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January 30, 2002

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

FILED³

JAN 30 2002

Missouri Public
Service Commission

RE: Case No. WA-2002-65

Dear Mr. Roberts:

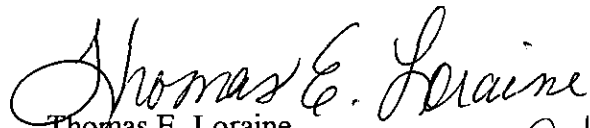
Enclosed please find the one (1) original and fourteen (14) copies of our Motion to Allow Supplemental Surrebuttal Testimony and Additional Request for Continuance Based on Extraordinary Circumstances in the above-referenced matter to be filed with the Commission. Please file-stamp a copy for our records.

The Application is a substantial matter to be adduced of which said matter affecting the public interest.

Your attention to this matter is greatly appreciated.

Very truly yours,

LORAIN & ASSOCIATES


Thomas E. Loraine
by JW

TEL/jw

Enclosures

Hancock/filingPSC1-30-02

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
JAN 30 2002

In the matter of the application of Environmental Utilities,)
LLC, for Permission Approval and Certificate of)
Convenience and necessity Authorizing it to Construct)
Install, Own, Operate, Control, Manage and Maintain)
A Water System for the Public Located in Unincorporated)
Portions of Camden County, Missouri (Golden Glade)
Subdivision))

Missouri Public
Service Commissioner

CASE #: WA-2002-65

MOTION TO ALLOW SUPPLEMENTAL SURREBUTTAL TESTIMONY
AND ADDITIONAL REQUEST FOR CONTINUANCE BASED ON
EXTRAORDINARY CIRCUMSTANCES

COMES NOW Intervenor, Hancock Construction Company by and through it's attorney of record, Thomas E. Loraine of the law firm of Loraine & Associates and moves the Commission to allow Supplemental Surrebuttal of the testimony of Mrs. Debra Williams and staff witness, Mr. Russo under extraordinary circumstances 4CSR 240-2.130(4) and Id. (8). For it's reasons Intervenor states:

That Mrs. Williams testified at the hearing occurring January 7, 2002, that she had been informed by Staff that Osage Water Company is and has been for sometime in full compliance with Commission instructions and rule requirements regarding NARUC USOA. Likewise, staff witness Russo testified that "Osage Water Company's record keeping was sufficient to allow classification . . . under that NARUC system of accounts . . . and were sufficient to do a rate base calculation for the company and to meet the requirements of the Commission."

Intervenor wishes to point out to the Commission that the 1999 annual report was not available to Intervenor's expert Professional Engineer, William Cochran at the time of his preparation of Rebuttal testimony or anytime prior to the January 7, 2002 hearing. In fact Mr. Cochran deducted from his search of the records that the 1999 annual report had not yet been

filed. In fact Intervenor's expert learned on January 9, 2002, that the annual report for 1999, filed for Osage Water Company was incorrectly filed under the wrong case number. (See attached schedule 1.,) "Notice of Correction" filed hereto as schedule 1 and incorporated herein as if more fully repeated herein.) Thereafter the Commission allowed extension of time for Staff in evaluating annual report wrongfully filed. (See attached Schedule 2) Staff was given until January 15, 2002 to file it's recommendation on this 1999 annual report. A "Second Order Granting Extension of Time was granted to Staff on January 15, 2002. (See schedule 3., attached hereto and incorporated by reference as if more fully repeated herein.) In this Order, the Commission quotes Staff's motion that states, "the enlargement of time would allow Staff to work with the company to correct or explain certain discrepancies, Staff has found in the Company's 1999 annual report in relation to prior annual reports and audits conducted by Staff." The wrongfully filed number did not permit Mr. Cochran to find the annual report which in turn did not permit Intervenor to discover evidence in support of it's position that the annual reports and records were, in deed, still not being kept in compliance with NARUC USOA.

