

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the application of Community Water)
Company, Inc., for permission, approval, and)
certificate of convenience and necessity authorizing)
it to construct, install, own, operate, control,) CASE NO. WA-91-124
manage and maintain a wholesale water system for)
water districts and municipalities located in the)
counties of Jackson, Cass, and Lafayette.)

APPEARANCES: J. Richard Smith, Attorney at Law, Craft, Fridkin & Rhyne,
4435 Main Street, Suite 1100, Kansas City, MO 64111,
for Community Water Company, Inc.

HEARING

EXAMINER: Beth O'Donnell

REPORT AND ORDER

Procedural History

On September 14, 1990, Community Water Company, Inc. (Applicant), filed a verified application seeking a certificate of public convenience and necessity authorizing it to operate as a wholesale water company in the Counties of Jackson, Cass, and Lafayette, all in Missouri. On September 21, 1990, the Commission gave notice of this application and set October 22, 1990, as the intervention deadline. No timely applications to intervene were received and neither the Commission's Staff (Staff) nor the Office of the Public Counsel (Public Counsel) requested a hearing.

On May 9, 1991, Applicant filed an amended application restricting the area for which it was requesting a certificate to eastern Jackson County as well as Cass and Lafayette Counties. The Commission determined that it was unnecessary to send additional notice since the amended application did not request any new area to serve.

On May 20, 1991, Tri-County Water Authority (TCWA) filed an untimely application to intervene in this case. By order issued June 14, 1991, the Commission

denied the application to intervene of TCWA as untimely. By order issued July 17, 1991, the Commission denied TCWA's request that the Commission reconsider its order denying application to intervene.

Findings of Fact

Having considered all the competent and substantial evidence upon the whole record, the Missouri Public Service Commission makes the following findings of fact.

Applicant is requesting a certificate of public convenience and necessity to obtain and treat water from the Atherton Bottoms located in northeastern Jackson County, Missouri, and to sell such water at wholesale to municipalities and public water supply districts in eastern Jackson, Cass, and Lafayette Counties, all in Missouri. If certificated, Applicant plans, at the present, to supply water to Public Water Supply District No. 16 in Jackson County (District 16). The metes and bounds description of the proposed service area is attached to this order as Appendix A and incorporated herein by reference.

Applicant is a Missouri corporation with its principal office and place of business located at 221 West Lexington, Independence, Missouri 64050. Applicant has entered into a water sale and purchase contract with District 16 wherein Applicant agrees to provide and District 16 agrees to take certain minimum amounts of water at prices not to exceed \$3.20 per 1000 gallons. This contract is conditioned upon approval of this application by the Commission and Applicant's making water available to District 16 no later than December 1, 1991.

Applicant states that there are no other water utilities offering wholesale water service within the requested area and that the area has experienced long-standing water supply problems which are projected to become more severe in future years without provision of a comprehensive system.

Applicant has requested a special use permit from Jackson County as well as a construction permit from the Missouri Department of Natural Resources. Applicant

states that, except for the authority sought herein, no other permit, franchise or governmental approval is required. Applicant attached an Economic Feasibility Study to its application as Exhibit G.

On July 19, 1991, Staff filed a memorandum in this case recommending approval of this application subject to certain rates and conditions. Staff recommends that the following rates be approved by the Commission which are based upon Applicant having only the one customer:

1. The first 2,450 thousand gallons per month at the rate of \$3.20 per 1000 gallons with a minimum usage requirement of 2,450 thousand gallons;
2. Usage in excess of 2,450 thousand gallons per month at the rate of \$2.44 per 1000 gallons.

Staff further states that Company has not only agreed to these rates but also has agreed to file a rate proceeding as soon as practicable after twelve months of operating data have been accumulated but, in no event, more than eighteen months after the date service is first provided pursuant to the requested certificate.

In addition, Staff states that Applicant has agreed to file revised rate sheets for the Commission's approval with the addition of each new customer and to make that new rate sheet apply only to the new customer to reflect a minimum bill for that customer.

Staff recommends that the Commission direct Applicant to file a complete original tariff within sixty days of the effective date of this Report and Order with the following provisions:

1. A rate schedule applying to District 16 providing that
 - a. the minimum bill shall be \$7,840 per month based on 2,450 thousand gallons per month at \$3.20 per thousand gallons;

- b. all usage in excess of 2,450 thousand gallons per month shall be at the rate of \$2.44 per thousand gallons;
2. Bills for water shall be issued on a monthly basis; and
3. Applicant shall not be obligated to provide greater than 250 gallons per minute flow at any time.

Staff also recommends that the Commission direct Applicant to keep its books and records in accordance with the Uniform System of Accounts of the National Association of Regulatory Utility Commissioners (NARUC).

Based upon the application filed in this case and the recommendation of Staff, the Commission finds that Applicant is qualified and financially able to provide service pursuant to the certificate requested herein. The Commission further finds that there is a need for adequate water service in the proposed service area and it is in the public interest to grant the authority requested by Applicant.

