

APPENDIX A

OFFICIAL CASE FILE MEMORANDUM

CASE NO. WM-2006-0310

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. WM-2006-0310
Camelot Utilities Company

FROM: Dale Johansen – Project Coordinator
Jim Merciel – Water & Sewer Department
Steve Jungmeyer – Water & Sewer Department

<u>/s/ Dale W. Johansen</u>	<u>04/07/06</u>
Project Coordinator	Date
<u>/s/ David A. Meyer</u>	<u>04/07/06</u>
General Counsel's Office	Date

SUBJECT: Staff's Recommendation for Approval of Transfer of Assets and
Cancellation of Certificate of Convenience and Necessity

DATE: April 7, 2006

BACKGROUND OF THE CURRENT CASE

On January 27, 2006, Camelot Estates Association (Association) and Camden County Public Water Supply District #3 (District) submitted a Joint Application for Sale of Water Supply System and Cancellation of Certificate of Convenience & Necessity (Joint Application). In their Joint Application, the parties are seeking the Commission's authority to transfer the ownership of water system assets that were formerly owned by Camelot Utilities Company (CU), which is a water utility currently holding a Certificate of Convenience and Necessity (CCN) issued by the Commission, through ownership by the Association, and finally to the District, and to cancel CU's CCN. Although in the Joint Application the Association represents itself to be a water corporation and public utility that should be regulated by the Commission, the Staff believes it is actually an association of property owners that is not subject to regulation. The District is a publicly-owned utility and a political subdivision, and therefore is not subject to the jurisdiction of the Commission.

In an **Order and Notice** issued on February 1, 2006, the Commission set February 21, 2006 as the intervention deadline in this case. No parties have sought to intervene, and the Staff has not received any questions or comments from the public related to this matter, except for a request for a copy of the Commission's press release from one of the board members of the District.

BACKGROUND OF CAMELOT UTILITIES COMPANY

CU filed an application seeking a CCN on July 5, 1988, initiating Case No. WA-89-1. In that case, the Commission issued a **Report and Order** in which, among other things, it granted a CCN to CU effective September 8, 1989. The service area is a development known as Camelot

Estates in Camden County, as well as what was then proposed as a condominium development to be named the Shores of Camelot. There are approximately 1,150 subdivision lots, and at the time 105 homes were in existence, some being constructed beginning in 1968. Approximately half of the homeowners at the time were permanent residents of the area, with the others being part-time vacation homeowners. The original water system dates to approximately 1974. New homes have continuously been constructed and added to the utility system; reportedly there are over 460 customers at present.

The well has a production capacity of 300 gallons per minute, which, if operated as a single well system with adequate storage, would be capable of providing service to at least 700 customers. However, as a single well system, the present storage tank only has enough capacity for approximately 200 customers when applying the design criteria of a storage volume of one-day water usage established by the Department of Natural Resources (DNR), which is needed to provide time to repair the single well. From a practical standpoint, there is enough water to supply the present customers during normal operating conditions. The Staff has contacted the DNR about compliance issues, and was informed that CU and/or the Association have sporadically had a number of water samples exceeding bacteriological limits, though not significant enough for compliance enforcement, and not since the year 2004. Statements in and attachments to the Joint Application indicate that the District is also constructing additional water facilities and expanding beyond the present service area. Based on this, it appears to the Staff that the District has plans to ultimately be operating a system with adequate capacity to provide service to the customers in CU's area, as well as surrounding area.

Interim rates that were approved by the Commission in CU's CCN case were: a flat rate of \$10.33 per month for non-metered connections, and a metered rate of \$10.33 for the first 4,000 gallons per month plus \$1.61 per 1,000 gallons usage over 4,000 gallons. Typical water usage was estimated to be 4,500 gallons per month per customer. CU was ordered to submit a tariff with these rates and other appropriate rules, install meters for customers, and file a rate case within eighteen (18) months of the Report and Order in order to determine permanent rates based on actual expenses and an appropriate level of company investment as rate base.

However, CU never did comply with any parts of the Report and Order, and to the Staff's knowledge never began charging its customers for service. There have never been any annual assessments assessed or paid due to zero revenue, and no annual reports have been filed. It could be argued that CU has never exercised its CCN and that it is thus void by statute, though it was providing water service in some manner even if at no charge to its customers. CU is also administratively dissolved as a corporation.

