

**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 A Water System for the Public)	Case No. WA-2002-65
Located in Unincorporated Portions of Camden)	
County, Missouri (Golden Glade Subdivision))	

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE
OFFICE OF THE PUBLIC COUNSEL**

COMES NOW, the Office of the Public Counsel, and submits the following Proposed Findings of Fact and Conclusions of Law to the Missouri Public Service Commission for its Consideration in this case.

FINDINGS OF FACT

1. Environmental Utilities, LLC, is a limited liability Missouri corporation owned in its entirety by Gregory D. and Debra Williams.

2. Mr. and Mrs. Williams are also among the primary owners of Osage Water Company, which provides water and sewer utility service to customers in the State of Missouri. Osage Water Company is a Missouri corporation and is currently regulated by the Public Service Commission. Osage Water has been the subject of a number of regulatory actions and complaints before this Commission regarding the manner in which it provides service to its customers. Osage Water currently holds the certificate to provide sewer service in Golden Glade.

3. On or about August 23, 2001, Environmental Utilities applied for a certificate of convenience and necessity from the Commission. In that Application, Environmental stated that it sought to provide regulated retail water service to the

residents of Golden Glade subdivision, and wholesale water service to the Eagle Woods subdivision, a service territory of Osage Water Company located adjacent to Golden Glade.

4. Gregory and Debra Williams are the developers of Golden Glade subdivision. The subdivision is subject to restrictions on the lots purchased. These restrictions include the existence of the Golden Glade Landowners' Association, a "homeowners" association created by the developers. Until all lots in the subdivision are sold, or January 1, 2010, the developers will exercise control over this Association.

5. Debra Williams is currently serving as manager of Osage Water, and is proposed as the managing member of Environmental Utilities. According to her testimony, she had no experience in managing public utilities prior to July 9, 2001. Gregory Williams is an attorney who is currently representing Environmental Utilities. For the past several years he has been an officer and director of Osage Water, and has served as attorney for Osage Water in regulatory and other matters. The Williamses employ the services of Jeffrey Smith who now holds a water operator's license from the Missouri Department of Natural Resources.

6. If the Commission declines to grant a certificate to Environmental Utilities, the Golden Glade Landowners' Association will provide unregulated water utility service to the residents of Golden Glade.

7. The evidence presented shows that a distribution system and water well have been constructed in the Golden Glade subdivision by the developers, Gregory and Debra Williams. The Williamses plan to sell the well system to Environmental, and contribute the distribution system to Environmental as a contribution in aid of

construction, if the certificate is granted. If the certificate is denied, the Williamses plan to retain ownership of both the well system and the distribution system and lease both systems to the Landowners' Association.

8. The financial viability of the proposed water service provider depends on the continued development of Golden Glade and the ability of the provider to contract to provide wholesale water service to the Eagle Woods subdivision.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over applications for certificates of convenience and necessity pursuant to Section 393.170 RSMo (2000).

2. Absent conditions which must be met prior to providing service, and additional conditions on the operation of the company, Environmental would not be qualified to provide safe and adequate water service to customers at just and reasonable rates. Sec. 393.130 RSMo. Therefore, unless adequate conditions can be imposed, granting this application would not be in the public interest.

3. If the Commission denies this application, the owners of Environmental will provide unregulated water service to the residents of Golden Glade through the Landowners' Association which they control. This is not an acceptable outcome, because the applicants would not be subject to any conditions which would help ensure that the company is qualified to provide water service. However, the Commission is not in the habit of rewarding applicants who create a Hobson's choice for the Commission regarding whether granting a certificate is in the Public Interest.

4. Regardless of the distasteful position in which the Applicants have placed the Commission in this case, the Commission finds that it can impose conditions which

will mitigate any detriment to the public interest, if the Company complies with these conditions.

THEREFORE, the Commission will Conditionally Grant a Certificate of convenience and necessity to Environmental Utilities, LLC, to provide retail water service in the Golden Glade subdivision and to provide wholesale water service to the Eagle Woods portion of the Osage Water Company's service territory. The conditions which the Commission will impose are of two types. The first type of condition are those conditions which the Applicant must meet before the certificate can take effect. The Applicant will have 90 days from the date of this order to demonstrate that it has implemented these conditions, or not certificate will issue. The second type of condition which will be imposed on this certification are conditions of operation. These conditions are ongoing, and violation of these conditions will subject the Applicant to further proceedings before this Commission, including, if appropriate, proceedings to revoke the certificate.

The pre-certificate conditions are:

PC 1. Environmental shall demonstrate that it has obtained the services of a licensed operator that meets the applicable MDNR requirements.

PC 2. Environmental shall demonstrate that it has entered into an agreement for wholesale (water) service to Osage Water Company related to OWC's Eagle Wood Service Area, subject to conditions listed below.

