

GREGORY D. WILLIAMS

ATTORNEY AT LAW

HIGHWAY 5 AT 5-33

P. O. BOX 431

SUNRISE BEACH, MO 65079

573 / 374-8761

FAX 573 / 374-4432

May 13, 2002

Hon.  
Hon. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Mo 65102

Attn: Filing Desk

Re: Environmental Utilities, LLC  
WA-2002-65

Dear Judge Roberts:

Please find enclosed for filing in the above referenced matter the original and 8 copies of the following:

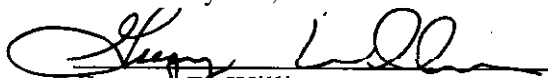
1. Reply Brief of Applicant.
2. Late Filed Exhibit of Legal Expenses as per Surrebuttal Testimony of Debra J. Williams.

An additional copy of each document is also enclosed to be stamped "filed" and returned to me in the enclosed envelop.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely

yours,



Gregory D. Williams

cc: Keith Krueger  
M. Ruth O'Neill  
Thomas Loraine

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

In the matter of the application of Environmental Utilities, LLC  
for permission, approval, and a certificate of convenience and  
necessity authorizing it to construct, install, own, operate,  
control, manage and maintain a water system for the  
public located in unincorporated portions of Camden County,  
Missouri (Golden Glade Subdivision).

Case No. WA-2002-65

**ENVIRONMENTAL UTILITIES, LLC  
REPLY BRIEF**

**COMES NOW** Environmental Utilities, LLC and for its Reply Brief herein states:

**SUMMARY**

The Commission has before it a voluntary application from the developers of Golden Glade Subdivision to provide for regulated water utility service to residents of that subdivision. The developers have, as a result of the abandonment of operations of Osage Water Company by William P. Mitchell, developed a management and operations team to operate an existing water and sewer utility company. They have also provided the capital needed to establish the facilities needed to provide service to Golden Glade, and to provide water for use by Osage Water Company in its Eagle Woods Service Area.

The Office of Public Counsel, and to a lesser extent, the Staff of the Commission, have suggested that extensive restrictive conditions be placed upon the certificate of convenience and necessity requested in this Application. To the extent that those restrictive conditions can or will negatively impact on either the investment of the principals in the Applicant, or the ability of the Applicant to operate at a profit, those restrictive conditions will not be acceptable to the Applicant and the principals will not agree to invest their capital into the Applicant and the Applicant will be unable to proceed with the provision of regulated utility service as proposed in the Application.

In that there appears to be no material dispute as to the satisfaction of the *Tartan Energy* criteria, the Commission should grant the certificate requested. The Commission should reject any special conditions which would adversely impact on the investment of capital in the applicant, or the ability of the applicant to operate at a profit.

### **REPLY TO THE STAFF OF THE COMMISSION**

The Applicant and the Staff of the Commission are in substantial agreement on most of the issues raised in this case. This Reply Brief will therefore only address issues raised in Staff's Additional Brief about which there is a difference of viewpoint or disagreement between the Applicant and the Staff.

#### **ECONOMIC FEASIBILITY DEPENDS UPON A CONTRACT WITH OWC**

Staff suggests that the economic feasibility of the Applicant's proposal depends upon whether or not the Applicant enters into a contract with Osage Water Company to provide wholesale water service to Eagle Woods Subdivision and to share staff and equipment with Osage Water Company. The Applicant disagrees. The continued viability of Osage Water Company depends upon its access to resources which belong to the Applicant or its principals, i.e. the office space provided by Gregory D. Williams; the bobcat and excavator utilized for repairs which are owned by Gregory D. and Debra J. Williams; the management expertise provided by Debra J. Williams; the availability of Jeffrey Smith who had been terminated as an employee of OWC by Pat Mitchell prior to July 7, 2001, and was employed thereafter by Gregory D. Williams for non-regulated utility work, and made available to OWC after July 7, 2001; and the availability of Gregory D. Williams and Jeffrey Smith as licensed water system operators to allow OWC to remain in compliance with applicable MDNR Drinking Water

regulations. In short, the continued existence of OWC and its business depends upon the principals of the Applicant in this case. The ability of the Applicant to operate successfully depends also upon the availability of its principals and their resources, not upon an agreement with OWC.

It is without question economically feasible to provide public drinking water utility service by utilizing a well and distribution system constructed to the standards required by the Missouri Department of Natural Resources Public Drinking Water Program. To the knowledge of the Applicant, this is the most economically feasible method of providing public water utility service, and is certainly more economical than an alternative method, such as constructing a transmission main to another public utility or municipal water system, or by delivering water by tanker truck. The method of service proposed by the Applicant is the most economical method available, and no evidence has been provided by any party to this case to suggest that there is any alternative method, much less a more economical method.

Staff's argument focuses on whether service can be provided at the initial rates proposed in the Application over an extended period of time if wholesale service is not provided to OWC. This is a different issue, i.e. whether stable, low rates can be maintained for residents of the proposed service area without wholesale of water to residents outside the service area. There was no evidence presented on this issue, nor was there any evidence that denying the application would in any manner result in a lower cost of providing water utility service to residents of the proposed service area.

Simply put, there is no legal basis for conditioning the grant of a certificate in this case on the existence of a written agreement with OWC as suggested by the Staff. The proposed method

of service is the most economically feasible method of service available, and probably the only economically feasible method available.

#### APPLICANT SHOULD OBTAIN A PERMIT TO DISPENSE FROM MDNR

The Applicant agrees that a permit to dispense should be obtained from MDNR for the water system in the Applicant's name. This cannot be done until a certificate is granted, and is a requirement of MDNR's regulations enforced by MDNR. This Commission does not need to enforce MDNR's regulations. The Applicant has submitted an Application for a Permit to Dispense to MDNR and MDNR is awaiting this Commission's decision in this case to determine whether to issue the permit to the Applicant, or to the homeowner's association. There is no valid legal or factual basis for conditioning the grant of a certificate on the issuance of a permit to dispense.

#### OPERATION BY THE HOMEOWNER'S ASSOCIATION

Both the Staff and the OPC have taken the position that the Applicant and the Golden Glade Homeowner's Association are controlled by the principals of the Applicant. While this may be true in the short term, this is an analysis that does not hold up over time. First, the homeowner's association will be managed by a board of three directors, two of whom are appointed by the principals as developers of the project, and the third of whom is elected by the homeowners. While the principals may have majority "control" of the board by virtue of this power of appointment, the residents of the subdivision will also have input into the management of the association. Further, once the principals have sold out the platted lots in the project, the residents of the association will elect all of the members of the board of directors. There is no assurance that any of the residents, or any of the elected directors, will have any knowledge or expertise in the management and operation of a public water system. There is no assurance that

the homeowner's association will provide adequate reserves for maintenance, repair, or replacement of the public water system, or an emergency fund for catastrophic damages, such as a pump failure. These are the types of things which a public utility can and should be able to provide, with some assurance of ongoing experienced management and operations that a homeowner's association is not well suited to provide. The homeowner's association has considerably larger duties than simply operating the water system in the subdivision. The skills required for these other duties may be perceived as more important by the residents and their representatives than providing skilled operators and financial reserves for the water system.

The Commission is not in position where it is forced to either grant this application or allow the principals of the applicant to operate the Golden Glade water system through an unregulated entity. While that may be the case in the near term, in the not too distant future the control of the homeowner's will pass to other, as yet unknown individuals, with an unknown and unascertainable ability to properly operate that water system.

The Commission's choice is to either allow this water system to become part of a regulated utility, with management and operation by persons whom the Commission and its staff have had an opportunity to investigate as to their management abilities and qualifications, or to allow the water system to become part of a homeowner's association operated and managed by persons whom this Commission does not and will not know anything about. The issue before the Commission is which of these alternatives best promotes the public interest.

The principals of the Applicant, as developers of the subdivision and water system, have filed and proceeded with this Application because they believe that placing this water system with a public utility best serves the public interest. The Staff of the Commission has, with some

reservations, reached the same conclusion. The Office of Public Counsel, with some reservations, also agrees.

### PROPOSED TARIFF PAGES

This proceeding commenced on August 6, 2001. The Applicant's proposed tariff pages have been on file with the Commission since that date, as they were attached to the Application. No alternative tariff pages have been proposed by any party to this case. Staff has suggested that some revisions should be made, although Staff is the author of the rules which it suggests need to be revised. Staff has not provided the specific language to be revised, nor has it provided alternative tariff pages. Staff suggests that revisions can be worked out informally through negotiations between the Staff, the Office of Public Counsel, and the Applicant. The Applicant would simply direct the Commission's attention to the fact that these "minor" revisions have not been successfully worked out by negotiations since August 6, 2001, and there is no reason to believe that they will be successfully worked out after a certificate is granted.

