

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held by telephone
and internet audio conference
on the 30th day of September,
2020.

In the Matter of the Application of Middlefork)	
Water Company and Nodaway County Public)	
Water Supply District Number One for an Order)	
Authorizing the Sale, Transfer and Assignment)	<u>File No. WM-2021-0003</u>
of Certain Water Production Assets to Nodaway)	
County Public Water Supply District Number)	
One and in Connection therewith Certain Other)	
Related Transactions)	

ORDER APPROVING TRANSFER OF ASSETS

Issue Date: September 30, 2020

Effective Date: October 30, 2020

On July 2, 2020,¹ Middlefork Water Company (Middlefork) and Nodaway County Public Water Supply District Number One (District) (together, Joint Applicants), filed an application for an order authorizing the sale, transfer and assignment of certain water production assets to the District. On August 5, the Commission issued its Order Directing Notice and Filing, setting a September 4 intervention date and Commission Staff (Staff) recommendation deadline. No applications to intervene were filed. Staff filed a recommendation on September 4, recommending the Commission approve Middlefork's sale and transfer of water production assets to the District.

Staff recommended the Commission authorize the transfer with the following conditions:

¹ Unless otherwise indicated all date references will be to 2020.

1. Require Middlefork to notify the Commission of closing on the water assets with the District within five days after closing.
2. Authorize Middlefork to cease providing service immediately after the District closes on the assets.
3. If closing on Middlefork's assets does not take place within thirty days following the effective date of the Commission's order, require Middlefork to submit a status report within five days after this thirty day period regarding the status of closing, and additional status reports within five days after each additional thirty day period, until closing takes place, or until Middlefork determines that the transfer of the assets will not occur.
4. If Middlefork determines that a transfer of the assets will not occur, require Middlefork to notify the Commission of such.
5. After receiving notice of closing, cancel the respective CCN and tariff authorizing Middlefork to provide water service.

Middlefork is a corporation organized under the laws of the state of Missouri. It is a "water corporation" as defined in Section 386.020, RSMo. Middlefork provides wholesale water services to its only two customers: the City of Stanberry, Missouri, and Grant City, Missouri (the Cities). Middlefork provides no water services directly to individual persons. The District is a duly authorized public water supply district organized under Chapter 247, RSMo. It is a political subdivision of the State of Missouri. It serves approximately 2,700 customers in all of Nodaway County and parts of Gentry and Worth Counties, Missouri, as well as several small cities and towns on a wholesale basis.

The District is controlled by an elected Board of Directors. It is the duty of this publicly elected Board to control the operations of the District, as well as address any customer issues and oversee any potential changes to future rates. While not subject to the jurisdiction of the Commission, the District is subject to oversight of the Board of Directors, and to Department of Natural Resources (DNR) and United States Environmental Protection Agency (EPA) regulations. According to DNR, there have been no violations over the last five (5) years for the District. The District has nearly \$2,000,000 in available cash for operations and an additional \$30,000,000 in available bonding capacity, in order to address any long-term improvements and/or expansion plans. In addition to these qualifications, the District also examined the costs associated with the past five (5) years of production as though the District, a public entity, were running the plant, with an allowance for an increase of 15-20%. This examination determined the District could operate with the same initial rates as Middlefork currently charges.²

Middlefork currently provides water service to the Cities at the rate of \$3.25/1,000 Gal. These rates have been in effect since January 1, 2019. The District has entered into agreements with the Cities to continue to provide them with water at the current rate of \$3.25/1,000 Gal, which will be fixed for one year. At the end of that year, the water rates will be adjusted based on actual water production costs for future years, without any profit margin included in the rates charged to the Cities by the District's duly elected Board of Directors. The Cities and the District have also negotiated arrangements whereby the District will initially finance the costs associated with establishing a redundant water supply to the Cities, which will be repaid by the Cities via a surcharge paid to the District

² Staff Report, Case File Memorandum, p. 2.

over a time at acceptable rates, as determined by the District's publicly elected Board of Directors. Staff concluded that the sale and transfer of assets would result in very little direct impact to customers, as rates and operations will be substantially unchanged.

The Commission has jurisdiction to rule on the application because Missouri law requires that "[n]o gas corporation, electrical corporation, water corporation or sewer corporation shall hereafter sell. . .its. . .works or system. . .without having first secured from the commission an order authorizing it so to do."³ The Commission may deny the application only if approval would be detrimental to the public interest.⁴

Based upon the information provided in the verified joint application and upon the verified recommendation and memorandum of Staff, the Commission finds that the proposed transfer of assets is not detrimental to the public interest. The joint applicants have filed no objections to Staff's recommendation. No party requested an evidentiary hearing in this matter, and no law requires one; so the Commission may grant the application's request based upon the verified joint application and Staff's verified recommendation.⁵ Based upon its review of the joint application and Staff's recommendation, the Commission will grant the application with the conditions Staff has recommended.

THE COMMISSION ORDERS THAT:

1. The joint application for the District to acquire Middlefork's water assets is granted, as stated in the next paragraphs.

³ Section 393.190.1, RSMo.

⁴ *State ex rel. City of St. Louis v. Public Service Comm'n of Missouri*, 73 S.W.2d 393, 400 (Mo. 1934).

⁵ See *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. W.D. 1989).

2. Middlefork is authorized to sell and transfer to the District and the District is authorized to acquire the water utility assets located in Gentry County, Missouri, described in the joint application.

3. The District and Middlefork are authorized to do and perform, or cause to be done and performed, all such acts and things, as well as make, execute and deliver any and all documents as may be necessary, advisable and proper to the end that the intent and purposes of the approved transaction may be fully effectuated.

4. Middlefork shall notify the Commission of closing on the water assets with the District within five days after closing.

5. Middlefork shall cease providing service immediately after the District closes on the assets.

6. If closing on Middlefork's assets does not take place within thirty days following the effective date of the Commission's order, Middlefork shall submit a status report within five days after this thirty day period regarding the status of closing, and additional status reports within five days after each additional thirty day period, until closing takes place, or until Middlefork determines that the transfer of the assets will not occur.

7. If Middlefork determines that a transfer of the assets will not occur, Middlefork shall notify the Commission of such.

8. Middlefork's CCN and tariff authorizing it to provide water service shall be cancelled, effective when the District files notice of closing with the Commission.

9. This order shall become effective on October 30, 2020.



BY THE COMMISSION

Morris L. Woodruff

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Graham, Regulatory Law Judge