

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

January 6, 1998

CASE NO: WA-98-36, WA-97-110, WC-98-211

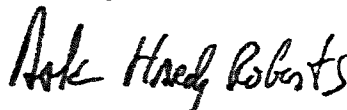
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**Gregory D. Williams
Highway 5 at Lake Road 5-33
P. O.Box 431
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Enclosed you will find certified copy of ORDER in the above-numbered case(s).

Sincerely,



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

Uncertified Copy:

**County Commissioners of Camden County
#1 Court Circle, P. O. Box 360
Camdenton, MO 65020**

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 6th
day of January, 1998.

In the Matter of the Application of)
Osage Water Company for Permission,)
Approval, and a Certificate of)
Convenience and Necessity Authorizing)
it to Construct, Install, Own,)
Operate, Control, Manage and Maintain)
a Water and Sewer System for the)
Public Located in an Unincorporated)
Portion of Camden County, Missouri.)

Case No. WA-98-36

In the Matter of the Application of)
Osage Water Company for Permission,)
Approval and a Certificate of)
Convenience and Necessity Authorizing)
it to Construct, Install, Own,)
Operate, Control, Manage and Maintain)
a Water and Sewer System for the)
Public Located in Unincorporated)
Portions of Camden County, Missouri.)

Case No. WA-97-110

Osage Beach Fire Protection District,)
)
Complainant,)
)
v.)
)
Osage Water Company,)
)
Respondent.)

Case No. WC-98-211

ORDER DENYING MOTION TO CONSOLIDATE

On December 12, 1997, Osage Beach Fire Protection District, (District) filed a Motion to Consolidate Case Nos. WC-98-211, WA-97-110 and WA-98-36, all concerning Osage Water Company (OWC or Company). The District indicated in its motion that it filed the complaint which is the subject of Case No. WC-98-211 because it has reservations about OWC's ability to report on, construct, own, operate, manage and maintain adequate water and sewer service systems. Case No. WA-97-110 involves the application of OWC for a Certificate of Convenience and Necessity to construct, own and operate a water service system in the unincorporated area of Camden County known as the Cimarron Bay subdivision and a sewer service system in the unincorporated area of Camden County known as the Chelsea Rose subdivision. Case No. WA-98-36 involves the application of OWC for a Certificate of Convenience and Necessity to construct, own and operate water and sewer service systems in the unincorporated area of Camden County known as the Cedar Glen Condominiums.

The District believes that consolidating these three cases will facilitate the efforts of the Staff of the Commission (Staff) to provide a viable procedural schedule and to clear up material issues that remain unresolved by supplementing the on-site audit results of Staff with the discoveries resulting from ongoing District investigations. In addition, the District states that data requests filed will be essential to all three cases and that consolidation of the cases will conserve review time and will expedite justice by allowing discovery of common facts.

On December 18 the Company filed in Case No WA-98-36 a Response to Staff's Recommendation, Response to Motion to Consolidate, and Motion to Submit Case on Verified Application and Staff Recommendation. The

Company states that it is in agreement with the conclusions and recommendations sections of Staff's memorandum filed on December 12. The Company states it agrees with Staff that the Motion to Consolidate filed by the District should be denied. The Company points out that: (1) the District is not a party to this case and did not file an application to intervene on or before the intervention date of August 29, 1997, as established by the Commission and as published in the local newspaper in the Lake of the Ozarks area; (2) there are no common questions of law or fact concerning this application for a certificate to provide water and sewer service to Cedar Glen and Case No. WC-98-211, which relates to the water service provided by Applicant to an area referred to in the Complaint as "Passover Road" located in the City of Osage Beach; (3) the proposed Cedar Glen service area is located outside the corporate limits of the District and within the corporate limits of the Mid-County Fire Protection District (Mid-County); and (4) the Motion to Consolidate is untimely. The Company requests that the Commission deny the Motion to Consolidate and grant the relief requested in the application without a hearing based on the verified application.

On December 18 the Company filed in Case No. WA-97-110 a Response to Staff's Recommendation, Response to Motion to Consolidate and Motion to Submit Case on Verified Application and Staff Recommendation. The Company states that it is in agreement with the conclusions and recommendations sections of Staff's memorandum filed on December 12. The Company further states it agrees with Staff that the Motion to Consolidate filed by the District should be denied. The Company points out that: (1) the District is not a party to this case and did not file an application to intervene on or before the intervention date of October 21, 1997; (2) there are no common questions of law or fact concerning this application

for a certificate to provide water and sewer service to Chelsea Rose/Cimarron Bay and Case No. WC-98-211, which relates to the water service provided by Applicant to an area referred to in the Complaint as "Passover Road" located in the City of Osage Beach; (3) the proposed Chelsea Rose and Cimarron Bay service areas are located outside the corporate limits of the District and within the corporate limits of the Sunrise Beach Fire Protection District (Sunrise Beach); and (4) the Motion to Consolidate is untimely. The Company requests that the Commission deny the Motion to Consolidate and grant the relief requested in the application without a hearing based on the verified application.

On December 19 Staff filed its Response in Opposition to Motion to Consolidate. Staff states in its response that the District's Motion to Consolidate is in essence an untimely motion to intervene in Case Nos. WA-97-110 and WA-98-36. Staff argues that the District's Motion to Consolidate does not show good cause for late intervention in these two cases. Staff further argues that the Chelsea Rose subdivision, the Cimarron Bay subdivision, and the Cedar Glen Condominiums are not located within the political subdivision limits of the District. Therefore, according to Staff, the District does not have an interest in the certificate cases which is different than that of the general public.

The Commission has reviewed the Motion to Consolidate filed by the District, the response filed by the Company and the response filed by Staff. The Commission determines that the Motion to Consolidate shall be denied because the three cases do not involve common questions of law and fact. The District's motion could be viewed as an untimely motion to intervene in Case Nos. WA-97-110 and WA-98-36, and in that regard the District has not shown good cause for late intervention in these two cases.

IT IS THEREFORE ORDERED:

1. That the Motion to Consolidate filed by Osage Beach Fire Protection District on December 12, 1997, is denied.
2. That this order shall become effective on January 6, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Murray,
and Drainer, CC., concur.

G. George, Regulatory Law Judge

ALJ/Sec'y:

George / Bayne

WA-98-36

WC-98-24

1-2-30
Date Circulated

WA-97-110

CASE NO.

[Signature]
Lumpe, Chair

[Signature]
Crumpton, Commissioner

Mr 2,3,4,5
Murray, Commissioner

[Signature]
Commissioner

[Signature]
Drainer, Vice-Chair

1-6
Agenda Date

Action taken:

4-OAS

Must Vote Not Later Than

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

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 6th day of January, 1998.

Dale Hardy Roberts

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