If the correct file number had been applied Mr. Cochran would have been able to prove to the Commission that Mrs. Williams and Staff members were incorrect based on the 1999 annual report filed on November 28, 2001, by William P. Mitchell. (See schedule 4., attached hereto and incorporated herein as if more fully repeated herein.) It is also interesting to note that Mr. Mitchell filed the late report although Mrs. Williams asserts that she was keeping all records from July, 2001, since Mr. Mitchell had "abandoned" the Osage Water Company as early as July, 2001.

This evidence that remained "concealed" by an incorrect filing number severely prejudiced Intervenor's discovery of evidence and hampered Mr. Cochran in his search for truth to reveal to the Commission evidence at the January 7, 2002, hearing before the Public Service Commission.

Although the evidence was partly presented on January 7, 2002, fortunately, Mr. Cochran has not testified and therefore the harm done can be mitigated by allowing Mr. Cochran to file Supplemental Surrebuttal testimony before the conclusion of the evidence.

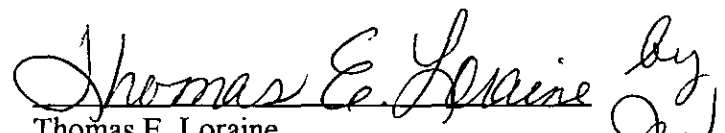
Intervenor respectfully renews it's request for a continuance heretofore filed by separate motion on the additional grounds presented herein and for a grant of permission to file surrebuttal so as to prevent substantial injustice from occurring by authority if 4CSR240-2.130(4), (Extraordinary Circumstances) and for the filing of Supplemental Surrebuttal under 4CSR240-2.130.(8) for matters not previously disclosed which arose at the hearing on January 7, 2002.

WHEREFORE in the best interest of substantial justice based on the record as a whole, Intervenor requests:

- 1) A continuance to address the injustices set forth previously; and
- 2) Permission to file Supplemental Surrebuttal so as to prevent injustice.

Respectfully submitted,

LORAIN & ASSOCIATES
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(573) 348-8909 Telephone
(573) 348-8920 Facsimile


Thomas E. Loraine
Missouri Bar #: 22206

ATTORNEY FOR HANCOCK CONSTRUCTION
COMPANY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing document was served upon the attorneys of record in the above cause by hand delivering same to The Office of Public Counsel, 301 West High Street, Suite 250, Jefferson City, Missouri 65101 and mailing same U.S. mail, first

class, postage pre-paid to Mr. Gregory Williams, P.O. Box 431, Sunrise Beach, Missouri 65079, on this 30th day of January, 2002.

Thomas E. Lorraine by *TL*
THOMAS E. LORAINÉ

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Ozark Shores)
 Water Company for an Order Canceling the)
 Certificate of Public Convenience and Necessity) Case No. WD-2001-701
 Issued to it in Case Number WA-99-99 for Water)
 and Sewer Service at a Condominium Complex)
 Known as Summerhaven Condominiums.)

In the Matter of the Annual Report of Osage)
 Water Company for the Calendar Year Ending) Case No. WE-2002-240
 December 31, 1999.)

NOTICE OF CORRECTION

The Commission's Order Granting Extension of Time issued on January 8, 2002,
 bore the wrong case number and caption. The order should have indicated it was for Case
 No. WE-2002-240, not WD-2001-701. The Commission records will reflect that the order
 should have been issued in Case No. WE-2002-240. A corrected copy of the Order Granting
 Extension of Time is attached to this notice.

BY THE COMMISSION

(S E A L)

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Dated at Jefferson City, Missouri,
 on this 9th day of January, 2002.

