

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 27th day of April, 2011.

In the Matter of the Joint Application of )  
Missouri-American Water Company and )  
Roark Water & Sewer, Inc., for Authority )  
for Missouri-American Water Company to )  
Acquire Certain Assets of Roark Water & )  
Sewer, Inc., and, in Connection Therewith, )  
Certain Other Related Transactions. )

**File No. WO-2011-0213, et al.**

**ORDER GRANTING APPLICATIONS TO TRANSFER ASSETS, APPROVING  
STIPULATION AND AGREEMENT, AND GRANTING WAIVER**

Issue Date: April 27, 2011

Effective Date: May 7, 2011

The Missouri Public Service Commission is granting the two applications that are the subject of this action and approving the *Unanimous Stipulation and Agreement* (“agreement”).

**A. Procedural History**

On December 31, 2010, Roark Water & Sewer, Inc. and Missouri-American Water Company filed applications seeking approval for Roark’s sale of substantially all its assets to Missouri-American. Each application is titled *Joint Application and, if Necessary, Motion for Waiver* (“application”). File No. WO-2011-0213 (“this action”) related to water facilities and service. File No. SO-2011-0214 related to sewer facilities and service. On January 28, 2011, the Commission consolidated the cases.

The Commission sent notice of the application and set a deadline for applications to intervene. No applications to intervene were received. On March 7, 2011, Staff filed its recommendation favoring the applications with certain conditions. A

response to Staff's recommendation was filed by the applicants agreeing to Staff's recommendation. The Office of the Public Counsel also filed a response in which it disagreed with portions of Staff's recommendation. On April 6, 2011, the parties filed the agreement.

The Commission asked for clarification of the agreement on April 14, 2011, and the parties responded on April 18, 2011.

### **B. Waiver**

The applications also asked for the Commission to waive the 60-day notice requirement under 4 CSR 240-4.020(2), if necessary. The applicants explained that such waiver may not be necessary since matters of this type rarely become contested cases. The applicants went on to explain that good cause exists for granting such waiver since the application was filed within ten business days of the transaction being agreed to between the applicants. In addition, the applicants state that no purpose would be served to require the applicants to wait sixty days after their agreement to file the application with the Commission. The Commission finds that good cause exists to waive the notice requirement and waivers of 4 CSR 240-4.020(2) for these files are granted.

### **C. Decision**

The Commission has jurisdiction over this matter because Section 393.190.1, RSMo 2000, provides that:

[n]o . . . water corporation or sewer corporation shall hereafter sell . . . its . . . works or system . . . without having first secured from the commission an order authorizing it so to do.

Roark is subject to the statute because it is a water corporation<sup>1</sup> and a sewer corporation<sup>2</sup> providing water and sewer service to approximately 650 customers near Branson, Missouri. Missouri-American is subject to the statute because it is a water corporation and a sewer corporation providing water service in Missouri to approximately 452,000 customers and also providing sewer service in Missouri.

The Commission will only deny the application if approval would be detrimental to the public interest.<sup>3</sup> The parties request the Commission to approve the transactions with the additional conditions and terms set out in their agreement.

Based on the verified filings, the Commission finds and concludes that the sale will cause no detriment to the public interest, if the sale occurs under the agreement's conditions. Subject to such conditions, therefore, the Commission will approve the application and incorporate the agreement's terms into this order. The Commission will also require all parties to comply with the agreement.

**THE COMMISSION ORDERS THAT:**

1. A waiver of notice requirement under 4 CSR 240-4.020(2) is granted for File Nos. WO-2011-0213 and SO-2011-0214.
2. The Unanimous Stipulation and Agreement is approved and incorporated into this order as if fully set forth. The agreement is attached to this order as Appendix A.
3. The applications titled Joint Application and, if Necessary, Motion for Waiver are approved with the specific conditions set out in the Unanimous Stipulation and Agreement.

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<sup>1</sup> Section 386.020(59), RSMo Supp. 2010.

<sup>2</sup> Section 386.020(49), RSMo Supp. 2010.

<sup>3</sup> *State ex rel. City of St. Louis v. Public Service Comm'n of Missouri*, 73 S.W.2d 393, 400 (Mo. 1934).

4. Roark Water & Sewer, Inc. is authorized to sell and Missouri-American Water Company is authorized to acquire the assets of Roark Water & Sewer, Inc., identified in the Joint Applications, including the certificates of convenience and necessity held by the Roark Water & Sewer, Inc.

5. Missouri-American Water Company is authorized, to enter into, execute, and perform in accordance with the terms of the Asset Purchase Agreement and to take any and all other actions that may be reasonably necessary and incidental to performance of the acquisition.

6. Missouri-American Water Company shall notify the Commission within five business days after the assets have been transferred.

7. If closing on the assets has not occurred by June 6, 2011, Missouri-American Water Company shall file a status report with the Commission on that date and at the end of each subsequent 30-day period until the closing and transfer of assets is complete. Alternatively, if the transfer is not expected to be completed, Missouri-American shall notify the Commission.

8. Missouri-American Water Company shall, within five days after the assets have been transferred, adopt Roark Water & Sewer, Inc.'s currently approved tariffs by filing an adoption notice for each of those tariffs.

9. Missouri-American Water Company is authorized to file revised tariff sheets in compliance with the terms of the Unanimous Stipulation and Agreement.

10. The parties are directed to comply with all the terms of the Unanimous Stipulation and Agreement.

11. This file shall remain open for any filing required under the settlement as incorporated into this order.

12. This order shall become effective on May 7, 2011.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'S. Reed', written in a cursive style.

Steven C. Reed  
Secretary

( S E A L )

Gunn, Chm., Clayton, Davis,  
Jarrett, and Kenney, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge