

**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	§	

**MOTION FOR RECONSIDERATION
OR IN THE ALTERNATIVE
CORRECTION OF ORDER *NUNC PRO TUNC***

Comes Now, George M. Hall, Proposed Intervenor pursuant to 4 CSR 240-2.160 and respectfully makes and files this his Motion For Reconsideration or in the alternative Correction Of Order *Nunc Pro Tunc* and respectfully submits the following:

1. On November 16, 2014, George M. Hall, Proposed Intervenor filed his Motion seeking leave to intervene out of time, or in the alternative, to file a brief as amices curiae.

2. On December 17, 2014, Public Service Commission denying George M. Hall's Motion For Out of Time Intervention but permitted filing of an amices curiae brief no later than January 9, 2015.

3. Pursuant to 4 CSR 240-2.160 (2) George M. Hall, Proposed Intervenor, submits the Order denying him out of time intervention is unlawful, unjust, and unreasonable on the following grounds:

(A) The interests of George M. Hall, Proposed Intervenor, are different from that of the general public; and,

(B) The only attempted definition of “interest of general public” was that made by PSC Staff Counsel and is for all purposes frivolous, arbitrary, and totally contrary to the facts of the case.

INTEREST OF THE GENERAL PUBLIC

4. What is the “Interest of The General Public” in this case? The Commission has not defined this terminology in this case but, the Staff Counsel has eluded to and determined in its’ Memorandum, pg. 8, that the “Interest of The General Public” is as follows:

“Is there a need for service? Yes, there is a need for service, in that residential customers desire and need sewer service. Additionally, proper improvement, operation and upkeep of the existing sewer system are necessary to ensure that customers will have safe and adequate service, and to maintain compliance with DNR water pollution control regulations.”

In summary, Staff Counsel has predetermined only a centralized sewer system will work in this rural area, that everyone needs this service, that all desire

this service, and that MOAW is the only possible means to achieve this end.

This conjecture and reasoning by Staff counsel is wholly unfounded, shooting from the hip, and lacks all rationale of reasoning required in the thought process.

Thus, Staff's position is "We know what is best, you take it, and that is that."

However, the interest of George M. Hall, Proposed Intervenor are totally opposite of this determination on "interest of general public" made by the Staff Counsel.

INTEREST OF GEORGE M. HALL, PROPOSED INTERVENOR

5. George M. Hall, Proposed Intervenor, submits that his interests are as follows.

(A) George M. Hall does not have a need for service. George M. Hall can install an on site residential system that does not require the service from any Sewer District, or corporation such as Missouri American Water.

(B) George M. Hall does not desire or need sewer service from any sewer district, company, and especially not Missouri American Water. George M. Hall desires to be made whole. In short, be returned to the status of a residential septic system that was in place prior to the illegal and selective mandatory hookup to the Benton County Sewer District #1. (Note: The Mandatory Hook up Ordinance, [This very same type of ordinance was held to be invalid and

illegal in the decision reached in *Moats -v- Pulaski County Sewer District No. 1*, 23 S.W. 3rd 868 (2000)], was imposed by the USDA as part of its Letter Of Conditions in order for the Benton County Sewer District #1 to receive a **Loan** for funding of the construction of the sewer system. The loan was contrary to the Order of the 30th Circuit Court of Benton County, Missouri and the vote of the people. At no time did the people authorize to indebt the District or give approval for a loan indebting the District.)

(C) The Benton County Sewer District #1 is *void ab initio*. As such, it has never existed. Without existence in the eyes of the law, there is nothing for sale and nothing to be purchased.

(D) Staff counsel is in no position to dictate what the needs and desires are of George M. Hall, Proposed Intervenor. George M. Hall has never had an intimate discussion with Staff Counsel depicting his wants and needs much less given Staff Counsel approval to determine what is best for George M. Hall or the means to accomplish that determination. George M. Hall has previously held a Class "D" Wastewater License in the State of Missouri. It is George M. Hall's view, after considerable research, that his interests are those favoring an individual residential sewage treatment system which is more effective, cost efficient, and does a much better process in protecting environmental issues.

THE VOTE

6. April 2, 2013, the residents overwhelmingly voted to dissolve the Benton County Sewer District #1. Dissolve, in this instant, means to put to an end or terminate. Prior to the election to dissolve the Benton County Sewer District #1, three public meetings were held in order for residents to inform and educate themselves about alternatives to centralized sewer systems and more cost efficient means to treat residential sewage. The outcome of these meetings is evident by the vote. The people have elected to say no to a centralized sewer system and service and demand return of individualized residential systems. George M. Hall, Proposed Intervenor, interests are those which demand return to his individual residential sewage treatment, and not to the dictatorial whims and illusionary fantasies of the Staff Counsel. In this case, Staff Counsel seeks to enjoin the vote of the people and totally ignore the results of the election April 2, 2013. This type of action by the Staff Counsel was condemned in the recent United States Supreme Court decision reached in SCHUETTE -v- BAMN, Case No. 12-682, decided April 22, 2014, (See attached Opinion Marked Exhibit "A" submitted herewith), wherein the Court ruled substantially the judiciary and governmental bodies themselves have no authority to interfere with the vote of the people. Staff Counsel's determination of the need for sewer service and the

desire for sewer service is contrary to the vote of the people and is nothing more than a State Agency's attempt to dictate what it determines is the general public interest in this case. In light of the foregoing decision of the United States Supreme Court, Staff Counsel's finding is unlawful, unjust and unreasonable and further opposite the interests of proposed intervenor, George M. Hall.

