

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Kimberling)	
City Water Company for Authority to Transfer)	
Certain Assets to Upper White River Basin)	Case No. WO-2015-0113
Foundation, Inc. and, in Connection Therewith,)	
Certain Other Related Transactions.)	

**THE OFFICE OF THE PUBLIC COUNSEL'S RESPONSE TO STAFF
RECOMMENDATION AND REQUEST FOR LOCAL PUBLIC HEARING**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response to Staff Recommendation and Request for Local Public Hearing states as follows:

1. On November 4, 2014, an Application was filed with the Missouri Public Service Commission (Commission) by Kimberling City Water Company (Kimberling City or KCWC) requesting authority to transfer certain of its assets to Upper White River Basin Foundation, Inc. (UWRBF), which is associated with the Ozarks Clean Water Company (OCWC). The Application stated that Kimberling City and UWRBF entered into an agreement on November 3, 2014, in which Kimberling City agreed to donate all of its assets, property and easements connected with its water company operation in Stone County to UWRBF.
2. On December 3, 2014, the Staff of the Missouri Public Service Commission (Staff) filed its Recommendation to Approve Sale of Assets in which Staff recommended that the Commission approve the requested sale of assets, and further asked that the Commission enter an Order that grants Kimberling City the authority to donate its water utility assets, property and easements to UWRBF, as requested in the Application. In its filing, Staff included an attached Memorandum regarding Staff's Recommendation.

3. Public Counsel does not oppose the transfer, but it has reviewed Staff's Recommendation and the attached Memorandum and has some concerns.

4. Staff's Memorandum states the following on page 3:

Staff has reviewed the corporate documents of UWRBF and OCWC and believes that OCWC is legitimately created and operating as a nonprofit sewer utility and nonprofit water utility under state statutes. As such, OCWC is not subject to regulation by the Commission.

5. Additionally, Staff's Memorandum states the following on page 4:

OCWC has undertaken a preliminary technical study of the needs of KCWC's water system including cost estimates for rehabilitations, repairs and improvements. OCWC has not yet formulated a specific schedule to undertake the work. Its board of directors has not yet approved any expenditure of funds, put any plan in place to proceed with any work, nor decided on any change in rates. However, **OCWC states to Staff that it expects rates could approximately double the existing Commission-approved rates, and it is also considering applying a temporary surcharge that would be used to pay for the storage tank inspection and rehabilitation work.** Assuming the Commission approves this proposal and the sale occurs, OCWC would need to undertake its own evaluation of rate needs based on actual costs it incurs in undertaking rehabilitation and repair work as well as meeting ongoing operating expenses. Further, OCWC will need to communicate with its customers, and approve funding and rate changes through approval of its board of directors, as it does for its existing customers. [Emphasis added.]

6. Staff's Memorandum also states on pages 3-4:

KCWC states to Staff that although there has been no written notice sent to customers, the owner of KCWC has verbally discussed this proposed sale to OCWC with the Kimberling City mayor and municipal board of aldermen, and several of its individual customers including one who is a member of the board of alderman, and several condominium owners.

7. As a result, Public Counsel is concerned that customers have not been properly notified of the pending transfer and its potential impact on future rates.

8. Public Counsel also believes that affording customers the opportunity to speak to the Commission at a hearing is a critical part of the Commission's process to ensure that a proposed transfer of assets is just and reasonable.

9. In this case, customers are facing the prospect of having their water service transferred to a nonprofit entity that will not be regulated by the Commission. As a result, customers are facing rates that could possibly double without the requirement for Commission review and approval. This is quite different from the protection that the customers currently enjoy.

10. Public Counsel believes that customers should have the opportunity to voice their concerns, if any, to the Commission regarding the proposed transfer. Additionally, customers should have the opportunity to meet the potential owner of their water system and ask questions regarding future plans for their utility.

11. As a result, Public Counsel requests that the Commission schedule a local public hearing regarding the Application. Public Counsel does not object to the Commission scheduling the hearing promptly, as long as customers are given sufficient notice.

WHEREFORE, Public Counsel respectfully submits its request.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 5th day of December 2014:

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