PC 3. Environmental shall demonstrate that the facilities necessary to serve the Eagle Woods territory of Osage Water Company as wholesale customer have been installed.

PC 4. Environmental shall demonstrate that it has obtained all necessary MDNR permits or approvals related to the construction of the supply and distribution system.

PC 5. Environmental shall demonstrate that it Environmental has applied for the required MDNR permit to dispense.

PC 6 Environmental shall create or develop the following accounting mechanisms:

- a) a separate customer advances account
- b) a separate contributions in aid of construction (CIAC) account
- c) a plant held for future use account
- d) separate revenue sub-accounts within the income water billing account for each class of water customer (i.e., wholesale, residential, commercial)
- e) a separate revenue account for miscellaneous or other revenues
- f) a continuing property records system to control and monitor tangible properties.
- g) a cost allocation system based on reasonable standards to distribute shared or common costs among the Williams's various businesses and/or companies.
- h) a log to track, charge, and record personal use of company owned equipment by employees and owners and use of company owned equipment by other entities.
- i) a log to track and allocate use of equipment owned by other entities by Environmental
- j) a log to track, charge, and record time spent working for Environmental Utilities, Osage Water and any other entity.

PC 7. Record plant on balance sheets at original cost based on MPSC approved USOF guidelines.

PC 8. Record accumulated depreciation reserve associated with MPSC original cost plant balances on balance sheet.

PC 9. Present balances for Account 301, Organization and Account 302, Franchises and Consents for review by Staff and Public Counsel.

The post-certification, ongoing conditions are:

The Company shall demonstrate:

C 1. Continued compliance with pre-certificate conditions.

C 2. Appoint one of its members to be the authorized signatory for all contracts regarding the regulated activities of the company, and shall file notice, in writing, with the Commission which states the identity of such member, and serve a copy of this notice on the Office of the Public Counsel. This designation shall not be changed without proper notice of such change to the Commission and the Public Counsel.

C 3. Should Environmental Utilities seek to enter into a contract with another regulated utility which is owned, at least in part, by any member of Environmental Utilities, LLC., Environmental shall first submit such contract to the Commission Staff and the Office of the Public Counsel for review. If the Staff or the Public Counsel has reason to object to the contract, and the parties are unable to reach agreement regarding the wording of the contract within 30 days, the Company shall submit the contract to the Commission for approval.

C 4. The member(s) responsible for managing the operations of Environmental shall complete, at that person's own expense, training in the management of small utility companies within six months of the granting of the certificate. The costs of this training shall not be recoverable from Environmental's customers, because a qualified manager should have been in place before the application was filed. Managing persons shall submit evidence of the successful completion of such training to the Commission and the Public Counsel.

C 5. The managing member of Environmental Utilities shall seek, and abide by, direction provided by the Commission Staff's management assistance program.

C 6. The Company shall provide the Commission, for review and approval, all proposed transactions between the regulated utility and its owners, Greg and Debra Williams, which could affect the rates charged to the company's customers.

C 7. The Commission's decision regarding this certificate is not binding on any rate making issue, or, in the alternative,

C 7a. The Commission expressly excludes the 10% "general contractors' fee" proposed by the Company from rates.

C 8. Environmental shall not seek to acquire by purchase, merger or other transfer any other regulated utility territory or assets for a period of not less than 12 months from the granting of the conditional certificate.

C 9. Track all costs for every capital project. This recommendation inherently includes the premise that the Company should develop criteria (threshold dollar levels and/or qualitative job standards) in accordance with the USOA to determine whether a cost is to be recorded as an expense item or whether it requires capitalization.

C 10. Record each journal entry entered in the financial records with a full description of the service and service provider, invoice number, payment check number, and amount. If an item is an allocation of expenditures paid by an entity other than the utility include a descriptive notation identifying as such.

C 11. The Company will ensure that service to condominium developments in the future will be predicated upon the installation of meters for each individual condominium unit in such developments.


C 12. Bills for service that the Company provides under contract management agreements in systems not regulated by the Commission will not be rendered under the name "Environmental Utilities."

C 13. Bills for service shall only reflect service actually provided.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By:


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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 30th day of April 2002:

GENERAL COUNSEL

Missouri Public Service Commission
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GREGORY D. WILLIAMS

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PRESIDING COMMISSIONER

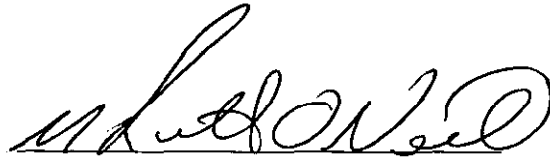
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A handwritten signature in dark ink, appearing to read "Gregory D. Williams", is written over a horizontal line.