Staff **also takes issue with a proposed flat** rate of \$26.81, which was the flat rate proposed by Staff for Osage Water Company, as "too high." Staff gives a lengthy analysis of factors which the Commission might consider in order to reach the conclusion that this proposed flat rate is "too high." Staff fails to even suggest to the Commission what flat rate would be "just right." Since the tariff provides a requirement that all service connections be metered, the use of a flat rate will be restricted to those instances where an unauthorized connection is made to the water system, a situation which has occurred in the Lake Area before. Mr. Hancock, the principal of the intervenor in this case, admitted to having tampered with the water meter through which he obtained water service from OWC so that he was able to obtain water utility service without the same being metered. While this is a criminal act, if the only measure of damages

available is the "minimum" metered rate, the utility company is placed in a position of collecting a minimum amount of money for service that is unlawfully taken in a civil action, where presumptively the utility company will have to pay for the legal fees incurred in the civil action. There is no incentive for residents or others not to simply hack into the utility company's water system and take water service unlawfully if they only will have to pay the minimum water charge if the utility company sues them for it later. Quite frankly, the Applicant would submit that the proposed "flat rate" is simply not high enough to adequately deter people from simply stealing water rather than complying with the requirements of the proposed tariff. Since metered rather than un-metered service is contemplated under the terms of the tariff included in the application, the proposed "flat rate" is not "too high."

#### **REPLY TO THE OFFICE OF PUBLIC COUNSEL**

OPC speculates in its brief that the principals of the Applicant "intend to sell water to Osage for Eagle Woods under some business arrangement regardless of the Commission's decision in this case." The record is devoid of any factual support for this statement. The testimony presented by Mr. Johansen was to the effect that the Golden Glade Homeowner's Association would have to obtain a certificate from this Commission in order to sell water to OWC for Eagle Woods. The principals of the Applicant have gone to considerable effort and expense in order to bring this case before the Commission so that water may be supplied to Eagle Woods residents in a lawful manner. The OPC's unsubstantiated and unsupported speculation that the principals of the Applicant will engage in some unlawful manner of supplying water to Eagle Woods is ridiculous.

Environmental Utilities has not presented the Commission with a "classic Hobson's Choice" as suggested by OPC. Rather, this Application presents an opportunity for a lawful



solution to a problem engendered by the actions of Pat Mitchell and his abandonment of Osage Water Company. This Application is a potential solution to an existing problem which does not appear to have any other reasonable and lawful solution.

#### RESIDENTS OF GOLDEN GLADE ARE NOT SERVED BY MULTI-FAMILY WELLS

OPC suggests to the Commission that all of the residents of Golden Glade are currently served by multi-family wells. The evidence in this case does not support this statement. The Surrebuttal Testimony of Debra J. Williams on this point is that six of the 11 existing houses are served by 3 single family wells constructed by the home builder at the time the houses were constructed to provide an interim water supply until the central system was completed. The other 5 houses have no water supply other than the central system, and all of the unimproved lots are served solely by the central system. (Exhibit 2, Page 6).

#### MANAGEMENT SHOULD OBTAIN TRAINING AT MANAGEMENT'S EXPENSE

Apparently OPC is of the opinion that only Companies already in the water utility business should be granted a certificate of convenience and necessity by this Commission, and, as a corollary, that management training for management personnel of regulated utilities provides absolutely no benefit to customers of the regulated utility and such training should not be allowed as expense in calculating rates paid by ratepayers of the Company. This position is not supported by any citation to prior decisions of the Commission, nor is there any logical basis for his position.

First, management of a water utility company is much like the management of any other business. The proposed manager of the Applicant, Debra J. Williams, has a college degree in public administration. While she admittedly has only had experience in operating a water utility business since July 7, 2001, the testimony of all of Staff's witnesses familiar with the results of

her management efforts was unanimous that her management skills had resulted in a substantial reduction in customer complaints and calls, and a substantial improvement in office and field operations, over the results obtained by Pat Mitchell for the several years prior to her assumption of management.

Management of a utility company does not consist solely of technical expertise and knowledge of water and sewer systems and the operation of the equipment needed to run a water and sewer system. This knowledge is provided by a licensed operator, of which one is available to the Company as a principal, and another as an employee.