Ruth, Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Annual Report of Osage Water Company for the Calendar Year Ending December 31, 1999.)
Case No. WE-2002-240)

REVISED ORDER GRANTING EXTENSION OF TIME

On November 28, 2001, Osage Water Company filed a Motion for Leave to File Delinquent Annual Report. On January 3, 2002, the Staff of the Missouri Public Service Commission filed a Request for Enlargement of Time in Which to File Response. Staff indicates that the General Counsel's office of the Missouri Public Service Commission did not receive a copy of this filing or become aware of it until about 12/20/02 (sic). Staff requests that the Commission enlarge the time in which Staff has to file its response until January 15, 2002, so that it may have adequate time. Staff states that counsel for Osage Water Company has no objection to the request for enlargement of time, and that the request is not being made for the purpose of harassment or delay.

The Commission has reviewed the request for additional time and finds that it should be granted. The request is reasonable and will not prejudice any party to this proceeding.

IT IS THEREFORE ORDERED:

1. That the Request for Enlargement of Time in Which to File Response, filed by the Staff of the Commission on January 3, 2002, is granted. The deadline for Staff to file its recommendation is now January 15, 2002.

2. That this order shall become effective on January 15, 2002.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Vicky Ruth, Senior Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo.2000.

Dated at Jefferson City, Missouri,
on this 9th day of January, 2002.

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

In the Matter of the Annual Report of Osage Water
Company for the Calendar Year Ending December 31,
No. WE-2002-240
1999.

Case

SECOND ORDER GRANTING EXTENSION OF TIME

On January 3, 2002, the Staff of the Missouri Public Service Commission filed a Request for Enlargement of Time in Which to File Response. Staff requested that the Commission enlarge the time in which Staff has to file its response until January 15, 2002, to allow it adequate time to analyze the company's request. By order issued January 9, 2002, the Commission granted the extension of time.

On January 14, 2002, Staff filed a second Request for Enlargement of Time in Which to File Response and Motion for Expedited Treatment. Staff requests that the Commission again enlarge the time in which Staff has to file its Response, until February 5, 2001 (sic). Staff indicates that the enlargement of time would allow Staff to work with the company to correct or explain certain discrepancies Staff has found in the company's 1999 Annual Report in relation to prior annual reports and audits conducted by Staff. Staff notes that counsel for the company has no objection to the request for enlargement of time, and that the request is not being made for the purpose of harassment or delay.

The Commission has reviewed the request for additional time and finds that it should be granted. The request is reasonable and will not prejudice any party to this proceeding.

IT IS THEREFORE ORDERED:

1. That the Request for Enlargement of Time in Which to File Response, filed by the Staff of the Commission on January 14, 2002, is granted. The deadline for Staff to file its recommendation is now February 5, 2002.

2. That this order shall become effective on January 15, 2002.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Vicky Ruth, Senior Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 15th day of January, 2002.

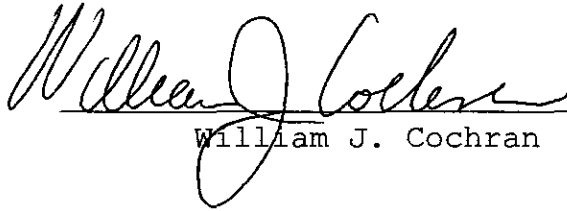
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Environmental Utilities,)
LLC, for Permission, Approval, and a Certificate of)
Convenience and Necessity Authorizing It to Construct,)
Install, Own, Operate, Control, Manage and Maintain) Case No. WA-2002-65
a Water System for the Public Located in Unincorporated)
Portions of Camden County, Missouri (Golden Glade Subdivision)
)

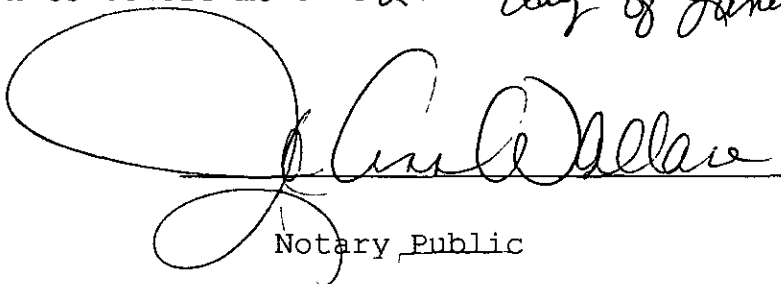
AFFIDAVIT OF WILLIAM J. COCHRAN

STATE OF MISSOURI)
) SS
COUNTY OF CAMDEN)

