

**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 Assets located in Benton County, Missouri) File No. _____
to Upper White River Basin Foundation, Inc. and,)
in Connection Therewith, Certain Other Related)
Transactions.)

**APPLICATION AND, IF NECESSARY,
MOTION FOR WAIVER**

COMES NOW Foxfire Utility Company (Foxfire or Company), and, pursuant to Section 393.190, RSMo 2000, 4 CSR 240-2.060, 4 CSR 240-3.605, and 4 CSR 240-4.020(2)(B), states the following to the Missouri Public Service Commission (Commission):

BACKGROUND INFORMATION

1. Foxfire is a Missouri corporation with its principal office and place of business at 3478 Smyrna Road, Rogersville, MO 65742. Foxfire is in good standing. A Certificate of Good Standing from the Office of the Missouri Secretary of State is attached hereto as **Appendix A**. Foxfire currently provides water service to approximately 104 customers in an unincorporated area in Benton County, Missouri, known as the "Spring Branch Water System," pursuant to a certificate granted by the Commission in Case No. WA-2001-53. Foxfire also provides water and sewer service to approximately 244 water and sewer customers in an unincorporated area in Stone County, Missouri, pursuant to certificates granted by the Commission in Case No. WA-95-31.

2. Foxfire is a "water corporation," a "sewer corporation," and a "public utility" as those terms are defined in Section 386.020 RSMo, and is subject to the jurisdiction and supervision of the Commission as provided by law. Foxfire has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates,

which action, judgment or decision has occurred within the last three years. Foxfire has no overdue Commission annual reports or assessment fees.

3. Upper White River Basin Foundation, Inc. (Upper White River Basin) is a Missouri non-profit corporation. Upper White River Basin has a principal office and place of business located at 2 Kissee Avenue, P.O. Box 636, Foxfire, Missouri 65686.

4. Upper White River Basin is a 501 C-3 corporation whose mission is to promote water quality in the upper White River watershed through bi-state collaboration on research, education, public policy and action projects. The focus of the Foundation has been on the four major impoundments on the upper White River: Beaver, Table Rock, Taneycomo, and Bull Shoals Lakes and the rivers and streams which drain into these impoundments.

5. Upper White River Basin is associated with Ozarks Clean Water Company (OCWC). OCWC was formed in March of 2004 for the specific purpose of owning and operating individual and clustered wastewater systems. OCWC was formed in accordance with sections 393.825 to 393.861 of the Missouri Revised Statutes. OCWC is a not for profit corporation with voluntary membership. Membership is gained by applying for and receiving services from OCWC. The Missouri Department of Natural Resources has approved OCWC as an acceptable entity to receive funding from the State Revolving Fund, which is a low interest loan program. OCWC currently serves customers in the Table Rock Lake area and contracts with White River Valley Environmental Services, an experienced operator, for the care of its systems.

4. Communications in regard to this Application should be addressed to the undersigned counsel.

THE TRANSACTION

5. Foxfire and Upper White River Basin have entered into an Agreement For Donation of Water System dated October 14, 2015 (Agreement), a copy of which is marked **Appendix B**, and attached hereto. Pursuant to the Agreement, Upper White River Basin agrees to obtain and acquire the Spring Branch Water System facilities of Foxfire under the terms and provisions described in the Agreement.

6. Because Foxfire is a water corporation doing business in the State of Missouri, it is subject to the provisions of Section 393.190.1, RSMo, which states, in pertinent part, that “no . . . water corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public . . . without having first secured from the Commission an order authorizing it so to do.”

ADDITIONAL INFORMATION

7. A certified copy of the resolutions of the Board of Directors of Foxfire authorizing the donation of the subject assets and related transactions contemplated by the Agreement is marked **Appendix C**, attached hereto, and made a part hereof for all purposes.

