

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Joint Application of)
Moore Bend Water Company, Inc. and)
Moore Bend Water Utility, LLC for) File No. WM-2012-0335
Authority of Moore Bend Water Company,)
Inc. to Sell Certain Assets to Moore Bend)
Water Utility, LLC.)

**THE OFFICE OF THE PUBLIC COUNSEL’S RESPONSE
TO STAFF’S RECOMMENDATION**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response to Staff’s Recommendation states as follows:

1. On April 11, 2012, Moore Bend Water Company, Inc. (Moore Bend) and Moore Bend Water Utility, LLC (MBU) filed a Joint Application with the Missouri Public Service Commission (Commission) requesting authority for Moore Bend to sell certain assets to MBU.
2. On July 9, 2012, the Staff of the Missouri Public Service Commission (Staff) filed its Recommendation asking that the Commission approve the Joint Application subject to recommendations attached as Appendix A.
3. After a thorough review of the Joint Application, Staff’s work papers, as well as discussion with several members of Staff, Public Counsel now states that it objects to Staff’s Recommendation.
4. The Joint Application asked the Commission to issue an Order authorizing Moore Bend to sell and MBU to acquire the assets of Moore Bend identified in the Asset Purchase Agreement attached to the Joint Application as Exhibit F. A review of the assets to be acquired revealed that there was no mention of the transfer of the real property where the two wells are located, nor was

there any documentation that legal access in the form of easements to the well sites is being transferred to MBU.

5. It is crucial that the owner of the utility have legal access to the well sites. However, Staff's Recommendation contains no verification that legal access exists even though it is quite obvious the lack of legal access to the wells would greatly affect the utility's ability to provide safe and adequate service.

6. Public Counsel requested from Staff documentation regarding the ownership of the well sites and the existence of legal easements for utility access to the well sites. Staff was unable to provide sufficient documentation to determine the ownership of the well site properties or the existence of legal easements for utility access. Without this documentation, Public Counsel has no way to verify that the proposed transaction is in the public interest as Staff' claims in its Recommendation.

7. Subsequently, Public Counsel was able to verify the ownership of the well site properties. Public Counsel met with the parties and the current owner of the well site properties to determine if legal access to the well sites exists. Through this meeting, Public Counsel was able to verify that legal access does not exist at this time. But during the discussion, a verbal agreement was made to take steps to transfer ownership of the well site properties to MBU and submit that transfer of ownership agreement to the Commission for consideration in this case. The participants to the call were made aware that any transfer of ownership agreement would be reviewed by Public Counsel and Staff to determine whether it is in the public interest.

8. Staff's Recommendation is still pending before the Commission even though Staff is aware that it cannot produce the necessary documentation of legal access to the well sites at this time. Therefore, Public Counsel has no choice but to object. Once the transfer of ownership

agreement has been submitted to the Commission and verified by Public Counsel and Staff to be in the public interest, Public Counsel will withdraw its objection.

9. Additionally, Public Counsel has concerns regarding wording in Staff's Official Case File Memorandum (Memorandum) attached as Appendix A. The first paragraph in Staff's Findings and Conclusions on Page 4 of 6 of the Memorandum states:

In this case, Staff recommends the sale of water utility assets be approved on the conditions that no acquisition adjustment be reflected in rates, and that the rate base valuation for future rate cases should not include the full purchase price of \$20,000, the treatment discussed above, and MBU's acceptance of all other recommendations enumerated in this Memorandum.

Staff's Recommendations on Page 6 of 6 of the Memorandum then suggests that the Commission should issue an order including the following language:

3. Orders no recovery of acquisition adjustment or acquisition premium in this case;

Public Counsel believes that Staff's Memorandum and Recommendations should be very clear that the issue in this case is one of an acquisition premium and that the sale of assets should be approved on the condition that no acquisition premium be reflected in rates in this case or any future case. It is Public Counsel's position that Staff's Recommendation should therefore state: "3. Orders no recovery of acquisition premium in this case and future rate cases."

WHEREFORE, Public Counsel respectfully submits its Response to Staff's Recommendation.

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 July 2012:

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