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State of Missouri Governor

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May 22, 2002

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

Re: Environmental Utilities, LLC  
Case No. WA-2002-65

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of The Office of the Public Counsel's Objections to Late Filed Exhibit Offered by Environmental Utilities, L.L.C. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter,

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Ruth O'Neill".

M. Ruth O'Neill  
Assistant Public Counsel

MROJb

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of Environmental	)	
Utilities, L.L.C., for Permission, Approval, and a	)	
Certificate of Convenience and Necessity Authorizing	)	
It to Construct, Install, Own, Operate, Control,	)	<b>Case No. WA-2002-65</b>
Manage and Maintain A Water System for the	)	
Public Located in Unincorporated Portions	)	
of Camden County, Missouri.	)	

THE OFFICE OF THE PUBLIC COUNSEL'S OBJECTIONS TO  
LATE FILED EXHIBIT OFFERED BY ENVIRONMENTAL  
UTILITIES, L.L.C.

COMES NOW, the Office of the Public Counsel, and Objects to the admission of the post-hearing exhibit, marked Exhibit 29 for identification purposes, which has been offered by the Applicant, Environmental Utilities, L.L.C. The proposed exhibit purports to be "an itemization of attorney's fees," Public Counsel's objects because the proposed exhibit is irrelevant, and contains probable inaccuracies and misstatements. If this exhibit is admitted into evidence, Public Counsel will be denied the right to cross examine the Applicant on the inaccuracies in the document, and will be denied the ability to present any argument challenging the document in its post-hearing briefs. The factors which form the basis of this objection include the following:

1. The proposed exhibit consists of an "itemization of attorney's fees" prepared on behalf of Greg Williams, Attorney, for legal fees allegedly incurred in the certificate case for Environmental Utilities, L.L.C. (the Applicant), which is owned by Mr. Williams and his wife, Debra Williams. This proposed exhibit was

not provided to the parties until after the time for filing reply briefs in this case, Reply briefs in this case were due May 15, 2002. The reply brief is generally the last filing which is permitted in a case before the Commission, The only document Public Counsel received from the Applicant on that date was a document entitled "Environmental Utilities, L.L.C. Proposed Findings of Fact and Conclusions of Law." Public Counsel did not receive the proposed late-filed exhibit until May 16.

2. The issue in this case is whether the Commission should grant a certificate of convenience and necessity to the Applicant, so that the Applicant company may provide water utility service in the Golden Glade subdivision of Camden County, Missouri, and sell water on a wholesale basis to Osage Water Company, a regulated utility owned in part by the owners of the Applicant.

3, The submission of the proposed exhibit is not relevant to any issues under consideration at this time, Therefore, it is not relevant. Irrelevant evidence is not admissible.

4, To the extent that the proposed exhibit was relevant to the issue of the rates contained in the Applicant's proposed tariffs, it is nonetheless not relevant to the determination of issues in this case, because this is not a rate case. The Commission should not consider this factor without reviewing other relevant factors in determining what rates should be set. Public Counsel and the Commission's staff have not had an opportunity to adequately review this document, and the time for presenting evidence to challenge the document is past.

5. To the extent the proposed exhibit contains relevant information, and if the Commission decides to admit the exhibit over the objection of Public Counsel, it should be noted that the exhibit contains entries which purport to charge time to the Applicant for items which are not properly attributable to this L.L.C. or to this proceeding. For example, the bill contains the following entries:

--"letter to Lorraine regarding malicious prosecution and bar complain arising from same" as part of a 1.5 hour block of time on 11/16/2001. Other items are included in that block which might pertain to this case, but this is clearly not properly included in the cost of service for the Applicant.

--"draft board resolution for OWC to approve Golden Glade certificate application" as part of a block of time on 12/12/01. This was work done for Osage Water Company, not the Applicant.

--other possible errors may exist which cannot be addressed without further analysis.

WHEREFORE, Public Counsel objects to the admission of the late-filed document marked as Exhibit 29 for identification in Case No, WA-2002-65, and respectfully moves that the Commission to overrule the Applicant's request that the exhibit be admitted into evidence.

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 22<sup>nd</sup> day of May 2002:

**GENERAL COUNSEL**

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