

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 16th day of
December, 2015.

In the Matter of Foxfire Utility Company for Authority)
to Transfer Certain Water Assets Located in Benton) **File No. WM-2016-0094**
County, Missouri to Upper White River Basin)
Foundation, Inc. and, in Connection Therewith, Certain)
Other Related Transactions.)

ORDER APPROVING TRANSFER OF UTILITY ASSETS

Issue Date: December 16, 2015

Effective Date: December 26, 2015

Foxfire Utility Company (“Foxfire”) is a “water corporation” and a “public utility,” as those terms are defined in Section 386.020 RSMo.¹ The Commission granted a certificate of convenience and necessity to Foxfire in File No. WA-2001-53, which authorized the company to provide water service to customers in its “Spring Branch” water system located in Benton County, Missouri.² On October 22, 2015, Foxfire filed an application with the Commission seeking authority to transfer certain water utility assets. Section 393.190, RSMo requires a water corporation obtain the Commission’s authorization prior to the sale or transfer of its franchise, works or system.

Foxfire entered into an agreement to donate its Spring Branch water system to Upper White River Basin Foundation, Inc. (“Upper White River Basin”), a Missouri non-profit corporation, whose mission is to promote water quality in the upper White River

¹ All statutory reference are to the Missouri Revised Statutes as cumulatively supplemented, unless indicated otherwise.

² Foxfire serves approximately 104 customers in its Spring Branch Water System. Foxfire also provides water and sewer service to approximately 244 customers in Stone County, Missouri, as authorized by a certificates granted by the Commission in File No. WA-95-31. Foxfire’s application to transfer assets to Upper White River Basin will not impact the company’s continued service as a Commission regulated utility to its Stone County customers.

watershed. Foxfire's Board of Directors passed a resolution authorizing the donation and related transactions to complete the transfer to Upper White River Basin. Upper White River Basin is associated with Ozarks Clean Water Company ("Ozarks Clean Water"). Ozarks Clean Water is a not-for-profit corporation approved by the Missouri Department of Natural Resources to receive funds from the State Revolving Fund program, a low interest loan program.³ Upper White River Basin intends to immediately transfer ownership of the Spring Branch system to Ozarks Clean Water to provide water utility services. Neither Upper White River Basin nor Ozarks Clean Water are subject to the jurisdiction of the Commission.

The Commission issued an order directing the Commission's Staff to file a recommendation, directing notice be provided, and setting a deadline for the filing of applications to intervene. No applications to intervene were received. On November 25, Staff timely filed its recommendation. Staff recommends the Commission approve the donation and transfer of the water utility assets with notification requirements and changes to Foxfire's tariff after the transfer is accomplished.

On December 5, Foxfire filed a *Notice of Agreement* stating that it has no objections to Staff's recommendations. Having reviewed the filings, the Commission finds that the proposed transfer to Upper White River Basin is not detrimental to the public interest. The Commission will approve the transfer of the water assets for the Spring Branch system to Upper White River Basin.

³ Ozarks Clean Water contracts with White River Valley Environmental Services to operate the systems it uses to serve customers in the Table Rock Lake area. Ozarks Clean Water states that it intends to initially adopt Foxfire's Spring Branch approved rates of \$25.29 per month flat rate for full time residential customers and \$19.90 per month for part time residential customers.

Since the application was unopposed and the parties need sufficient time to prepare for the transfer of assets without interrupting service, the Commission finds good cause exists to shorten the time period before the effective date of this order to ten days.

THE COMMISSION ORDERS THAT:

1. Foxfire Utility Company is authorized to donate and transfer its Spring Branch system water utility assets to Upper White River Basin Foundation, Inc.

2. Upon the closing of the transfer of assets, Foxfire Utility Company shall immediately cease providing service.

3. Foxfire Utility Company shall notify the Commission of closing on the transfer of water assets to Spring Branch system water utility assets to Upper White River Basin Foundation, Inc. within five days after such closing.

4. If the closing of the sale of assets does not take place within thirty (30) days of the effective date of this order, Foxfire Utility Company shall submit a status report within thirty five (35) days of the effective date of this order and every thirty five (35) days thereafter until the closing takes place or until the company determines the sale and transfer of assets will not occur.

5. If Foxfire Utility Company determines that a transfer of the assets will not occur, the company shall notify the Commission.

6. Foxfire Utility Company shall submit revised tariff sheets to remove text, rates, and references to the Spring Branch or Benton County service area within twenty days of the closing of the transfer authorized in ordered paragraph 1.

7. This order shall be effective on December 26, 2015.

BY THE COMMISSION



Morris L Woodruff

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney,
Rupp, and Coleman, CC., concur.

Burton, Regulatory Law Judge.