

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

In the Matter of Missouri-American Water company §  
For a Certificate of Convenience and Necessity §  
Authorizing it to Install, Own, Acquire, Construct, § **File No. SA-2015-0065**  
Operate, Control, Manage and Maintain a Sewer §  
System in Benton County, Missouri §

**PROPOSED INTERVENOR'S/PETITIONER'S REPLY TO  
STAFF'S RESPONSE IN OPPOSITION  
TO MOTION TO INTERVENE OUT-OF-TIME**

**COMES NOW**, George M. Hall, the Proposed Intervenor/Petitioner and for his Reply to Staff's Response In Opposition To Motion To Intervene Out-Of-Time, states as follows.

1. The Proposed Intervenor's Motion does comply with Commission Rule 4 CSR 240-2.075(3) in that Proposed Intervenor definitely has established an interest which is different than the General Public and further, the proposed intervention would serve the public interest.

2. Proposed Intervenor's interest is different than the general public based upon the fact of the pending litigation in Case No. 12 BE-CC00035, in the 30<sup>th</sup> Judicial Circuit Court, Benton County, Missouri. The Defendant, Benton County Sewer District #1's Motion To Dismiss in the matter was overruled on April 15, 2013. This action of the Court clearly demonstrates that Proposed Intervenor stated a colorable claim. If after trial of the matter, judgment is entered for Proposed Intervenor, he could then file a lien against Benton County Sewer District #1 to seek enforcement of the judgment. The general public cannot entertain such a lien since not a party to the litigation. Hence the argument in the Staff's Response is clearly misplaced and unfounded.

3. In this instant case, MOAW can not establish it meets the requirements to be considered a *bona fide* purchaser. A *bona fide* purchaser has the burden of proving he has no notice of title irregularities. If the sell of the Benton County Sewer District #1 assets to MOAW is accomplished, then MOAW must prove the following elements: (1) Payment of valuable consideration; (2) **Has no notice of outstanding rights of others, and;** (3) Acts in good faith, in order to establish MOAW is indeed a *bona fide* purchaser. Case law authority clearly dictates that a **buyer**, (MOAW in this instant case), **will not be protected** where he is put on notice of the irregularities in a seller's title, either by defects in the face of the certificate or **by other circumstances**. It has further been held the "requisite notice" may be imparted to a prospective purchaser by actual or constructive notice of facts which would place a reasonably prudent person upon inquiry as to the title he is about to purchase. In this instant matter, MOAW has had actual and constructive **notice of the outstanding rights of others**. Therefore, MOAW cannot meet and have not met the requirements to be considered a *bona fide* purchaser herein and therefore, subject themselves to possible and foreseeable civil litigation in the immediate future.

4. Allowing intervention in this case would serve the public interest. The general public is entitled to the assurance that a *bona fide* purchaser if at all allowable or possible, based upon the facts present by Proposed Intervenor, acquires the assets of the dissolved Benton County Sewer District #1. The **outstanding rights of others is** evidenced by the numerous civil litigations (15 or more separate cases) currently pending which involve the Benton County Sewer District #1.

5. The Staff of the Missouri Public Service Commission admit that good cause

exists for the late filing of intervention by Proposed Intervenor upon showing eligibility pursuant to Rule 4 CSR 240-2.075(3). Proposed Intervenor's foregoing reply clearly demonstrates that Proposed Intervenor has an interest different than the general public and that the granting of intervention would serve the public interest in the matters now pending before the Commission.

**WHEREFORE**, Proposed Intervenor requests that his Motion For Out of Time Intervention be in all things **GRANTED**.

Respectfully Submitted,

/s/ George M. Hall

George M. Hall, Proposed Intervenor/Petitioner  
31971 Chesapeake Dr.  
Warsaw, Missouri 65355  
(660) 723-4283  
[bonzimagnum@yahoo.com](mailto:bonzimagnum@yahoo.com)

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