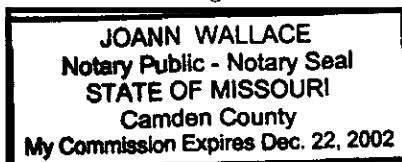
William J. Cochran, of lawful age, being duly sworn: on his oath states: my name is William J. Cochran, I hereby swear and affirm that my statements contained in the attached "COMMENTS", therein propounded, consisting of 1 page to be presented in this case are statements were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.


William J. Cochran

Subscribed and sworn to before me this 29th day of January, 2002


Notary Public

My commission expires



COMMENTS

The Osage Water Company's (OWC) 1999 Annual Report filed with the Commission on November 28, 2001 is new evidence that would have been addressed in my prefiled rebuttal and surrebuttal.

Extraordinary Circumstances, so defined in Chapter 2 Rule 4 CSR 240-2.130 (4), have denied my addressing this new evidence. The extraordinary circumstances can be seen in Commission Order on **Case No. WD-2001-701** dated January 8, 2002 where Osage Water Company's filing of a delinquent annual report bore the wrong case number and caption and **Case No WD-2001-701 and Case No WE-2002-240** where this labeling error was corrected on January 9, 2002.

This labeling error apparently occurred on August 8, 2001 when **Case No WD-2001-701** first appeared on the Commission's website. If on August 8, 2001, the Commission order had been a "WE" order directed to OWC instead of a "WD" order directed to Osage Shores Water Company then there would be no need for a Commission **NOTICE OF CORRECTION** on January 9, 2002.

Commission's proper labeling would have allowed me to seek discovery of OWC's 1999 annual report prior to its delinquent filing on November 28, 2001. If I had known, on August 8, 2001, that OWC intended to file this 1999 Annual Report by November 28, 2001, I could have possibly addressed the OWC 1999 Annual Report in my November 21, 2001 rebuttal filing and certainly in my December 5, 2001 surrebuttal filing.

Staff's position in this case (See TR 257 lines 5 -8) is based on belief OWC has and is in compliance with Commission Rules and has used proper NARUC USOA. However, this erroneous belief is due to the Commission finding in **Case WE-2002-240** that "Staff did not receive a copy of this filing or become aware of it until about 12/20/02 (sic)".

Due to Staff's lack of knowledge of **Case WE-2002-240** before 12/20/01 their position and belief in this instant case recognizes OWC compliance with Rules 4 CSR 240-10.080 - Annual Report filings, 4 CSR-240-50.020- Preservation of Records and 4 CSR-50.030 NARUC USOA.

The wrong case number and caption plus Staff's ignorance of OWC's Delinquent report until December 20, 2001 resulted in **REVISED ORDER GRANTING EXTENSION OF TIME** and Commission's January 15, 2002 **SECOND ORDER GRANTING EXTENSION OF TIME**

The findings in the two above orders shows that Staff has changed its mind. Further, although Staff became aware of OWC delinquent 1999 Annual Report on December 20, 2001, Staff's erroneous belief of OWC Rules compliance was perpetuated and aggravated by Staff witness Mr. Russo's January 7, 2002 representations on TR 257 lines 5 through 8 in this instant case.

Due to Commission mislabeling its order on OWC's delinquent Annual Report resulted in a delayed proper assignment of **Case No. WE-2002-240** until January 8th and with subsequent delayed findings due to this mislabeling on January 9th and January 15th, I believe Rule 4 CSR 240-2.130(8) regarding supplemental surrebuttal testimony should be implemented allowing me to address this new evidence under these extraordinary circumstances.

William J. Cochran P.E.