regulated by the Public Service Commission.

24. The Commission has the authority to place conditions on the proposed transfer which will make the proposed transfer non-detrimental to the public.

25. Conditions such as setting the amount and timing of any rate increase; setting a minimum amount or percentage of the maximum that EMC must spend on capital improvements; requiring a preliminary plan on how the Sewer District will address the remaining phases of Raintree Plantation Subdivision development; removing control of who gets service from Raintree Plantation, Inc./Central Jefferson; and any other conditions the Commission deems necessary and proper 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

By: _____

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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 19th day of January 2007:

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