BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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In the Matter of the Application of Foxfire Utility Company for Authority to Transfer Certain Water and Sewer Assets Located in Stone County, Missouri to Ozarks Clean Water Company, and in Connection Therewith, Certain Other Related Transactions.

File No.

WM-2022-0186

<u>STATEMENT OF POSITON OF FOXFIRE UTILITY COMPANY</u> <u>AND OZARKS CLEAN WATER COMPANY</u>

COME NOW Foxfire Utility Company and Ozarks Clean Water Company ("Foxfire" and "OCWC" respectively, or "The Companies" collectively), by and through the undersigned counsel, and state the following to the Missouri Public Service Commission ("Commission") as their *Statement of Position* as to the issues described in the *Joint List of Issues, List and Order of Witnesses, Order of Opening Statements, and Order of Cross-Examinations* filed in the above-captioned Case on October 12, 2022:

ISSUES

1. Should the Commission find that the sale or transfer of Foxfire Utility Company's (a public utility) water and sewer assets to Ozarks Clean Water Company (a nonprofit sewer company under Sections 393.825-393.861, RSMo, and a nonprofit water company under Sections 393.900-393.954, RSMo) is not detrimental to the public interest, and approve the transaction?

The Companies' Position:

Yes. OCWC's acquisition of Foxfire's assets will not be detrimental to the public interest.

Foxfire currently provides both water and sewer service to approximately 258 customers (known growth will add approximately 21 water and sewer customers in the near future). The Foxfire service area is a condominium development. The Company serves the condominium units, three offices, four swimming pool/hot tub areas and two irrigation systems. The condominiums typically represent second homes, investment properties, or both, for their owners. Foxfire has no other water or sewer systems. The primary owner of Foxfire is now 70 years old, has been involved in the water and sewer business for approximately 48 years, and wishes to fully retire. He has no intention to be involved in any capacity with the operation, maintenance, or management of public drinking water systems or wastewater collection and treatment systems in the future.

Ozarks Clean Water Company is a nonprofit sewer company under Sections 393.825-393.861, RSMo, and a nonprofit water company under Sections 393.900-393.954, RSMo.

OCWC currently provides water and sewer service to 2,380 locations, consisting of 1,860 sewer connections, 300 water only and 220 water and sewer connections at the same property, all provided through 9 permitted and 4 non-permitted water systems, 19 permitted sewer systems, 1 sewer treatment system, 2 sewer collection systems, and 1 interceptor sewer that does not require permits. OCWC enjoys a positive working relationship with the Missouri Department of Natural Resources, which has relayed to Staff that there are "no outstanding concerns with service issues" with any OCWC system.¹

OCWC's financial structure is layered to address multiple improvement and maintenance plans for all its properties. OCWC rates include operation, maintenance, administration, overhead, and reserve for repair. Currently, OCWC's Board of Directors has established a reserve account funded at 75% of its annual operation and maintenance budget.

OCWC proposes to use the existing rates for Foxfire customers for at least one year following the acquisition. Further, Customers will receive several conveniences associated with OCWC ownership that are not currently available with Foxfire. These benefits include ACH autopayment, e-mail billing, online payments and account histories, text alerts, and a nearby office and drop box for payments.

OCWC has economies of scale, experience, technical ability, and financial wherewithal that will enable it to provide water and sewer service to the Foxfire customers and is in all ways qualified to own and operate the Foxfire water and sewer assets. The Commission should approve the proposed transaction.

Casaletto, Direct and Surrebuttal, All. Helms, Direct and Surrebuttal, All.

2. If so, what conditions, if any, should the Commission impose on such approval?

The Companies' Position:

The Commission should authorize the transfer of assets from Foxfire to OCWC subject to the

five (5) conditions proposed by Staff in its Recommendation filed June 28, 2022.

Casaletto, Direct., p. 7.

WHEREFORE, Foxfire Utility Company and Ozarks Clean Water Company respectfully

request that the Commission accept and consider this Statement of Position.

Respectfully submitted,

Dean L. Cooper MBE #36592 Jesse W. Craig MBE #71850 BRYDON, SWEARENGEN & ENGLAND P.C. 312 E. Capitol Avenue P. O. Box 456 Jefferson City, MO 65102 (573) 635-7166 voice/(573) 635-0427 facsimile dcooper@brydonlaw.com jcraig@brydonlaw.com

¹ Staff's *Memorandum*, p. 2.

ATTORNEYS FOR FOXFIRE UTILITY COMPANY AND OZARKS CLEAN WATER COMPANY

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail to the following this 19th day of October, 2022:

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