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January 15, 1998

FILED

JAN 16 1998

MISSOURI  
PUBLIC SERVICE COMMISSION

Public Service Commission  
Attn: Cecil Wright  
P.O. Box 360  
Jefferson City, MO 65102

RE: Case Nos. WC-98-211, WA-97-110, & WA-98-36

Dear Mr. Wright:

Enclosed please find the original and fourteen copies of Osage Beach Fire Protection District's Motion to Reconsider in the above-referenced matters to be filed with the Commission. Please file-stamp one copy and return it in the self-addressed, stamped envelope that is enclosed for your convenience.

Your attention to this matter is greatly appreciated.

Very truly yours,

THOMAS E. LORAIN, P.C.



Thomas E. Loraine

TEL/maa

Enclosures

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FILED

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

JAN 16 1998

MISSOURI  
PUBLIC SERVICE COMMISSION

OSAGE BEACH FIRE DISTRICT )  
Complainant )

v. )

OSAGE WATER COMPANY )  
Respondent )

Case No. WC-98-211

In the Matter of the Application of )  
Osage Water Company for a Certificate of )  
Convenience and Necessity Authorizing it )  
to Construct, Install, Own, Operate, )  
Control, Manage and Maintain a Water )  
System for the Public Located in Unincor- )  
porated Portions of Camden County, )  
Missouri. )

Case No. WA-97-110

In the Matter of the Application of )  
Osage Water Company for Permission, )  
Approval, and a Certificate of )  
Convenience and Necessity Authorizing )  
it to Construct, Install, Own, )  
Operate, Control, Manage and Maintain )  
a Water and Sewer System for the )  
Public Located in an Unincorporated )  
Portion of Camden, County, Missouri. )

Case No. WA-98-36

**OSAGE BEACH FIRE PROTECTION DISTRICT'S  
MOTION TO RECONSIDER**

Comes Now Osage Beach Fire Protection District, pursuant to  
section 386.410 RSMo (1986) and Missouri Commission Rule 4 CSR 240-  
2.080 and states as follows:

1. On October 29, 1997 in its **Order Denying Motion and Ordering  
Staff Recommendation** (Order), the Commission ordered Staff to complete  
its audit and file its recommendation by December 12, 1997 concerning  
unresolved financial matters in Cases WA-97-110 and WA-98-36.

(Emphasis added)

2. On November 6, 1997, the Osage Beach Fire Protection  
District (OBFPD) filed a **Formal Complaint** concerning unresolved  
financial matters related to 4 CSR 240-2.060(2).

3. On December 12, 1997, the OBFPD filed a **Motion to  
Consolidate** (Motion) Cases WA-97-110, WA-98-36 and WC-98-211.

4. On December 12, 1997, Staff made a recommendation, based on a partial and as yet incomplete audit and under a format characterized as a "Memorandum", to Commission Official Case Files of Case Numbers WA-97-110 and WA-98-036. (Emphasis Added)

5. On December 12, 1997, Staff's Memorandum offered opinions about the merits of OBFPD's Motion. Staff used this Memorandum/Recommendation rather than file a Response, allowed by 4 CSR 240-2.080, to OBFPD's Motion.

6. In addition to Staff's Memorandum not complying with Commission Order, Staff's Memorandum appears to be a "report" under 4 CSR 240-2.070(11).

7. Staff's Memorandum identifies the reasons why it can't comply with the Order. Staff's recommendation doesn't resolve material issues identified in Commission's Order. The most apparent reasons for Staff's inability to comply with the Order are: OWC's inability to keep and preserve books and records required by 4 CSR 240-50.020 & 4 CSR 240-61.010; Staff's reliance on unsupported depreciation rates characterized as "attachment 1" to Staff's Memorandum; OWC's continuing inability to file annual reports for the last five years in compliance 4 CSR 240-50.030(5) & 4 CSR 240-61.020(5); OWC's inability to meet 4 CSR 240-2.060 requirements; the shortfall of Staff's "overall audit" of OWC to uncover significant indebtedness to "outsiders" (See Williams surrebuttal in Docket No. WA-97-332) that after resolution of pending civil lawsuits could further threaten OWC's financial ability to provide water and sewer services. OBFPD's preliminary audit indicates that Staff's Memorandum significantly understates OWC's debt exposure and liabilities. Staff's partial audit only identifies what Staff believes is owed to "principals of the Company". Apparently, Staff is unaware of OWC's debt exposure to "outsiders"; Staff's apparent inability, based on 1997 Missouri State Senate Bill 289, to conduct a depreciation study on a sewer company in support of "attachment 1" to its Memorandum; and Staff's reliance on criteria inconsistent with and weaker than five criteria previously adopted by the Commission Re Tartan Energy Co. 3 Mo. P.S.C. 3d 173,177 (1994).

WHEREFORE, OBFPD respectfully asks the Commission reconsider its **Order Denying Motion to Consolidate**. OBFPD considers said order to be unlawful, unjust and unreasonable because Staff was ordered to complete its audit before making a recommendation. Staff did not complete its audit before making a recommendation, used inconsistent criteria in forming an opinion in making the recommendation, and did not have all the facts available about OWC's finances, operations and ability to manage a water and sewer company before making said recommendation.

Respectfully submitted,

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ATTORNEYS FOR COMPLAINANT, OSAGE BEACH  
FIRE PROTECTION DISTRICT

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing was on this 15th day of January, 1998, mailed, postage prepaid, to the following:

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