

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 23rd day of January, 2018.

In the Matter of the Application of Jefferson County)
Public Sewer District and Utility Management of)
Missouri in its Capacity as Court Appointed)
Receiver of P.C.B., Inc., for an Order Authorizing)
the Sale, Transfer and Assignment of Water and)
Sewer Assets to Jefferson County Public Sewer)
District and in Connection Therewith Certain)
Other Related Transactions)

File No. SM-2018-0131

ORDER APPROVING TRANSFER OF ASSETS

Issue Date: January 23, 2018

Effective Date: February 3, 2018

On November 14, 2017, Jefferson County Public Sewer District (“District”) and Utility Management of Missouri, LLC (“UMM”), as the court-appointed receiver of P.C.B., Inc., filed a joint application¹ with the Missouri Public Service Commission (“Commission”) seeking an order authorizing the sale, transfer, and assignment of assets relating to sewer services provided to approximately 284 residential customers in the Bel Air Estates, Secluded Forest Subdivision, Wedgewood Village, Sennawood Village, and Sandia Heights areas in Jefferson County, Missouri.

As a result of P.C.B., Inc.’s inability to provide adequate sewer services to its customers, UMM was appointed as the receiver of P.C.B., Inc. by the Circuit Court of Cole County, Missouri. The District is a public sewer district that is not subject to the jurisdiction

¹ The application was filed pursuant to Section 393.190, RSMo 2016, and Commission Rules 4 CSR 240-3.310 and 4 CSR 240-3.605.

of the Commission. The District and UMM have entered into an Asset Purchase Agreement (“Agreement”) providing for the sale of all the assets, property and real estate connected with the five sewer systems in Jefferson County to the District. A copy of the Agreement was included with the joint application.

On November 16, 2017, the Commission issued notice and set an intervention deadline. No applications to intervene were filed. Staff filed a recommendation on January 10, 2018, suggesting that the Commission approve the joint application with certain conditions, which the District and UMM do not oppose. Staff recommends that the Commission do the following:

1. Approve the transfer of assets from P.C.B., Inc., through its receiver UMM, to the District, as requested;
2. Require P.C.B., Inc. to notify the Commission of closing on the assets within five (5) days after such closing;
3. If closing on the sewer system assets does not take place within thirty (30) days following the effective date of the Commission’s order approving such, require P.C.B., Inc. to submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until either P.C.B., Inc. or the District determine that the transfer of the assets will not occur;
4. Authorize P.C.B., Inc. to cease providing sewer service immediately after closing with the District on the assets;

5. After receiving notice of closing, cancel the certificate of convenience and necessity authorizing P.C.B., Inc. to provide sewer service and cancel the current sewer tariff on file for P.C.B., Inc.;

6. If P.C.B., Inc. and/or the District determine that the transfer of P.C.B., Inc.'s assets to the District will not occur, require P.C.B., Inc. to notify the Commission of such, along with an explanation regarding resolution of the Asset Purchase Agreement; and

7. Make no ratemaking determination regarding any potential future regulatory oversight, if any.

The Office of the Public Counsel filed a statement declining the invitation to submit a comment regarding the joint application or Staff's recommendation. No party requested an evidentiary hearing in this matter and no law requires one, so the Commission may grant the applicant's request based upon the application and Staff's recommendation.² This action is not a contested case,³ and the Commission need not separately state its findings of fact.

P.C.B., Inc. is a sewer corporation under Missouri law⁴, subject to the regulation, supervision and control of the Commission with regard to providing sewer service to the public. The Commission has jurisdiction to rule on the application because Missouri law requires that "[n]o ... sewer corporation shall hereafter sell ...its ... works or system ... without having first secured from the commission an order authorizing it so to do."⁵ The

² See, *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

³ Section 536.010(4), RSMo 2016.

⁴ Section 386.020(49), RSMo 2016.

⁵ Section 393.190.1, RSMo 2016.

Commission will only deny the application if approval would be detrimental to the public interest.⁶

The parties agree that the public interest will suffer no detriment from the sale under the terms set forth in the Agreement. If the proposed sale and transfer is approved, those customers currently being served by UMM will receive their sewer service from the District. The District stated to Staff that it intends to utilize the existing approved rates, service charges, and rules for at least three months following closing on the assets. Subsequently, the District will evaluate the condition of the facilities and cost of operation and invest substantial amounts of capital to improve the existing facilities. The District will also analyze necessary revisions to the rates, which are currently a flat residential rate of \$29.75 per month. The District and UMM state that the transaction will not result in any reduced level of service or reliability for the customers and will not have any impact on the tax revenues of any political subdivision where the sewer facilities are located.

Based on the information provided in the verified joint application and upon the verified recommendation and memorandum of Staff, the Commission finds that the proposed transfer of assets is not detrimental to the public interest and should be approved, subject to the conditions recommended by Staff. Since P.C.B., Inc. is operating through a receiver and the District and UMM have requested that their joint application be approved at the Commission's earliest convenience, the Commission will make this order effective in ten days.

THE COMMISSION ORDERS THAT:

1. Jefferson County Public Sewer District and Utility Management of Missouri, LLC's joint application for approval of the transfer of the assets to the Jefferson County

⁶ *State ex rel. City of St. Louis v. Public Service Comm'n of Missouri*, 73 S.W.2d 393, 400 (Mo. 1934).

Public Sewer District is granted, subject to the conditions recommended by the Commission's Staff which are delineated in the body of this order.

2. P.C.B., Inc., through its court-appointed receiver Utility Management of Missouri, LLC, is authorized to sell and transfer to the Jefferson County Public Sewer District the five sewer systems located in Jefferson County, Missouri described in the joint application and the Asset Purchase Agreement entered into between those parties.

3. Jefferson County Public Sewer District and Utility Management of Missouri, LLC are authorized to do and perform, or cause to be done and performed, such other acts and things, as well as make, execute and deliver any and all documents as may be necessary, advisable and proper to the end that the intent and purposes of the approved transaction may be fully effectuated.

4. P.C.B., Inc. shall notify the Commission of closing on the assets within five (5) days after such closing.

5. If closing on the sewer system assets does not take place within thirty (30) days following the effective date of the Commission's order approving such, P.C.B., Inc. shall submit a status report within five (5) days after this thirty (30) day period regarding the status of closing, and additional status reports within five (5) days after each additional thirty (30) day period, until closing takes place, or until either P.C.B., Inc. or the District determine that the transfer of the assets will not occur.

6. P.C.B., Inc. shall cease providing sewer service immediately after closing with the District on the assets.

7. If P.C.B., Inc. and/or the District determine that the transfer of P.C.B., Inc.'s assets to the District will not occur, P.C.B., Inc. shall notify the Commission of such, along with an explanation regarding resolution of the Asset Purchase Agreement.

8. In issuing this order, the Commission is making no ratemaking determination regarding any potential future regulatory oversight, if any.

9. This order shall become effective on February 3, 2018.

10. This file may be closed on February 4, 2018.

BY THE COMMISSION



A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Hall, Chm., Kenney, Rupp, Coleman, and
Silvey, CC., concur.

Bushmann, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 23rd day of January 2018.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

January 23, 2018

File/Case No. SM-2018-0131

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Commission**

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**Utility Management of Missouri,
LLC**

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.