

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the joint application of Rocky)
Ridge Ranch Utilities Company and Rocky Ridge)
Ranch Property Owners Association for approval)
of the sale of all the assets of the Utilities)
Company to the Property Owners Association and)
for cancellation of the certificate of public)
convenience and necessity of Rocky Ridge Ranch)
Utilities Company.)

Case No. WM-93-136

APPEARANCES: Gary W. Duffy, Attorney at Law, Brydon, Swearngen & England
P.C., P.O. Box 456, Jefferson City, Missouri 65102, for Rocky
Ridge Ranch Utilities Company and Rocky Ridge Ranch Property
Owners Association.

John B. Coffman, Assistant Public Counsel, Office of the
Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102,
for the Office of Public Counsel and the public.

William K. Haas, Assistant General Counsel, Missouri Public
Service Commission, P.O. Box 360, Jefferson City, Missouri
65102, for the staff of the Missouri Public Service
Commission.

HEARING

EXAMINER: Dale Hardy Roberts

REPORT AND ORDER

On October 13, 1992, Rocky Ridge Ranch Utilities Company (Company)
and Rocky Ridge Ranch Property Owners Association (Association) submitted a joint
application requesting the Commission to approve the sale of all the assets of
the Company to the Association and for cancellation of the certificate of public
convenience, thus releasing the Association from the regulation of the
Commission. The Association presently owns all of the common stock of the
Company and exercises complete control over the Company.

On November 17, 1992, the Office of Public Counsel (OPC) filed its
request for a local public hearing. On November 17, 1992, the Staff of the
Public Service Commission (Staff) filed a Stipulation and Agreement in which the
OPC, Staff, Company and the Association all agreed that it would be in the public

interest for the Commission to issue an order as soon as possible to allow the formal transfer of the assets from the Company to the Association. On November 24, 1992, the Applicant and Company filed a Response to Request for Local Public Hearing in which the Applicant and the Company notified the Commission that they did not oppose the OPC's request for public hearing and in which certain recommendations for a public hearing were made.

On December 15, 1992, a local public hearing was held in which the attorney for the Applicant and for the Company offered evidence and testimony in support of the application.

Findings of Fact

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

Two issues have been raised by this case. The first issue is whether or not it is in the public interest to transfer the assets of the Company to the Association. The second issue is whether the Commission may, as a matter of law, continue to exercise jurisdiction over the Association after a transfer of assets has been accomplished.

On the first question the Company, the Association, the OPC, the Staff and the majority of the customers who testified at the local public hearing are all in agreement that it is in the public interest that the assets should be transferred from the Company to the Association. The OPC presented approximately twenty-five (25) witnesses who made public comments during the hearing.

The Association currently owns one hundred percent (100%) of the stock in the Company and currently exercises total and complete control over the Company and the evidence is that the transfer would allow the Association to realize a tax benefit of approximately twelve thousand dollars (\$12,000) in the

first year and that this savings would inure to the benefit of the Association and its customers.

As to the question regarding the retention of jurisdiction by the Commission over the Association the public comment was not settled on this issue nor was it clear that the customers completely understood the ramifications of Commission jurisdiction. However, the Commission finds that the Applicant, the Company, Staff and OPC are in agreement that it would be in the public interest that the Commission retain jurisdiction over the Association as evidenced by the Stipulation and Agreement filed herein.

Based upon a finding that the Association will continue to serve customers who are not members of the Association, the Commission finds that it is not detrimental to the public interest for it to order the transfer of assets and to transfer the certificate of public convenience and necessity since the Commission is retaining jurisdiction.

The Commission also finds that whereas the Stipulation and Agreement also stipulated that the "Certificate of Public Convenience and Necessity issued to Rocky Ridge Ranch Utilities Company shall not be cancelled but rather shall be transferred to the Rocky Ridge Ranch Property Owners Association, pending a final determination of the questions relating to the jurisdiction of the Commission over the water system. The Commission may state in its order that it will continue to exercise jurisdiction over the water system until otherwise ordered, and may address the jurisdictional questions in this docket." It is therefore not detrimental to the public that the Certificate of Public Convenience and Necessity be transferred to the Association.

Conclusions of Law

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

Sections 386.020(32) and 386.250(38) RSMo Supp. 1991, extend the Commission's jurisdiction to "water corporations." Pursuant to Section 393.190.1 RSMo 1986, a water corporation may not transfer its franchise or assets without prior permission of the Public Service Commission.

The Commission has previously exercised, and continues to exercise, jurisdiction over entities which provide water to persons other than their members even if the entity provides the water "not for gain." The Commission will retain jurisdiction over the Association on this basis. The Commission concludes that the requested transfer of assets is not detrimental to the public interest to due to its intention to exercise Commission jurisdiction over the association. The Applicant, presently in the form of the Company and potentially in the form of the Association, is and shall continue to be a water corporation and a public utility subject to the jurisdiction of the Commission pursuant to Section 386.020(32) and (51) and 386.250(3), RSMo Supp. 1991.

IT IS THEREFORE ORDERED:

1. That the Rocky Ridge Ranch Utilities Company be authorized to transfer its assets to the Rocky Ridge Ranch Property Owners Association.
2. That the Commission shall retain jurisdiction over the association as a public water corporation.
3. That the certificate of convenience and necessity previously issued to Rocky Ridge Ranch Utilities Company shall now simultaneously be transferred with the assets to the Rocky Ridge Ranch Property Owners Association pending further orders herein.
4. That the Rocky Ridge Ranch Property Owners Association shall file an "adoption notice" tariff sheet, adopting the Company tariff, to be effective on the date when the assets are transferred.

5. That this Report and Order shall become effective on December 28, 1992.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 18th day of December, 1992.