

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 1st day of  
June, 2006.

|   |   |                                     |
|---|---|-------------------------------------|
| In the Matter of the Application of Camelot Estates   | ) |                                     |
| Association to Sell and Transfer Its Water Franchise, | ) |                                     |
| Works or System to Camden County PWSD#3, a            | ) | <b><u>Case No. WM-2006-0310</u></b> |
| Water District Organized Pursuant to Section 247.010, | ) |                                     |
| <i>et seq.</i> , of the Revised Statutes of Missouri. | ) |                                     |

**ORDER CANCELING CERTIFICATE AND DISMISSING CASE**

Issue Date: June 1, 2006

Effective Date: June 11, 2006

**Background**

In 1989, Case No. WA-89-1, the Missouri Public Service Commission granted a certificate of convenience and necessity to provide water service to Camelot Utilities Company. Camelot Utilities never filed a tariff with the Commission and was administratively dissolved in 1996. From 1996 until 2001, the former shareholders of Camelot Utilities continued to provide water to the residents of the subdivision until they transferred the water assets to Camelot Estates Association.

The Association's members are comprised only of people owning lots in Camelot Estates subdivision. The Association began charging a flat fee of \$15/month in 2002. That amount was raised to \$20/month in 2005. The Association and the Camden County Public Water Supply District #3 have now filed an application with the Commission seeking authority to transfer the water assets to Camden County PWSD#3.

Upon the parties filing the application, the Commission issued an Order and Notice inviting interested entities to intervene. There were no requests for intervention. The Staff of the Commission did, however, file a memorandum recommending that the Commission approve the proposed transfer.

### **Staff Memorandum**

Staff informs the Commission that the original water system dates to approximately 1974 and new homes have been constructed and added to the system. At present, Staff states that it is reported that there are over 460 customers and that there is enough water to supply the present customers during normal operating conditions. Because it never filed a tariff, filed an annual report or paid an annual assessment, due to zero revenue, to Staff's knowledge, Camelot Utilities never began charging its customers for service. Staff concludes that the company appears not to have exercised its certificate for the two-year period immediately after the Commission granted authority to the company to provide water service. Based on this, Staff opines that the company's certificate may be void.

In its memorandum, Staff states that although the applicants state in the application that the rate for service will increase from \$20, now being charged by the Association, to \$27.50, Staff has been informed that the District intends to initially adopt the \$20 per month flat rate. However, in light of additional facilities being planned, the rate would likely increase to no more than \$27.50.

Staff adds that although the Association holds itself out to be subject to the Commission's jurisdiction, Staff does not believe an association of property owners is subject to Commission regulation.

Finally, Staff was informed by the Department of Natural Resources that the original company, Camelot Utilities, or the Association have sporadically had a number of water samples exceed bacteriological limits, though not significant enough for compliance enforcement and not since 2004.

## **Discussion**

The Commission has jurisdiction over water corporations.<sup>1</sup> A water corporation is defined as one that supplies water for a gain.<sup>2</sup> The Commission granted a certificate of convenience and necessity to provide water to Camelot Utilities.

The Commission does, however, note that it did not authorize the transfer of Camelot Utilities' assets to the Association. Without such authorization, the transfer was void<sup>3</sup> and made without the benefit of Commission scrutiny. Therefore, the Commission will not approve the application. To do so, the Commission must assume the Association legally owns the assets. This assumption cannot be made. However, for the reasons explained below, the Commission will neither reject nor approve the application.

Having received its assets from Camelot Utilities, the Association seeks authority to transfer the assets to the Camden County PWSD#3. In general, homeowners' associations may be subject to the Commission jurisdiction as water corporations. The Association, despite not having a certificate, believes it is subject to the Commission's jurisdiction. However, the Commission's past practice has been to not assert jurisdiction over homeowners' associations similar to the Association. The Commission has expressed its policy regarding jurisdiction over homeowners' associations in case numbers WD-93-307,

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<sup>1</sup> Section 393.140 (1) RSMo (2000).

<sup>2</sup> Section 386.020 (58) RSMo (2000).

<sup>3</sup> Section 393.190 .1 RSMo (2000).

WO-2003-0086, and more recently, WD-2006-0157. Through these cases, the Commission's policy is reflected in the following factors:

- (a) The Association was organized as a not-for-profit corporation for the benefit of the property owners.<sup>4</sup>
- (b) All customers currently served by the subject water utility assets are members of the Association.
- (c) Only members of the Association will be served by the subject water utility assets.
- (d) The Association's action regarding water utility matters will be under the control of the members that are also the customers served by the subject water utility assets.
- (e) The Association owns the subject water assets and thus has control over such assets.

Consistent with its policy, the Commission will not assert jurisdiction over the Association in this matter.

Camden County PWSD#3 is a public water supply district. The Commission does not have jurisdiction over the rates and charges imposed by a public water supply district.<sup>5</sup> Further, a public water supply district is not included in the definition of a "water corporation", over which the Commission has been granted jurisdiction.

### **Cancellation of Camelot Utilities' Certificate**

After being certificated to provide water, Camelot Utilities never filed a tariff or annual reports. The company has not paid any assessments and no longer exists. Notwithstanding, it is still listed in the Commission's records as having a certificate to provide water. Therefore, the Commission will cancel the company's certificate.

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<sup>4</sup> The Commission takes administrative notice that the Missouri Secretary of State lists the Association as a not-for-profit corporation in good standing.

<sup>5</sup> Section 247.110.1 RSMo (2000).

## **Conclusion**

Neither applicant is certificated by the Commission to provide water service. Further, it has not been shown that the proposed transfer would be detrimental to the public interest and Staff opines that the transfer is not a detriment to the public interest. For these and the reasons stated above, the Commission will not exercise jurisdiction over the proposed transaction and will dismiss this case.

### **IT IS ORDERED THAT:**

1. The certificate of convenience and necessity, to provide water service, granted to Camelot Utilities Company in Case No. WA-89-1, is canceled.
2. This case is dismissed.
3. This order shall become effective on June 11, 2006.
4. This case may be closed on June 12, 2006.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

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

Jones, Regulatory Law Judge