

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]	

MOTION TO INTERVENE

COME NOW Public Water Supply District No. 5 of Camden County, Missouri ("PWSD #5"), and Lake Area Waste Water Association, Inc. ("LAWWA"), and Missouri Water Association, Inc. ("MWA") (collectively referred to herein as the "Intervenors"), pursuant to 4 CSR 240-2.075 of the Rules of Practice and Procedure, and for their Motion to Intervene, respectfully state:

1. PWSD #5 is a nonprofit Public Water Supply District established pursuant Chapter 427 of the Revised Statutes of the State of Missouri, and is active and in good standing with the Missouri Secretary of State. PWSD #5's Certificate of Good Standing is attached hereto as Exhibit 1.

2. LAWWA is nonprofit member managed corporation established pursuant Chapter 393 of the Revised Statutes of the State of Missouri, active and in good standing, with its principal office and place of business at 515 Old South 5, Camdenton, MO 65020. LAWWA's Certificate of Good Standing is attached hereto as Exhibit 2.

3. MWA is nonprofit member managed corporation established pursuant Chapter 393 of the Revised Statutes of the State of Missouri, active and in good standing, with its principal office and place of business at 515 Old South 5, Camdenton, MO 65020. MWA's Certificate of Good Standing is attached hereto as Exhibit 3.

4. Correspondence, communications, orders and the decision in this matter should be addressed to:

J. Aaron Ellsworth on behalf of PWSD#5
Ellsworth & Hardwick
2404 Bagnell Dam Blvd.
P.O. Box 250
Lake Ozark, MO 65049
Telephone: (573) 693-9050
Fax: (573) 552-4620
Email: ellsworth@lolawoffice.com

Charles McElyea on behalf of LAWVA and MWA
Phillips, McElyea, Carpenter & Welch
85 Court Circle NW
P.O. Box 559
Camdenton, MO 65020
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5. This case arose when Osage Utility Operating Company, Inc. (hereinafter referred to as "Applicant") filed an application for approval of its purchase of the water and sewer systems of Osage Water Company ("OWC"), Reflections Subdivision Master Association and Reflections Condominium Owners Association. On December 20, 2018, the Commission issued an Order and Notice directing that interested parties wishing to intervene must do so on or before January 18, 2019. Therefore, this application is timely.

6. OWC entered receivership in 2002, which was initiated by the PSC.

7. OWC filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code, which case is pending as Case No. 17-42759-drd11 in the U.S. Bankruptcy Court for the Western District of Missouri.

8. The Bankruptcy Court ordered the sale of all of OWC's assets.

9. On October 24, 2018, the Intervenor participants participated in an auction conducted by the Trustee for the purchase of the OWC assets.

10. In conducting the auction, the Trustee did not take into consideration the public's best interest, only seeking to maximize the purchase price for assets of OWC by utilizing a stalking horse purchaser.

11. The Applicant was arbitrarily selected as the stalking horse purchase without consideration of the best interest of the public.

12. At the auction, the Intervenor participants bid \$800,000 to purchase the assets of OWC.

13. At the auction, the Applicant also bid \$800,000 to purchase the assets of OWC.

14. Preferential treatment was given Applicant because they were selected as the stalking horse purchaser.

15. As a result, Intervenor participants were determined to be the first back up bidder and Applicant was determined to be the highest bidder and the Trustee entered into a contract with Applicant for the purchase of all of OWC's assets.

16. In the event the Public Service Commission should deny Applicant's application for approval of its purchase of the water and sewer systems of OWC, then Intervenor participants would be next in line to purchase the assets of OWC pursuant to its contract with Jill D. Olsen as Chapter 11 Trustee of OWC.

17. Intervenor participants remain ready, willing and able to close the purchase of the OWC assets should the Public Service Commission deny Applicant's application for approval of its purchase of such assets.

18. Intervenor participants have an interest in this proceeding because they are the first back up bidder.

19. The PWSD #5's interest in this proceeding differs from the public interest at large, because the Cedar Glen system is an integral part of its development and effort to provide the best water and sewer service to its constituents at a reasonable cost.

20. The PWSD #5 is able to provide the owners of Cedar Glen water and sewer service at a significantly lower cost because it already maintains a system adjacent to the Cedar Glen system which has excess water storage capacity and excess wastewater treatment capacity, thereby reducing the amount of improvements necessary to operate the system; whereas Applicant has proposed the expenditure of \$659,700 for improvement to the Cedar Glen system.

