

DK
DISSENTING OPINION OF COMMISSIONER DAVID L. RAUCH
White Branch Water Company
Case No. WM-93-43

The decision my colleagues made in Case No. WM-93-43 represents what appears to be the solution which best assures an expedited restoration of safe and adequate water service for the people served by White Branch Water Company. Clearly the approval of the transfer of assets of this problem-plagued company to a reputable and established company such as Riverside Utilities should be a significant step in that direction. I certainly cannot argue with the obvious benefits of this decision, especially considering the state of affairs of the White Branch Water Company.

My dissent in this case relates directly to the fact that a significant number of White Branch customers objected to the proposed sale, as well as the circumstances surrounding these objections. Opposition to this sale was expressed in Warsaw on September 3, at a local public hearing held for the specific purpose of soliciting comments and answering questions of White Branch customers and others regarding both the proposed changes in ownership and the proposed water rate and service charge increases. Additional objections and clarifications were submitted later following the hearing through correspondence which included petitions signed by numerous White Branch customers. These later communications are a part of the official letter file of the case.

I attended the local hearing in Warsaw and I am aware that some of the objections to this sale were tied to concerns and confusion regarding the substantial rate and service charge increases proposed as part of this case. I believe the majority's decision responds to and clarifies most of these concerns. The decision also makes the approved rate increases interim and subject to refund, thus better assuring that the increased rates paid by customers will

reflect only those costs necessary to restore and maintain safe and adequate water service in the White Branch system.

I acknowledge that some of the customer objections to this transfer of assets were in response to the rate and service charge increases requested by Riverside Utilities. However, and nonetheless, I believe that the primary concern raised was that, correctly or incorrectly, the objecting customers did not want this sale approved because they contend that an alternative solution should be considered which they concluded would better serve their own overall interests, the interests of the White Branch Water Company service area, as well as the immediate area beyond.

At the public hearing several customers of White Branch Water Company testified against the sale of the system to Riverside Utilities because they desired that the service area of the company become part of a newly organized water district which is subject to voter approval in November. These customers suggested that they preferred the Commission pursue the pending receivership action and seek the appointment of a receiver who would manage the system, seek to make necessary improvements, and eventually arrange for the anticipated water district to take over the system. At the local hearing and in statements filed later and contained in the official letter file, customers indicated that a reputable local individual would be willing to either serve as the interim receiver or buy the company outright and hold it for inclusion into the proposed water district at a later time.

I am not personally convinced that the alternative promoted by the local customers would, in fact, present a better solution to the problems experienced by those served by White Branch Water Company. There is little doubt that the consideration and implementation of such an alternative would cause some further delay in the restoration of safe and adequate service to the beleaguered service

area. I acknowledge, as well, that the challenge before the Commission in this specific case primarily was to determine whether it would be detrimental to the public interest to approve the sale. Admittedly, it is difficult for me to argue emphatically that this sale would be of detriment to the people served so poorly by White Branch Water Company. However, while acknowledging all of this, I would contend that the assessment of that standard and the evaluation of the acknowledged benefits of this sale should give due consideration to the opinions and wishes of those affected most directly, the customers themselves.

It is my contention that it would have been appropriate for the Commission to have found a way to have given further consideration to the concerns and alternative proposals of the significant number of White Branch customers who objected to this sale. Consequently, in an effort to acknowledge the point of view of these customers and to indicate my deference to their understanding of their own interests in this case, I hereby register my reservation regarding this order and respectfully dissent.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David L. Rauch", written in a cursive style.

David L. Rauch, Commissioner

Dated at Jefferson City, Missouri,
on this 30th day of September, 1992.