DECEMBER 17, 2014 SESSION OF THE
MISSOURI PUBLIC SERVICE COMMISSION

7. On December 17, 2014 during its Session of the Missouri Public Service Commission, Item #5 on the Agenda was George M. Hall, Proposed Intervenor's Motion To Intervene Out of Time. After brief discussion, wherein Commissioners Stoll, W. Kenney, and Hall all voiced their acceptance of the recommendations of Staff, the Commission accepted Version 3, Option #2 wherein to deny George M. Hall intervention in this case but to permit the filing of an amicus curiae brief. Commissioner Rupp disagreed stating intervention should be granted and that an amicus curiae brief would not afford effective representation as intervention would. The majority of the Commissioners stated George M. Hall's interests were not any different than all other rate payers is unfounded. First and foremost, the Commission has failed to define what is the

“general public interest” in this case. If the accepted version submitted by Staff Counsel is accepted by the Commission, then the interests of George M. Hall are totally opposite and different. George M. Hall, proposed Intervenor, in this case cannot be considered a rate payer. As testified to in the Public Hearing on November 24, 2014, George M. Hall has not paid a sewer bill since May 2012, and will not pay one penny to the Benton County Sewer District #1 to perpetuate a fraud nor will George M. Hall pay one penny Missouri American Water to conspire to cover up a fraud. Thus, reconsideration is proper and intervention should be granted in this case. What is obvious in this instant case is the USDA, Missouri Department of Natural Resources, Missouri Attorney General’s Office, and Missouri American Water do not want a contested case in this matter and are wanting this Commission to ignore the facts. George M. Hall, proposed Intervenor, submits the facts as follows:

a. In November 1994, the resident voters of the Benton County Sewer District #1 approved the boundary area known as the Benton County Sewer District #1.

b. In November 1995, after the Circuit Court Ordered it be placed on the ballot the issue of funding for the Benton County Sewer District #1 by means of Revenue Bonds. The voters approved (although no certification of the vote is on file with the County Clerk’s Office) the Revenue Bond Issue. However, the

voters were intentionally fed a misrepresentation that the High School would be served by the Sewer District and the Revenue Bonds were for the entire District area. The first Board of Trustees had already determined the High School and others would not be served and thus effectively created a sub-district contrary to State Law and without voter approval.

c. The District never attempted to sell any revenue bonds, never sold any revenue bonds, and the Board of Trustees on their own accord along with the assistance of Engineer Mike Zimmerman, and USDA employee Dennis Frisch, applied for an unauthorized, fraudulent loan and obtained same from the USDA thereby indebting the District. (As per the Missouri Constitution and State Statutes, Revenue Bonds are not an indebtedness which is what the vote of the people was for, not a loan.) Further, the USDA has no authority to purchase Revenue Bonds. Only the U.S. Treasury and the Federal Reserve can invest US tax dollars.

d. Beginning in 2012, residents began informing themselves about the dysfunctional Benton County Sewer District #1 and after numerous rate increases wherein monthly sewer service alone was a staggering \$116.00 per month, residents had had enough. Petitions were circulated and the appropriate number of signatures acquired placed the issue of dissolving the Benton County Sewer District #1 on the Ballot for the April 2, 2013 election. The vote to dissolve

overwhelmingly passed on April 2, 2103.

e. The USDA knowing of the dissolution ballot issue, sued the Benton County Sewer District #1 and obtained a temporary restraining order prohibiting the winding down procedures (liquidating of assets) of dissolution on April 1, 2013, one day in advance of the election. Further, the Missouri Department of Natural Resources intervenes as a co-plaintiff in the case.

f. Court appointed Receiver and Missouri Department of Natural Resources employee was appointed in July, 2013, said Receiver being Scott Totten.

g. In August 2014, the United States District Court for the Western District of Missouri approved the asset purchase agreement between the USDA and Missouri American water to purchase the assets of the Benton County Sewer District #1. The voters and residents of the District never voted to sell the sewer district assets to Missouri American Water nor has any public meeting of the Board of Trustees approved such a sale.(However, the voters group is currently appealing the denial of intervention in the federal case and two consolidated appeals are awaiting a date for Oral Argument before the United States 8th Circuit Court of Appeals.)

h. On September 8, 2014, Missouri American Water Company applies for a Certificate of Convenience and Necessity with the Missouri Public Service Commission, this current case. Thus the resulting Motion To Intervene Out of

time submitted by proposed Intervenor, George M. Hall.