21. LAWVA and MWA are able to provide the customers utilizing the Chelsea Rose, Cimarron Bay and Eagle Woods water and sewer systems at lower rates because both entities are nonprofit corporations and have other systems in the immediate areas of the systems it has contracted to purchase.

22. In addition, PWSD #5 is able to obtain financing for the purchase and improvement of the Cedar Glen system at a rate significantly less than Applicant.

23. Granting the proposed intervention would serve the public interest.

WHEREFORE, for the foregoing reasons, Intervenors respectfully request that the Commission grant their Motion to Intervene in this matter, and thereby entitle them to have notice and appear at the taking of testimony, to produce and cross-examine witnesses and to be heard on the argument, and in all other respects fully participate in this proceeding.

Respectfully submitted,

ELLSWORTH & HARDWICK

By: /s/ J. Aaron Ellsworth

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ATTORNEYS FOR PUBLIC
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By: /s/ Charles McElyea

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ATTORNEYS FOR LAKE AREA
WASTE WATER ASSOCIATION,
INC. AND MISSOURI WATER
ASSOCIATION, INC.

ATTORNEY VERIFICATION

STATE OF MISSOURI)
) ss.
COUNTY OF MILLER)

I, J. Aaron Ellsworth, being first duly sworn, do hereby certify, depose and state that I am the attorney for Public Water Supply District No. 5 of Camden County, Missouri which seeks intervention in the above captioned proceeding before the Missouri Public Service Commission; that I have read the above and foregoing Application to Intervene and the allegations therein contained are true and correct to the best of my knowledge, information and belief; and I further state that I am authorized to verify the foregoing application by the above said applicant to intervene.

/s/ J. Aaron Ellsworth
J. Aaron Ellsworth

Subscribed and sworn to before me, a Notary Public, this 18th day of January, 2019.

/s/ Miranda Wimberley
Miranda Wimberley
Notary Public for Camden County, Missouri
Commission #15017083; M.C.E. 2-28-19

ATTORNEY VERIFICATION

STATE OF MISSOURI)
) ss.
COUNTY OF MILLER)

I, Charles McElyea, being first duly sworn, do hereby certify, depose and state that I am the attorney for Lake Area Waste Water Association, Inc. and Missouri Water Association, Inc. which seek intervention in the above captioned proceeding before the Missouri Public Service Commission; that I have read the above and foregoing Application to Intervene and the allegations therein contained are true and correct to the best of my knowledge, information and belief; and I further state that I am authorized to verify the foregoing application by the above said applicant to intervene.

/s/ Charles McElyea
Charles McElyea

Subscribed and sworn to before me, a Notary Public, this 18th day of January, 2019.

/s/ Miranda Wimberley
Miranda Wimberley
Notary Public for Camden County, Missouri
Commission #15017083; M.C.E. 2-28-19

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via U.S. Mail, postage prepaid and properly addressed, on this 18th day of January, 2019, to the following:

Missouri Public Service Commission
staffcounsel@psc.state.mo.us
Staff Counsel Department
200 Madison Street
Suite 800
P.O. Box 360
Jefferson City, MO 65102

Whitney Payne
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P.O. Box 456
Jefferson City, MO 65102

/s/ J. Aaron Ellsworth
J. Aaron Ellsworth

STATE OF MISSOURI



John R. Ashcroft
Secretary of State

CORPORATION DIVISION CERTIFICATE OF GOOD STANDING

I, JOHN R. ASHCROFT, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

PUBLIC WATER SUPPLY DISTRICT NO. 5 OF CAMDEN COUNTY, MISSOURI
D001296684

was created under the laws of this State on the 23rd day of August, 2018, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 18th day of January, 2019.


Secretary of State

Certification Number: CERT-01182019-0039



STATE OF MISSOURI



John R. Ashcroft
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, JOHN R. ASHCROFT, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

Lake Area Waste Water Association, Inc.
N00809847

was created under the laws of this State on the 10th day of April, 2007, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 18th day of January, 2019.


Secretary of State



Certification Number: CERT-01182019-0016

STATE OF MISSOURI



John R. Ashcroft
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, JOHN R. ASHCROFT, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

Missouri Water Association, Inc.
N00879597

was created under the laws of this State on the 10th day of March, 2008, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 18th day of January, 2019.


Secretary of State



Certification Number: CERT-01182019-0016