

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

In the Matter of the Application of Foxfire Utility )  
Company for Authority to transfer Certain Water )  
and Sewer Assets Located in Stone County, )  
Missouri to Ozark Clean Water Company, and in )  
Connection Therewith, Certain Other Related )  
Transactions. )

**File No. WM-2022-0186**

**STAFF’S STATEMENTS OF POSITION**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and hereby files its *Staff’s Statements of Position*. On August 17, 2022, the Commission ordered the parties to file a list of issues, order of witnesses, and order of cross-examination and opening by October 14, 2022 and Statements of Position by October 19 2022.

**1. Should the Commission find that the sale or transfer of Foxfire Utility Company’s (a public utility) water and waste water assets to Ozarks Clean Water Company (a nonprofit sewer company under Sections 393.825-393.861, RSMo, and a nonprofit water company under Sections 393.900–393.954, RSMo) is not detrimental to the public interest, and approve the transaction?**

**Staff’s Position:** Yes, the Commission should find the sale/transfer is not detrimental to the public interest and approve the transaction.

Staff reviewed corporation documents and takes the position that the Ozarks Clean Water Company (“OCWC”) Board of Directors properly created a nonprofit water and sewer utility under the provisions of Chapter 355, RSMo, and organized originally as a nonprofit sewer utility within the parameters of Sections 393.825 through 393.861,

RSMo.<sup>1</sup> Under the provisions of Section 393.829(15), RSMo, nonprofit sewer utilities may also provide services and assume responsibilities of nonprofit water utilities.<sup>2</sup> While OCWC is not subject to the jurisdiction of the Commission, OCWC is led by a board of directors elected by the customers, who oversee and control the operations of OCWC, and preside over any customer issues, and OCWC will remain under the regulatory authority of the Department of Natural Resources (“DNR”).<sup>3</sup>

OCWC currently maintain multiple water and sewer systems in the area, and has kept these systems in compliance with DNR requirements.<sup>4</sup> OCWC appears to have the technical and financial wherewithal to operate and maintain the Foxfire system as well.<sup>5</sup> Staff takes the position that the proposed sale and transfer of assets from Foxfire to OCWC is not detrimental to the public interest, and therefore, recommends approval.

**2. If so, what conditions, if any, should the Commission impose on such approval?**

**Staff’s Position:** Staff recommends approval of the sale and transfer of the assets subject to the following conditions:

- a. Require Foxfire to notify the Commission of closing on the transfer of water and sewer assets to OCWC within five (5) days after closing;<sup>6</sup>
- b. Authorize Foxfire to cease providing service immediately after closing on assets;<sup>7</sup>

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<sup>1</sup> *Rebuttal Testimony of Jarrod Robertson*, P. 2 (September 23, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Rebuttal Testimony of Jarrod Robertson*, Schedule JJR-r2, P. 4 (September 23, 2022).

<sup>7</sup> *Id.*

c. If closing on Foxfire's assets does not take place within thirty (30) days following the effective date of the Commission's order, require Foxfire to submit a status report, in File No. WM-2022-0186 within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until Foxfire determines that the transfer of the assets will not occur;<sup>8</sup>

d. If Foxfire determines that a transfer of the assets will not occur, require Foxfire to notify the Commission of such;<sup>9</sup> and

e. After the above notice of transfer of assets to OCWC is received from Foxfire, cancel the CCN applying to Foxfire's Village of Indian Point service area.<sup>10</sup>

**WHEREFORE,** Staff submits its Statements of Position and continues its recommendation that the Commission approve the requested sale and transfer of assets from Foxfire to OCWC as such sale and transfer of assets is not detrimental to the public interest, and recommends the Commission require the proposed conditions set forth above.

Respectfully submitted,

**/s/ J. Scott Stacey**

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<sup>8</sup> *Id.*, at PP. 4-5.

<sup>9</sup> *Id.*, at P. 5.

<sup>10</sup> *Id.*

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been electronically mailed to all parties and/or counsel of record on this 18<sup>th</sup> day of October, 2022.

**/s/ J. Scott Stacey**