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

In the Matter of the Application of )  
Osage Water Company for Permission, )  
Approval and Certificate of Convenience )  
and Necessity Authorizing It to Construct, ) Case No. SA-99-268  
Own, Operate, Control, Manage and Maintain )  
a Sewer System for the Public Located in )  
Unincorporated Portions of Camden )  
County, Missouri, Golden Glade Subdivision )

**ORDER DENYING MOTION TO CONSOLIDATE AND MOTION TO COMPEL**

On December 12, 1998, Osage Water Company (Company) filed an application with the Commission requesting issuance of a certificate of convenience and necessity to construct, install, own, operate, control, manage, and maintain a sewer system for the public in unincorporated portions of Camden County, Missouri, known as Golden Glade Subdivision. The Commission issued an order and notice, directing interested parties to file applications to intervene no later than January 14, 1999.

The City of Osage Beach (City) filed a timely application to intervene on January 12, 1999. This application was approved by the Commission on January 22, 1999 to be effective February 1, 1999.

On January 22, 1999, Company timely filed a response to application to intervene by the City. Company requested an order of the Commission denying the application to intervene filed herein by the City. Company's motion to deny application to intervene was denied on January 28, 1999. Company filed a motion to reconsider this

order on February 3, 1999, which was denied on the record during the prehearing on March 1, 1999.

On April 28, 1999, the City filed a motion to consolidate Case Nos. SA-99-268 and WA-99-437, motion to cancel procedural schedule in Case No. SA-99-268, motion to set prehearing conference to establish new procedural schedule in the consolidated cases, and motion for expedited treatment.

4 CSR 240-2.110(5) states in part:

When actions . . . involve related questions of law or fact, the commission may order a joint hearing of any or all the matters in issue, and may make other orders concerning proceedings before it to avoid unnecessary costs or delay.

City states that it wants the cases consolidated because Company "is . . . proposing to operate a joint sewage treatment facility for . . . adjoining subdivisions . . . ." This statement by the City does not appear to be correct since there are no pleadings to that effect on file with the Commission. In addition, the two cases involve separate (although adjoining) pieces of real estate. Thus there are no related questions of law and fact. The Commission will deny the motion to consolidate and all the concomitant motions filed with it.

On April 30, 1999, City filed its motion to compel answers to data requests and to reschedule filing of rebuttal, requesting certain questions be re-answered by Company, to wit:

1. "From whom will a resident of Golden Glade subdivision obtain water service?" (Data Request, Question 1) Company states:  
"The Application in this case only seeks authority to provide

sewer utility service. Osage Water Company does not have an agreement to provide water service in the proposed service area. The information requested is not relevant to any material issue in this case. OWC [i.e., Osage Water Company] objects to this data request for lack of relevancy to any issue in this proceeding." The Commission sustains the objection.

2. "Does anyone other than Gregory D. Williams and Debra J. Williams own property within the boundaries of Golden Glade subdivision? If so, please provide the name and address of the other property owners." (Data Request, Question 6) Company states: "Yes. Names and addresses of other property owners is not relevant to any issue in this case. OWC objects to providing the same for lack of relevancy." The Commission sustains the objection.
3. "Did the developer of Golden Glade subdivision request bids for the provision of sewer service from any entity other than Osage Water Company? If so, provide a copy of all such proposals received. If not, explain why no such bidding process was undertaken." (Data Request, Question 15) Company states: "There are no other regulated public utilities which are interested in offering sewer utility service outside of their existing certificated areas in the Lake of the Ozarks area." In the Commission's opinion, Company has answered the question.

4. "Please explain what you mean when you say on page 8 of the feasibility study that this service area (presumably the Golden Glade subdivision) is 'strategically located to provide a regional facility for the Turkey Bend Area.'" (Data Request, Question 17.A) Company states: "These words are self-explanatory." In the Commission's opinion, Company has answered the question.

5. "According to page 4 of your feasibility study, you intend to construct a recirculating sand filer (*sic*) system in treatment modules designed to serve approximately 30 single family homes each. You also state in the Sewer Supply Contract that the Developer contemplates the construction of 40 residential houses and other facilities over a period of one or more years . . . .

"C. What does the phrase 'other facilities' refer to?"

(Data Request, Question 18.C) Company states: "No such phrase appears on page 4 of the feasibility study." In the Commission's opinion, Company has answered the question.

"D. Describe the nature of, and indicate how many, 'other facilities' are planned to be constructed within Golden Glade."

(Data Request, Question 18.D) Company states: "No such phrase appears on page 4 of the feasibility study." In the Commission's opinion, Company has answered the question.

"E. Does the Developer anticipate the construction of commercial and multifamily dwellings within Golden Glade?"

If so, describe the number and nature of such installations . . . ." (Data Request, Question 18.E)

Company states: "OWC [i.e., Company] cannot speculate as to the intent of the developer, who is not a party to this proceeding." Although this is a disingenuous answer by the Company since Osage Water Company and the developer are the same people, in the Commission's opinion, Company has answered the question.

6. "What authority does Osage Water Company have to supply water in Golden Glade subdivision?" (Data Request, Question 20)

Company states: "OWC does not provide water utility service within Golden Glade Subdivision." In the Commission's opinion, Company has answered the question.

7. "Please provide a copy of any and all citations for non-compliance, or letters indicating non-compliance, with any permits, permit provisions, standards, rules or other provisions of the MDNR [i.e., Missouri Division of Natural Resources] or any of its agencies, which either Osage Water Company or the Developer or any agent for the Developer or Osage Water Company on the Golden Glades project have received within the past ten years." (Data Request, Question 21)

Company states: "No such notices exist with respect to the Golden Glade project. OWC has been advised by MDNR that the City of Osage Beach has requested that it issue a notice of violation with respect to Golden Glade Subdivision, but the

project does not violate MDNR regulations." In the Commission's opinion, Company has answered the question.

The standard for granting a motion to compel is that if the information sought is relevant or calculated to lead to the discovery of relevant information, the Commission will compel its production unless the burden of producing it outweighs its value<sup>1</sup>. The City has not met its burden of proof under this standard. Thus the Commission will deny its motion to compel answers to data requests and all the concomitant motions filed with it.

**IT IS THEREFORE ORDERED:**

1. That the motion to consolidate Case Nos. SA-99-268 and WA-99-437, motion to cancel procedural schedule in Case No. SA-99-268, motion to set prehearing conference to establish new procedural schedule in the consolidated cases, and motion for expedited treatment, all filed on April 28, 1999, by the City of Osage Beach, are denied.

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<sup>1</sup> See Rule 56.01(b)(1): Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

2. That the motion to compel answers to data requests and to reschedule filing of rebuttal, both filed on April 30, 1999, by the City of Osage Beach, are denied.

3. That this order shall become effective on May 21, 1999.

**BY THE COMMISSION**

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

( S E A L )

Bill Hopkins, Senior Regulatory Law Judge,  
by delegation of authority pursuant  
to 4 CSR 240-2.120(1) (November 30,  
1995) and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,  
on this 11th day of May, 1999.

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COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION