

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

In the matter of the Application of Osage Utility)	
Operating Company, Inc. to Acquire Certain )	Case No. WA-2019-0185
Water and Sewer Assets and for a Certificate of )	and SA-2019-0186
Convenience and Necessity )	

**RENEWED MOTION TO STAY UNDER 386.500.3, RSMO, AND MOTION FOR  
EXPEDITED TREATMENT**

COME NOW Public Water Supply District No. 5 of Camden County, Lake Area Waste Water Association, Inc., and Missouri Water Association, Inc. (collectively, "Joint Bidders"), and Cedar Glen Condominium Owners Association, Inc. ("Cedar Glen"), by and through counsel and pursuant to Section 386.500.3, RSMo 2016, respectfully request an order of the Commission staying, for the periods of time described herein, the operation of the Commission's report and order issued April 8, 2020 particularly staying and postponing the authority of Osage Utility Operating Company, Inc. ("OUOC") to close on the transfer of (or make improvements to) Osage Water Company's assets at issue in this case. In support, Cedar Glen and Joint Bidders submit the following:

**PROCEDURAL HISTORY**

1. The effective date of the Commission's Report and Order in this matter was May 8, 2020.
2. OPC, Cedar Glen, and Joint Bidders filed Applications for Rehearing on May 7, 2020 preserving their right to appeal in the event their Applications are denied.
3. On May 10, 2020, Joint Bidders and Cedar Glen filed a Petition for Alternative Writs in the Court of Appeals, Case No. WD83773.
4. On May 12, 2020, the Court of Appeals issued its order that "any action related to the implementation of the Report and Order is stayed until further order of this court."

5. On June 3, 2020, the Court of Appeals denied the Petition for Alternative Writ of Certiorari and Writ of Mandamus.

### **AUTHORITY OF COMMISSION**

6. Section 386.500.3 provides:

An application for a rehearing shall not excuse any corporation or person or public utility from complying with or obeying any order or decision or any requirement of an order or decision of the commission, or operate in any manner to stay or postpone the enforcement thereof except as the commission may by order direct.

(emphasis added).

### **HARM TO MOVANTS**

7. Section 386.500, RSMo, provides interested parties an opportunity to file an Application for Rehearing of any orders or decisions of the Commission.

8. An interested party can file a Notice of Appeal under Section 386.510, RSMo, within thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the rendition of the decision on rehearing.

9. Upon motion or application of an interested party and pursuant to Section 386.520, RSMo, the Court of Appeals may stay or suspend the operation of an order or decision of the commission.

10. If OUOC is allowed to close on the transfer assets (or make improvements to the systems) prior to the Commission's decision on the Application for Rehearing (or prior to any Court of Appeals' decision on a Motion to Stay or Suspend the Operation of the Order), then much of the Commission's report and order authorizing the asset transfer could be declared moot and no longer subject to challenge.

11. If OUOC is allowed to close on the transfer of assets (or make improvements to the systems) prior to the Commission's decision on the Application for Rehearing, and subsequently any issues related thereto are declared moot, then Cedar Glen and Joint

Bidders (or other interested parties) will be: 1) deprived of any meaningful right to apply for rehearing as guaranteed by statute; and 2) deprived of any meaningful right to appeal as guaranteed by statute and the Missouri Constitution. See *State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm'n of State*, 409 S.W.3d 522, 525 (Mo. App. W.D. 2013).

### **TIMING OF COMMISSION DECISION**

12. In the Western District Case, WD83773, the Commission argued that it was not given "a meaningful opportunity to decide the Relator's [initial] motion for stay."

13. Here, the Public Service Commission has an agenda meeting on June 10, 2020.

14. Movants respectfully request that this Motion be heard and decided on June 10, 2020.

15. The agenda for such meeting will be posted and sent on June 9, 2020.

16. Movants respectfully request that any responses to this Motion be filed June 8, 2020. (This is not unreasonable, as OUOC previously responded to the initial motion in less than 24 hours).

17. **In order to preserve the status quo, and allow the Commission a meaningful opportunity to decide the Motion, movants respectfully request that the Commission issue an order by delegation<sup>1</sup> today, June 4, 2020 (or tomorrow, June 5, 2020) staying the Report and Order to provide the Commission a meaningful opportunity to decide the Motion on June 10, 2020.**

18. **At the June 10, 2020 Agenda Meeting, movants respectfully request that the Commission stay the effective date of the Report and Order until thirty days following any decision on the Application for Rehearing to provide movants a meaningful opportunity to seek a stay of such order, as is their statutory right under Section 386.520, RSMo.**

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<sup>1</sup> See §386.240 ("The commission may authorize any person employed by it to do or perform any act, matter or thing which the commission is authorized by this chapter to do or perform; provided, that no order, rule or regulation of any person employed by the commission shall be binding on any public utility or any person unless expressly authorized or approved by the commission").

## **REQUESTED RELIEF**

19. Cedar Glen and Joint Bidders respectfully request the Commission to enter the following relief pursuant to Section 386.500.3:

a. Order and Direct that the effective date of the Commission's Report and Order be temporarily stayed by delegation (until the Commission's June 10 Agenda Meeting) under Section 386.500.3 to allow the Commission a meaningful opportunity to consider movant's Motion to Stay;

b. At the June 10 Agenda Meeting, Order and Direct:

(i) that the effective date of the Commission's Report and Order be stayed while Applications for Rehearing are pending; and

(ii) that if such applications are denied that the effective date of the Report and Order is extended by thirty days, unless otherwise ordered by the Western District pursuant to Section 386.520, RSMo.

20. Movants submit that in the interest of substantial justice and to avoid rendering null, Cedar Glen's and Joint Bidder's constitutional and statutory rights to meaningful rehearing and appeal, the Commission should grant this motion.

### **MOTION FOR EXPEDITED TREATMENT**

21. The dates by which movants desire the Commission to act are set forth above in Paragraphs 17 and 18.

22. The harm that will be avoided and negative effects on consumers are set forth above in Paragraphs 10 and 11. In addition, for example, ratepayers argue that OUOC has proposed unnecessary and expensive improvements -- if these improvements are allowed to proceed during the appeal, they could unnecessarily inflate rates (without any ability to undo such improvements), even if movants win on appeal. If the Commission acts by the



*Attorney for Cedar Glen Condominium  
Owners Association, Inc.*

THE LAW OFFICE OF AARON  
ELLSWORTH

By: /s/ J. Aaron Ellsworth  
J. Aaron Ellsworth, #60265  
2404 Bagnell Dam Blvd.  
P.O. Box 250  
Lake Ozark, MO 65049  
Telephone: 573-693-9050  
Facsimile: 573-552-4620  
Email: [ellsworth@lolawoffice.com](mailto:ellsworth@lolawoffice.com)

*Attorney for Joint Bidders*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served upon all of the parties of record or their counsel, pursuant to the Service List maintained by the Data Center of the Missouri Public Service Commission on June 4, 2020.

/s/ Stephanie S. Bell  
Stephanie S. Bell