Based upon these preliminary findings, the Commission determines that the certificate requested by Applicant should be granted. The Commission further determines that the rates proposed by Staff and agreed to by Applicant are just and reasonable and should be approved as the rates pursuant to which Applicant will provide water service to District 16 provided these rates subsequently become subject to review by this Commission as agreed to by Applicant and Staff.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission has jurisdiction over this application pursuant to Chapters 386 and 393, RSMo 1986, as amended. Section 393.170, RSMo 1986, authorizes the Commission to grant certificates of public convenience and necessity upon a finding that such a grant is necessary or convenient for the public service. Section 393.150, RSMo 1986, authorizes the Commission to set just and reasonable rates.

The Commission has determined that a hearing is not necessary in this case. The requirements of a hearing have been met when all those having a desire to be heard are given such an opportunity. *State ex rel. Deffenderfer Enterprises, Inc. v. PSC*, 776 S.W.2d 494, 496 (Mo. App. 1989). Although notice was given, no timely interventions or motions for hearing were filed. Applicant submitted evidence in support of its application by verified statement. Since there has been no objection to the evidence being submitted in affidavit form, the Commission has concluded, pursuant to Section 536.070(12), RSMo 1986, that Applicant's verified statements are a sufficient foundation, along with Staff's recommendation, to grant the authority requested.

IT IS THEREFORE ORDERED:

1. That Community Water Company, Inc., 221 West Lexington, Independence, Missouri 64050, be granted hereby a certificate of public convenience and necessity to install, own, acquire, construct, operate, control, manage, and maintain facilities required to obtain, treat, and sell water to municipalities and public water supply districts in eastern Jackson, Cass and Lafayette Counties, all in Missouri, as described in Appendix A, attached to this Report and Order and incorporated herein by reference.

2. That Community Water Company, Inc., be directed hereby to file on or before October 15, 1991, a complete original tariff for the Commission's approval consistent with the rate schedule and provisions recommended by the Commission's Staff as set forth in this Report and Order. This tariff shall contain rules and regulations concerning the utility's operation and service in compliance with the Commission's regulations.

3. That Community Water Company, Inc., be directed hereby to keep its books and records in accordance with the Uniform System of Accounts of the National Association of Regulatory Utility Commissioners.

4. That Community Water Company, Inc., be directed hereby to file a rate proceeding with this Commission as soon as practicable after twelve (12) months of operating data have been accumulated but in no event later than eighteen (18) months after the date water service is first provided pursuant to the certificate granted herein, as required by its agreement with the Commission's Staff.

5. That Community Water Company, Inc., be directed hereby to file revised rate schedules reflecting rates applying specifically to any new customer as it acquires additional customers.

6. That this Report and Order shall become effective on the 13th day of August, 1991.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Steinmeier, Chm., Rauch, McClure
and Perkins, CC., Concur.
Mueller, C., Absent.

Dated at Jefferson City, Missouri,
on this 2nd day of August, 1991.

LEGAL DESCRIPTION

All of Sections 13, 14 and 15, T51, R31, Except those portions in the Missouri River.

All of Section 22, T51, R31, Except those portions in the Missouri River.

All of Section 23.

All of Section 24, Except the S/2 of the SE/4 of the SE/4 thereof.

All of the W/4 of Section 25.

All of Section 26, Except the SE/4 of the SE/4 thereof.

All of Section 27, Except that portion in the Missouri River.

All of Section 34, Except the S/2 of the SE/4 and Except the E/2 of the NE/4 of SE/4.

All of the East 30 acres of the NE/4 of the NW/4, and all of the N/2 of the NE/4 of Section 35.

All of the North 14 acres of the West 100 acres of the NW/4 and all of the South Forty-Four (44) acres of the West One Hundred (100) acres of the NW/4 of Section 35, Township 51N, Range 31W, Except two acres in the Southwest corner described as follows: Beginning at the SW corner of the NW/4, thence North along the West line of said quarter section, 208.71 feet; then East 417.42 feet; thence South 208.71 feet to the South line of said quarter section; thence West along said South line, 417.42 feet to the point of beginning, in Section 35, Township 51, Range 31, in Jackson County, Missouri. Subject to easements, reservations and restrictions of record, if any.

All of the NW/4 of the NW/4 of Section 36.

All of the SE Fractional Quarter and the accretions thereto, of Section 33, T51, R31 in Atherton, Jackson County, Missouri, EXCEPT beginning at the SE corner of said Section 33; thence W 1849.84 feet to the SErly bank of the Missouri River; thence N 30 degrees 26 minutes East along the bank of said river; 1059.4 feet; thence East parallel to the South line of said Section 33 a distance of 1339 feet to the East line thereof; thence South 920 feet to the beginning.

3.71 acres, beginning at a point 66 feet East of the North East corner of Lot No. 2 of the Northwest quarter (fractional) of Section 3, Township 50, Range 31; thence South 122.1 feet; thence West 1327 feet; thence North 122.1 feet to a point 64 feet East of the North West corner of the East half of said Lot No. 2, thence East 1327 feet to the beginning.

ALL IN TOWNSHIP 51, RANGE 31, JACKSON COUNTY, MISSOURI.