

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

Office of the Public Counsel)	
)	
v.)	Case No. WC-2007-0038
)	
Central Jefferson County Utilities, Inc.)	

Office of the Public Counsel)	
)	
v.)	Case No. SC-2007-0039
)	
Central Jefferson County Utilities, Inc.)	

ANSWER TO COMPLAINT

COMES NOW Central Jefferson County Utilities, Inc. (Central Jefferson or Company), pursuant to Commission Rule 4 CSR 240-2.070, and states as follows to the Missouri Public Service Commission (Commission):

BACKGROUND

1. On July 27, 2006, the Office of the Public Counsel (Public Counsel) filed a complaint against Central Jefferson's water and sewer operations that was assigned Cases Nos. WC-2007-0038 and SC-2007-0039. The Commission issued a Notice of Complaint in each case on July 31, 2006, that directed Central Jefferson to file an answer or notice that the complaint had been satisfied within thirty (30) days of that Notice. Central Jefferson provides its answer herein.

2. Central Jefferson denies any allegation that it is over earning as to either its water or sewer operations. Further, it should be noted that on August 15, 2006, Central Jefferson filed an application with the Commission seeking the

Commission's authorization to transfer and assign certain assets of its water and sewer operations to the Jefferson County Public Sewer District (Sewer District). The proposed "Tri-Party Purchase and Sale Agreement," executed as of July 13, 2006, involves the transfer of the assets to the Sewer District, and the Sewer District entering into a long-term operation, maintenance and capital improvements agreement with Environmental Management Corporation (EMC). The transfer application was assigned Cases Nos. SO-2007-0071 and WO-2007-0072.¹

3. The Public Counsel complaints question whether the current rates set by Central Jefferson's Commission-authorized and approved tariffs are just and reasonable. Because the established rates of a public utility are *prima facie* lawful and reasonable until found by the Commission to be otherwise (Section 386.270, RSMo.) any change in rates that might result from these complaints would operate only prospectively. Accordingly, provided the Commission addresses Case No. SO-2007-0071 in a timely manner and finds the proposed transaction to not be detrimental to the public interest, these complaints should become moot prior to their conclusion.

4. The Company's ability to provide water and sewer service is dependent on a consistent level of adequate earnings. Adequate earnings are those which justify the investment of capital in the Company. Revenues must be sufficient to cover operating expenses, such as employee payroll and benefits, taxes, depreciation, and costs associated with maintenance and operation, and, thereafter, provide for the payment of capital costs which include interest and dividends. Revenues generated by the current

¹ The Commission later consolidated these cases with SO-2007-0071 being designated as the lead case.

rates the Company is authorized to charge for water will not adequately accomplish this task.

5. There are approximately 3500 lots in Raintree Plantation Subdivision which is served by Central Jefferson's water and sewer system. As stated above, approximately 670 of those lots are currently served by the water and sewer system.

6. At the current time, no additional connections may be made by persons needing sewer service in Raintree Plantation Subdivision by reason of orders issued by the Missouri Department of Natural Resources and the United States Environmental Protection Agency. No additional connections to the sewer system can be made until such time as the waste water treatment plant, operated by Central Jefferson, and to be conveyed by this transfer, is expanded. Presently, Central Jefferson has no funds and no method to finance the costs of construction and expansion of the waste water treatment plant.

7. An expansion of the water system is necessary to provide adequate water service to the current and future residents. Presently, Central Jefferson has no funds and no method to finance the cost of expansion of the water system.

8. Pursuant to the proposed transfer agreement (Case No. SO-2007-0071), EMC will provide up to \$1,800,000.00 in capital improvements for the waste water treatment plant expansion and for the water system expansion. These improvements will provide more reliable service to existing customers and will enable future customers to connect to the water and sewer system.

ANSWER

9. Central Jefferson admits the allegations contained in paragraphs 1, 2 and 3 of the Complaint.

10. Paragraph 4 of the Complaint contains no new allegations and Central Jefferson, therefore, incorporates its previous answer to the referenced paragraphs.

11. Central Jefferson admits that Public Counsel filed a motion concurrent with this Complaint. Central Jefferson states that it is without knowledge or information sufficient to form a belief as to the truth of Public Counsel's statement as to what materials Public Counsel has reviewed and therefore denies the same. Central Jefferson denies each and every other allegation contained in paragraph 5 of the Complaint.

12. Paragraph 6 of the Complaint contains no new allegations and Central Jefferson, therefore, incorporates its previous answer to the referenced paragraphs.

13. Central Jefferson admits that Public Counsel filed a motion concurrent with this Complaint. Central Jefferson states that it is without knowledge or information sufficient to form a belief as to the truth of Public Counsel's statement as to what materials Public Counsel has reviewed and therefore denies the same. Central Jefferson denies each and every other allegation contained in paragraph 7 of the Complaint.

14. Central Jefferson denies each and every allegation of the Complaint, to the extent it is not specifically admitted herein.

AFFIRMATIVE DEFENSE

15. The Complaint fails to state a claim upon which relief may be granted. The Complaint alleges that the Company's current water and sewer rates are "unjust and unreasonable" and "produce over earnings." However, the rates currently charged by Central Jefferson are in accordance with an order or decision of the Commission and deemed to be just and reasonable. Section 386.270, RSMo ("all rates . . . fixed by the commission shall be in force and shall be prima facie lawful . . . until found otherwise in a suit brought for that purpose . . .").

16. Section 393.140(5) further explains the prospective nature of rate decisions made in response to a Complaint:

Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rates or charges or the acts or regulations of any such persons or corporations are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law, *the commission shall determine and prescribe the just and reasonable rates and charges thereafter to be in force for the service to be furnished*, notwithstanding that a higher rate or charge has heretofore been authorized by statute.

(emphasis added). Therefore, the current rates cannot, by definition, be unjust or unreasonable at this time and there can be no over earning.

WHEREFORE, Central Jefferson having fully answered and set forth its affirmative defenses, respectfully requests that the Commission dismiss the Complaint.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first electronic transmission, on this 20th day of August, 2006, to the Office of the Public Counsel and to the General Counsel, Missouri Public Service Commission.

