

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

In the Matter of the Joint Application of Taney)
County Utilities Corporation and Taney County)
Water, LLC for Authority of Taney County)
Utilities Corporation to Sell Certain Assets to)
Taney County Water, LLC.)

Case No. WM-2011-0143

**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 November 18, 2010, Taney County Utilities Corporation (TCU) and Taney County Water, LLC (TCW) filed a Joint Application seeking authority from the Missouri Public Service Commission (Commission) to sell and transfer water utility assets owned and operated by TCU to TCW.
2. On March 4, 2011, the Staff of the Missouri Public Service Commission (Staff) filed its Recommendation in which Staff recommended that the Commission grant TCU the authority to sell and transfer its water utility assets to TCW and requested that the Commission incorporate the recommendations listed in Appendix A of Staff’s Recommendation.
3. Public Counsel now states that it opposes Staff’s Recommendation.
4. Page 1 of Appendix A to Staff’s Recommendation states the following:

On November 18, 2010, Taney County Utilities Corporation (TCU) and Taney County Water, LLC (TCW) (jointly referred to hereafter as the Applicants) filed a *Joint Application* in which they seek approval of the Commission to sell and transfer water utility assets owned and operated by TCU to TCW, along with other incidental approvals including recognition of the full purchase price of the assets as the rate base of the assets purchased by TCW. TCU and TCW also state that assets were actually in fact transferred on or about August 18, 2010, by the

terms of an agreement that they had entered into, and request such approval to be retroactive to that date.

5. Additionally, Page 2 of Appendix A to Staff's Recommendation states the following:

During its investigation, the Staff reviewed the annual reports that TCU filed with the Commission from 2001 to 2009. Staff also reviewed invoices provided by TCU ranging in date from 2001 to June 2010.

In light of the above, Staff was able to calculate estimated numbers and an estimated rate base balance as of August 31, 2010 for the water systems involved in the *Joint Application*. Staff computed the following numbers using the above information: an estimated Plant In Service balance of \$538,686; estimated Accumulated Depreciated Reserve balance of \$284,434; estimated Contribution in Aid of Construction of \$164,885 estimated Outstanding Customer Deposits plus the accumulated interest of \$19,326, which brings the ending estimated rate base balance to \$70,041.

6. Public Counsel has reviewed Staff's ending rate base balance calculation and believes that Staff inaccurately calculates a higher ending rate base balance than actually exists. Public Counsel is working with Staff to verify the actual ending rate base calculation; however at this time, Public Counsel opposes Staff's calculation of \$70,041 as the ending estimated rate base balance.

7. Public Counsel notes that even using Staff's calculation; the ending estimated rate base balance is significantly lower than the purchase price for the transfer which actually occurred on August 18, 2010. It is Public Counsel's position that the difference between the purchase price and the ending rate base balance represents a significant acquisition premium. It would be detrimental to the ratepayers if TCW were to be allowed repayment of this acquisition premium by customers in a future rate case.

8. Page 3 of Appendix A to Staff's Recommendation states the following:

In the *Joint Application*, the Applicants requested that the full purchase price of the assets be recognized as the rate base of said assets. Based upon Staff's review of the assets, Staff cannot agree to this condition because it is higher than Staff's estimated rate base balance. Staff has made the applicants aware of Staff's findings and it is Staff's understanding that TCW will not pursue using the full

purchase price of the assets for the rate base of said assets as a condition of this transaction.

Public Counsel also cannot agree to the condition that the full purchase price of the assets be recognized as the rate base of the assets of TCU. As stated above, it is Public Counsel's position that the difference between the purchase price and the ending rate base balance represents a significant acquisition premium. It would be detrimental to the ratepayers if TCW's request that the full purchase price of the assets be recognized as the rate base of said assets was to be granted by the Commission.

9. Staff states that TCW will not pursue using the full purchase price of the assets for the rate base of said asset. However, no such statement has been filed by TCW in this case. Therefore, the Commission should specifically deny the request that the full purchase price of the assets be recognized as the rate base of the assets of TCU.

10. Public Counsel also notes that Staff makes no recommendation regarding the ownership and control of the customer deposits TCU has collected and not refunded to customers. Public Counsel believes the Commission should make a clear determination of which entity is to control and refund customer deposits according to Commission Rule.

WHEREFORE, Public Counsel respectfully submits its Response.

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 14th day of March 2011:

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