8. The transfer of assets should have no impact on the tax revenues of relevant political subdivisions.

PUBLIC INTEREST

9. The proposed sale of the specified assets of Foxfire and the related transactions are not detrimental to the public interest of the State of Missouri. The assets of Foxfire will be acquired by Upper White River Basin. As described above, Upper White River Basin is an organization that was formed for the purpose of protecting water quality. Upper White River Basin will then

immediately transfer ownership of the system to OCWC in order to provide for water utility services. Neither Upper White River Basin nor OCWC will be subject to the jurisdiction of the Commission.

10. OCWC is fully qualified, in all respects, to own and operate the system currently being operated by Foxfire and to otherwise provide safe, reliable and affordable service. OCWC will continue to utilize the rates, rules and regulations that are determined by its members/customers to be appropriate. OCWC received sewer assets pursuant to a similar transaction that was approved by the Commission in Files Nos. SO-2008-0094 and WO-2015-0113.

CONTINGENT REQUEST FOR WAIVER

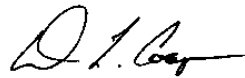
11. This matter is not likely to be a contested case within the meaning of Commission rule 4 CSR 240-4.020(2) because previous applications addressing the same issues presented in this filing have generally not become contested proceedings. However, in the event that the Commission nevertheless concludes that the filing of this Application is likely to be a contested case, Applicant request a waiver of the sixty (60) day notice for good cause shown as permitted by Commission rule 4 CSR 240-4.020(2)(A).

12. The reason for this request relates to the nature of the transaction that resulted in the execution of the subject Agreement and the filing of this Application. Due to the nature of this particular transaction, this Application has been filed as soon as possible. It would serve no purpose to wait sixty days before filing the Application for Commission approval. Accordingly, to the extent that the Commission may find it to be applicable, Foxfire requests a waiver from the provisions of Commission Rule 4 CSR 240-4.020(2) to allow for the filing of this Application.

WHEREFORE, Foxfire Utility Company respectfully requests that the Commission issue its order:

- (A) authorizing Foxfire to donate the assets identified herein;
- (B) authorizing Foxfire to perform in accordance with the terms described in the Agreement For Donation of Water System that is attached to this Application and to take any and all other actions which may be reasonably necessary and incidental to the performance of the sale;
- (C) authorizing Foxfire Utility Company, effective upon the closing of the transaction, to terminate its responsibilities as a water corporation in Benton County, Missouri, and cancelling Foxfire's certificate of convenience and necessity granted in Case No. WA-2001-53 and its filed tariff sheets concerning the Benton County service area; and,
- (D) granting such other relief as may be deemed necessary and appropriate to accomplish the purposes of the Agreement and the Application and to consummate related transactions in accordance with the Agreement.

Respectfully submitted,



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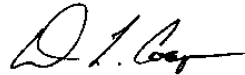
ATTORNEYS FOR FOXFIRE UTILITY
COMPANY

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail to the following this 22ND day of October, 2015:

Office of the General Counsel
Missouri Public Service Commission
Governor State Office Building
Jefferson City, Missouri 65101
staffcounsel@psc.mo.gov

Office of the Public Counsel
Governor State Office Building
Jefferson City, Missouri 65101
opc@ded.mo.gov



VERIFICATION

State of Missouri)
) ss
County of Stone)

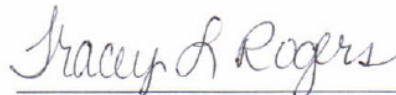
I, Garah Helms, having been duly sworn upon my oath, state that I am the President of Foxfire Utility Company (Foxfire), that I am duly authorized to make this affidavit on behalf of Foxfire, and that the matters and things concerning Foxfire stated in the foregoing Application and appendices thereto are true and correct to the best of my information, knowledge and belief.



Subscribed and sworn before me this 21 day of October, 2015.



TRACEY L. ROGERS
My Commission Expires
April 23, 2017
Stone County
Commission #13421595



Notary Public