

Office of the Public Counsel, )  
an agency of the State of Missouri, )  
COMPLAINANT )  
 )  
v. )  
 )  
Central Jefferson County Utilities, Inc., )  
RESPONDENT )

V.

COMES NOW the Office of the Public Counsel and for its Response to Order Directing

Filing states as follows:

1. On April 11, 2007<sup>1</sup>, in light of the sale agreement approved in Case No. SO-2007-0071, the Missouri Public Service Commission (Commission) ordered the parties to state whether or not this case should proceed to hearing, or should be dismissed.
2. Public Counsel believes this complaint case should not be dismissed and should proceed to hearing in a timely manner.
3. Central Jefferson County Utilities, Inc. (Central Jefferson) is a water corporation, a sewer corporation and a public utility within the scope of Chapters 386 and 393, RSMo, and is subject to the jurisdiction, regulation and control of this Commission.
4. On February 8, the Commission issued its Report and Order<sup>2</sup> approving Central

<sup>2</sup> *Report and Order*, 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 Jefferson County Public Sewer District and in Connection Therewith, Certain Other Related Transactions, Case No. SO-2007-0071, et al., February 8, 2007.

Jefferson's request to sell certain water and sewer assets to Jefferson County Public Sewer District (Sewer District).

5. A Report and Order granting the authority to transfer utility assets does not automatically remove a utility from the jurisdiction and control of the Commission. A utility which has been granted the authority to transfer its assets remains a public utility subject to the jurisdiction of the Commission until such time as the transfer of assets is final.

6. On March 9, Central Jefferson filed a Status Report<sup>3</sup> stating that steps were being taken by Central Jefferson, the Sewer District and Environmental Management Corporation (EMC), but the sale transaction had not been finalized. No specific date was given when the sale would be final.

7. On April 9, Central Jefferson filed its April Status Report<sup>4</sup> stating that steps were being taken by Central Jefferson, the Sewer District and EMC, but again, the sale transaction had not been finalized. As before, no specific date was given when the sale would be final, but Central Jefferson stated that the request for approval by the Circuit Court would not be heard until at least May 2.

8. Since no exact time frame has been given, or is expected to be given, as to when the transfer will be final, Central Jefferson remains a public utility subject to the jurisdiction of the Commission for the foreseeable future.

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<sup>3</sup> *Central Jefferson's Status Report*, 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 Jefferson County Public Sewer District and in Connection Therewith, Certain Other Related Transactions, Case No. SO-2007-0071, et al., March 9, 2007.

<sup>4</sup> *Central Jefferson's April Status Report*, 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 Jefferson County Public Sewer District and in Connection Therewith, Certain Other Related Transactions, Case No. SO-2007-0071, et al., April 9, 2007.

9. The Commission's files contain many examples where sale agreements have fallen through or taken a year or more to become final<sup>5</sup> due to a myriad of reasons. Therefore, it is quite possible that this sale could fail to occur, or could drag on, all while the ratepayers continue to pay existing rates to a utility that is allegedly over earning.

10. The ratepayers who currently receive utility service from Central Jefferson certainly do not consider the actions of Central Jefferson to be moot in light of the approval of Central Jefferson's application for transfer of assets. The ratepayers have the right to demand rates that are fair and reasonable even while awaiting a transfer of assets. It is unfair to the ratepayers to require them to bear the burden of the risk that the sale could drag on or even fail to occur.

11. The Commission's General Counsel filed two complaints<sup>6</sup> against Central Jefferson on April 13, alleging failure to provide safe & adequate service, provision of unsafe sewer services to the public and seeking authority to seek penalties. This action strongly indicates that the General Counsel and the Commission Staff also do not consider the actions of Central Jefferson to be moot in light of the approval of Central Jefferson's application for transfer of assets.

12. Therefore, Public Counsel believes this complaint case should not be dismissed and should proceed to hearing as scheduled.

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<sup>5</sup>*Twelfth Status Report*, In the Matter of Lincoln County Utilities Co.'s Application to Sell Its Sewer/Treatment Facilities to the Public Water Supply District No. 1 of Lincoln County, Missouri, Case No. SM-2006-0369, April 13, 2007.

<sup>6</sup> *Complaint*, Staff of the Missouri Public Service Commission v. Central Jefferson County Utilities, Inc., Raintree Plantation, Inc., Jeremiah Nixon, Kenneth McClain, Norville McClain, and the Norville McClain Trust, Case Nos. WC-2007-0394 and SC-2007-0396, April 13, 2007.

13. While Public Counsel believes that this complaint case should proceed to hearing as scheduled, another option available to the Commission is a continuance of the scheduled April 30 to May 1 evidentiary hearing. If the continuation of the hearing is short, reasonable, and to a defined date, Public Counsel might not object. However, Public Counsel does not in any way concede or admit that the over earnings complaint is moot.

**WHEREFORE,** Public Counsel respectfully requests that the Commission allow this case to proceed to hearing.

Respectfully submitted,

OFFICE OF THE Public Counsel

**/s/ Christina L. Baker**

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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 18<sup>th</sup> day of April 2007:

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