

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

In the Matter of the Transfer of Assets of )  
Swiss Villa Utilities, Inc. to the Black Oak ) **Case No. WO-2007-0410**  
Mountain Resort Property Owners Association )

## ORDER DIRECTING STAFF TO FILE MONTHLY STATUS REPORTS

Issue Date: May 17, 2007

Effective Date: May 17, 2007

On April 20, 2007, the Staff of the Missouri Public Service Commission filed a verified motion requesting that the Commission authorize the transfer of the water and sewer utility assets of Swiss Villa Utilities, Inc. (“Swiss Villa”) to the Black Oak Mountain Resort Property Owners Association (“Black Oak”), subject to certain conditions.<sup>1</sup> Should Black Oak be unable to comply with those conditions, Staff further requested that the Commission permit it to seek a receiver to address Swiss Villa’s ongoing ownership and service issues.

Staff served a copy of its pleading on several entities with an interest in the subject matter of this case, including Swiss Villa, Black Oak, S.V. Holding, Inc., Quanah Corporation, and the County Commission of Stone County. Finding that their presence as parties was necessary for a full and fair adjudication of Staff's request, the Commission joined them as parties to this case by order dated April 25, 2007.

<sup>1</sup> Among other things, Section 393.190.1, RSMo 2000, requires regulated water and sewer companies to obtain the approval of the Commission prior to selling, assigning, leasing, or transferring the whole or any part of their franchise, works, or system to another entity. However, since Swiss Villa allegedly no longer exists in any practical sense and evidently has no ability to retain an attorney or file a petition before the Commission seeking such approval, Staff has opened this case via motion.

So that other potentially interested parties were given notice and an opportunity to intervene in the matter, in the same order, the Commission directed its Public Information Officer to make notice of Staff's request available to the members of the General Assembly who represent the citizens of Stone County, and to the media serving that county. Finally, in its order of April 25, the Commission observed:

The requirement for a hearing is fulfilled when all those having a desire to be heard are offered an opportunity to be heard. If no proper party is granted intervention and neither the Commission's Staff, the Office of the Public Counsel, nor any other existing party requests a hearing, the Commission may determine that a hearing is not necessary, permit Staff to submit evidence in support of its request by verified statement, and make a decision based on the verified pleadings.<sup>2</sup>

The intervention period expired on May 15, 2007, and no one filed an application to intervene. Furthermore, to date, none of the parties in this matter have requested a hearing. Therefore, no hearing is necessary at this time and one will not be scheduled.

According to Staff's verified motion, some of the essential requirements supporting the asset transfer are still not in place, since (1) the Black Oak members who have responded to its inquiries have been unable to provide certain critical information; (2) Staff is waiting on Stone County and Black Oak to execute a lease authorizing Black Oak to access the utility-related facilities in question; and (3) Black Oak has yet to modify its bylaws to base the voting rights regarding utility matters on whether or not a person is a utility customer, as opposed to simply allowing one vote per lot. Staff has, therefore, stated that it "is in the process of working with Black Oak and others with relevant authority" on those issues, and seeks permission to submit a case in support of a receivership should Black Oak be unable to meet those requirements.

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<sup>2</sup> See *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. W.D. 1989).

As it appears that this process may take some time, the Commission will direct Staff to keep the Commission informed of all relevant developments by way of monthly status reports, the first of which will be due no later than June 1, 2007.

**IT IS ORDERED THAT:**

1. The Staff of the Missouri Public Service Commission shall, by no later than June 1, 2007, file a status report informing the Commission of Staff's progress in facilitating the transfer of the water and sewer utility assets of Swiss Villa Utilities, Inc. to the Black Oak Mountain Resort Property Owners Association. Additional status reports shall subsequently be filed on a monthly basis until Staff determines that all of the conditions set forth in its motion of April 20, 2007 have been satisfied, or that Black Oak will be unable to satisfy them.

2. This order shall become effective on May 17, 2007.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Benjamin H. Lane, Regulatory  
Law Judge, by delegation of authority  
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 17th day of May, 2007.