

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 21st day
of March, 2006.

In the Matter of the Joint Application of South)	
Jefferson County Utility Company and the)	
Summer Set Property Owners Association for)	<u>Case No. WD-2006-0157</u>
Cancellation of a Certificate of Convenience)	
and Necessity and Associated Tariff Sheets)	

ORDER APPROVING TRANSFER OF ASSETS

Issue Date: March 21, 2006

Effective Date: March 31, 2006

Background

On July 19, 2005, South Jefferson County Utility Company and Summer Set Property Owners Association filed an application with the Missouri Public Service Commission to: 1) cancel the certificate of service authority of the Company; and 2) approve the Association's operation of the water and sewer service solely for the residents of Summer Set independent of the Commission's regulatory authority. The Company then intends to transfer its water and sewer assets to the Association. The Association would then own and operate the system exclusively on behalf of its members, the homeowners within the Summer Set development.

In 1974 the Commission granted the Company a certificate to provide water and sewer service in Summer Set. In 1979 the Property Owners Association purchased all of the outstanding shares of the Company and the Company continued to provide the services for the residents of Summer Set. To date, the Company has continued to operate

the services exclusively for the residents of Summer Set. The Association now desires to operate the services exclusively for the benefit of its members, which includes all of the residents of Summer Set.

Staff Recommendation

The Staff of the Commission recommends that the Commission issue an order that

- Authorizes the Company to transfer its water and sewer utility assets to the Association;
- Directs the Applicants to send notice of the transfer of assets to the customers; including in that notice, a statement that the Public Service Commission will no longer regulate the services;
- Directs the Applicants to file a notice of its application with the Department of Natural Resources for transfer of the Company's permits to the Association in this case;
- Directs the Applicants to file a notice of the closing of the subject assets transfer in this case;
- Directs the Applicants to file notice of the dissolution of the Company's corporate standing in this case; and
- Cancels the Company's certificates and tariffs effective upon the notices of the closing of the transfer of assets and the dissolution of the Company being filed in this case.

Discussion

Section 393.190, RSMo 2000, and Commission rule 4 CSR 240-2.060(7) govern this transfer of assets. Section 393.190 requires water and sewer companies to obtain authorization from the Commission prior to transferring assets. This section also requires a statement as to the impact, if any, that the transfer will have on the tax revenues of the political subdivision(s) where its assets are located. Applicants have stated that the transfer will have no impact on the tax revenues of the political subdivision where its assets are located.

Commission rule 4 CSR 240-2.060(7) requires a brief description of the property involved, a copy of the contract or agreement of sale, verification, the reason for the proposed sale and, if the purchaser is subject to the jurisdiction of the Commission, a balance sheet and income statement with adjustments showing the results of the acquisition of the property. Applicants have described the property as South Jefferson County Utility Company. Applicants filed a verified application. Applicants want to transfer the property because the Association, in 1979, purchased all of outstanding shares of the company and has directed the operation of the company through the company's officers and board of directors. The Association now desires to assume full control of its utility services. Through a pleading filed on March 14, 2006, Applicants state that there will be no "contract or agreement of sale", the production of which is required by Commission rules. Applicants go on to explain that no money will change hands as a result of the transfer; that "[t]he transfer . . . would merely conclude a process initiated in 1979, at which time all of the stock of the company was sold to the Association"

The transferee of the company will be the Summer Set Property Owners Association. The Commission rule requires the transferee to file a balance sheet and income statement with adjustments showing the results of the acquisition of the property. The transferee has not filed a balance sheet and income statement. However, this requirement is conditioned upon the transferee being subject to the jurisdiction of the Commission.

Section 386.250(3), RSMo 2002, grants jurisdiction over all water and sewer corporations to the Commission. Section 386.020(58) includes in the definition of water and sewer corporations, "associations" and "persons." However:

- (a) The Association was organized as a not-for-profit corporation for the benefit of the property owners.
- (b) All customers currently served by the subject water and sewer utility assets are members of the Association.
- (c) Only members of the Association will be served by the subject water and sewer utility assets.
- (d) The Association's action regarding water and sewer utility matters will be under the control of the members that are also the customers served by the subject water and sewer utility assets.
- (e) The Association will own the subject water and sewer assets and thus have control over such assets.

Based on these factors and the Commission's expressed policy regarding its jurisdiction over homeowners' associations in case number WD-93-307 and again in case number WO-2003-0086, and Staff's opinion that the Commission should not exert jurisdiction over the Association, the Commission will not exert jurisdiction subsequent to the acquisition of the assets by the Association.

Conclusion

The Commission has reviewed the application and Staff's Recommendation and, finding that the proposed transfer will not be detrimental to the public interest, will approve the application. The Commission will also require the Applicants to notify the Commission upon the completion of the transfer so that the certificate of South Jefferson County Utility may be canceled.

IT IS ORDERED THAT:

1. The transfer of South Jefferson County Utility Company to the Summer Set Property Owners Association is approved.

2. Upon the transfer of South Jefferson County Utility Company to the Summer Set Property Owners Association, the Joint Applicants shall file a pleading informing the Commission of the completed transfer.

3. The Joint Applicants shall send notice of the transfer of the assets to the customers; including in that notice, a statement that the Public Service Commission will no longer regulate the services.

4. The Commission's Data Center shall send a copy of this order to the Department of Natural Resources.

5. This order shall become effective on March 21, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Gaw, Clayton,
and Appling, CC., concur.
Murray, C., absent.

Jones, Regulatory Law Judge