CONCLUSION

8. This case is about one item and only one, the USDA wants to collect on an unauthorized and fraudulent loan by selling assets of the dissolved Benton County Sewer District #1 to Missouri American Water for the amount of \$750,000.00 and they want to accomplish this by not having a contested case. Why aren't the individuals responsible for the illegal act of applying for and obtaining the unauthorized fraudulent loan being held accountable? The USDA knows who the individuals are, yet is attempting to escape liability and accountability as a result of the actions of their own employee. It is quite peculiar the Missouri Attorney General's Office is not supporting or defending the vote of the citizens of the State of Missouri in this case. It is peculiar the Missouri Department of Natural Resources joined in as a co-plaintiff in the federal case when it had already received a consent judgment in State Court. Why didn't the Missouri Department of Natural Resources move the State Court for the appointment of a receiver which would have been the Court of proper jurisdiction? It is peculiar, the Receiver is an employee of the State Agency suing the Benton County Sewer District #1. It is peculiar that the attorney

representing the Benton County sewer District #1, (Mr. Charles Weedman) is committing an unauthorized practice of law and the Federal Judiciary, the United States Attorney's Office, the Missouri Attorney General's Office, and the Missouri Ethics Commission is condoning such an act. Charles Weedman is a Commissioner on the Missouri Ethics Commission and by State Law cannot represent a political subdivision while being a commissioner or for a period of one year after no longer serving as a Commissioner on the Ethics Commission. It is peculiar that the Missouri State Auditor's Office refused completing an audit on the Benton County Sewer District #1 stating the District no longer existed and was dissolved, yet knew of the dissolution vote prior to beginning the audit and still returned a thirteen (13) page document which was very damning towards the Benton County Sewer District #1. Peculiar, Missouri American Water was the only entity offered a proposal to purchase the assets of the Benton County Sewer District #1. What other under the table incentives have they been offered, ie. tax incentives or reductions? Peculiar, there were no notice of public bid to purchase the assets of the Benton County Sewer District #1. Peculiar, proposed Intervenor was granted the filing of an amicus curiae brief; this mere morsel of an attempt at due process since, as an amices curiae, proposed Intervenor is not permitted to respond to other pleadings. Peculiar, that all aforementioned individuals, Federal and State agencies are violating the constitutional rights of

the voters by not honoring their vote. Peculiar, how Staff Counsel is ignoring the vote of the people and attempting to persuade this Public Service Commission members to do just the same.

In 2013, the USDA Rural Development approved loans and grants in the State of Missouri for an amount totaling \$962,173,795.00, (See Exhibit B attached hereto.) Nearly one (1) billion dollars in one year. For a poker player, this would be equivalent to the Royal Flush and trumps all others. With these purse strings the USDA is able to refer, hint or otherwise imply or threaten, **“do as we say”**, (let Missouri American Water purchase the assets of the Benton County Sewer District #1), or we will withhold funding from the State of Missouri. It is apparent the domino effect of such implications or tactics has and is running its course in this case. The Missouri Attorney General’s Office, laid down; the Missouri Department of Natural Resources, laid down; the District’s Counsel, Charles Weedman, laid down; the Staff Counsel for the Public Service Commission, laid down; the Missouri State Auditor’s Office, laid down; Missouri American Water, laid down. Office of Public counsel has done nothing.

Three dominoes left, the proposed Intervenor, George M. Hall, the voters group, and the Missouri Public Service Commission. The proposed Intervenor and the voters group will not lay down. The question remains, will the Missouri Public Service Commission be a domino that lays down also, or will integrity and

dedication to public service be a strong enough incentive to propel the Missouri Public Service Commission to be one of the remaining dominoes standing and not succumb to intimidation of the USDA or any threat of monetary ramifications?

Wherefore, George M. Hall, Proposed Intervenor submits that his interests are distinguished from that of the general public and as such reconsideration of the Commissions Order dated December 17, 2014 is proper and that George M. Hall, Proposed Intervenor should be granted intervention in this case on his Motion To Intervene Out of Time or in the alternative the Commission grant intervention by *nunc pro tunc* order.

Respectfully submitted,

/s/ George M. Hall

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DECLARATION

I, George M. Hall, Proposed Intervenor/Petitioner in the foregoing document state, under the penalty of perjury, that I am the Proposed Intervenor/Petitioner in the foregoing, I have read the foregoing and that the factual allegations contained therein are true and correct to the best of my knowledge, information and belief.

By: George M. Hall

George M. Hall

CERTIFICATE OF SERVICE

I, George M. Hall hereby certify that a true and correct copy of the foregoing was mailed, faxed, or e-mailed to the following:

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