TRANSFER OF WATER UTILITY ASSETS

According to documents filed with the Joint Application, CU transferred its water system assets to the Association in 2001. There was no application filed before the Commission seeking authority for CU to transfer assets and cancel its CCN, but the Staff believes such action should

have been done even though CU apparently never exercised its rights and responsibilities authorized by the CCN. At some point after this transfer occurred, the Association implemented a flat charge of \$20 per month for water service. As a property owners association, and given that the transfer of water system assets in fact occurred, the Staff believes that the Association may legitimately set rates for its member-customers as its directors and members see fit.

Further, it is proposed in the Joint Application that the Association transfer the water system assets to the District under the terms of a contract that is included in the application, but that has not yet been executed. In the Joint Application, the Association and the District indicate that rates would increase from 'the Association's currently charged rate of \$20 per month to a flat rate of \$27.50. However, the Staff was informed verbally that the District actually intends to adopt the \$20 per month flat rate initially, but that considering that additional facilities are planned, it will likely need to increase rates in the future to something that would not exceed \$27.50 per month.

Although CU has not submitted annual reports and did not comply with the Commission's order in Case No. WA-89-1, the Staff believes that approval of this transfer as requested, and cancellation of CU's CCN is in not detrimental to the public interest. Clearly, CU is not in a position to provide water service and in fact is not doing so. Had the proper request for authority to transfer assets from CU to the Association been timely submitted, the Staff very likely would have recommended approval, especially considering the performance of CU. Also, the Staff agrees with statements in the Joint Application regarding there being very little need for customer notice, in that customers are voting members of both the Association and the District, and have been involved in this process through representation by the board members of each organization.

CONCLUSIONS AND RECOMMENDATIONS

The Staff recommends that, should the Commission not determine Camelot Utilities Company's certificate is not null and void, the Commission recognize that a transfer of water utility assets took place between CU and the Association, approve the transfer of those assets to the District, and cancel the CCN held by CU. The Staff does believe that the District, unlike CU, will be a water utility capable of providing water service to present and future customers in the area.

AFFIDAVIT OF JAMES A. MERCIEL, JR.

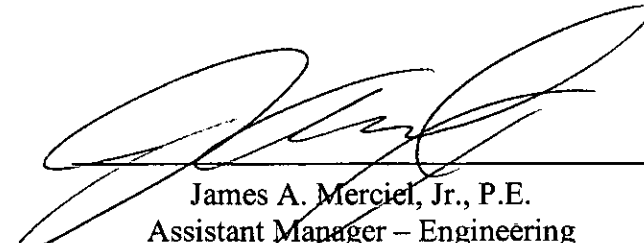
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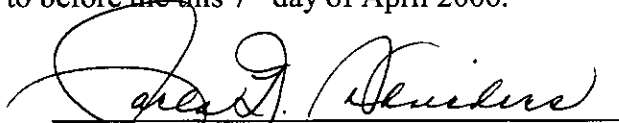
Case No. WM-2006-0310

COUNTY OF COLE)

James A. Merciel, Jr., of lawful age, on his oath states: (1) that he is a member of the Staff of the Missouri Public Service Commission; (2) that he participated in the preparation of the foregoing Recommendation for Approval of Transfer of Assets and Cancellation of Certificate of Convenience and Necessity (Recommendation) and the Staff's Official Case File Memorandum (Staff Memorandum) that is included herewith in Appendix A; (3) that he has knowledge of the matters set forth in the foregoing Recommendation and the attached Staff Memorandum; and (4) that the matters set forth in the foregoing Recommendation and the attached Staff Memorandum are true and correct to the best of his knowledge, information and belief.

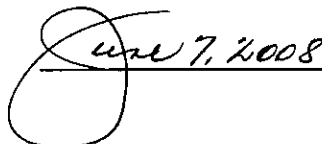

James A. Merciel, Jr., P.E.
Assistant Manager – Engineering
Water & Sewer Department
Utility Operations Division

Subscribed and sworn to before me this 7th day of April 2006.


Notary Public



My Commission Expires:


June 7, 2008