OPC also suggests that the Commission should impose a condition that the Applicant "continue to seek assistance **from** the Commission's Water and Sewer Department Staff in applying management techniques to the Company." A brief review of the credentials of the water and sewer department staff who testified in this case will reveal that Mr. Johansen is educated as an engineer, but does not hold a professional engineer's license. Mr. Merciel is licensed as a professional engineer. Mr. Hummel is licensed as a professional engineer. There was no evidence or indication in this case that there is anything deficient about the engineering work that the Applicant has obtained, or that Mrs. Williams has failed in any way to discuss engineering issues with Mr. Merciel. There is nothing in the record to suggest that the Commission employs any professionally trained water and sewer company managers on its Staff, and none of the Staff witnesses testified that they consider themselves to be trained utility company managers. Imposing such a condition is simply not supported by the evidence in this case.

#### PROPOSED CONTRACT FOR SERVICE TO EAGLE WOODS

OPC echoes the Staff in calling for Commission review of a proposed agreement between the Applicant and Osage Water Company for the provision of water service to Eagle Woods on a wholesale basis. That contract is before the Commission in the form of the tariff included in the Application. A two-inch meter will be installed between Golden Glade and Eagle Woods, and OWC will be charged the tariff rate for metered service through a two-inch meter. This seems simple enough, and no separate written contract appears to be necessary or appropriate under these circumstances. There is no evidentiary support for imposing a special condition in the certificate that any contract between the Applicant and OWC or any other regulated company should be submitted to the Commission for approval. Rather, such a requirement simply opens the door for additional and multiple proceedings before this Commission addressing relatively minor arrangements, the financial impact of which could reasonably be addressed in any future rate proceeding brought by Environmental Utilities. The Commission already has procedures in place for addressing unreasonable or imprudent business practices by regulated utilities. OPC's proposed special condition simply duplicates those existing procedures, and imposes additional legal expenses on the Applicant.

#### COMMISSION REVIEW OF INSIDER TRANSACTIONS

OPC suggests that a special condition be attached to the granting of a certificate to require Commission review of all transactions between the Applicant and its principals. The Applicant has requested Commission review and approval of the transactions it proposes to include in its rate base as part of this proceeding. Future transactions will be subject to review at the time of any future rate case. This is another proposed condition which amounts to nothing more than a duplication of existing regulatory procedures, and should be rejected by the Commission.

## PROHIBITION ON ACQUIRING OTHER TERRITORY OR ASSETS

OPC engages in a long and rambling discourse in its brief concerning manners in which the Commission may attempt to regulate the provision of water service to residents of Golden Glade if its denies the certificate requested in this case. OPC cites the Commission to the case of Rocky Ridge Ranch for the concept that the Commission may have jurisdiction over a not-for-profit homeowner's association. OPC's citation is misplaced. The principal under which the Commission has jurisdiction over a not-for-profit corporation which provides water utility service to persons who are not members of the corporation was established in the case of Osage Water Company v. Miller County Water Authority. 950 SW.2d 569 (Mo. App. S.D. 1997), a case which the Commission could reasonably conclude that counsel in this case may have some familiarity. The principal established in that case is that where utility service is provided by a not-for-profit corporation to persons who are not members of the not-for-profit corporation is under the Commission's jurisdiction. That situation was distinguished from a long line of cases, both before the Commission and the Courts of this State, which have established that a cooperative association which allocates its costs of providing utility service among its members is not subject to the jurisdiction of this Commission. So long as the Golden Glade Homeowners Association does not provide water utility service to anyone outside of the Golden Glade project, it is not subject to this Commission's regulation. If, on the other hand, it provides water to residents of Eagle Woods, who are clearly not its members, then it would need to obtain a certificate from the Commission under the principles established in Osage Water Company v. Miller County Water Authority. Needless to say, if the Commission decides to decline the Application in this case, there is no reason for the principals of the Applicant to resubmit another application on behalf of the homeowner's association, since there will be no change in the

qualifications of the principals or the economic feasibility of the project, but there will be a decline in the financial ability of the homeowner's association to come up with capital with which to provide service. Presumably if the Commission declines a certificate in this case, it would and should decline a certificate to the homeowner's association as well.

Exactly how the inter-relationship between the homeowners association and the Applicant and the principals of law set out in Osage Water Company v. Miller County Water Authority leads to the conclusion that the Commission should prohibit any purchase, merger or transfer of any other regulated territory or assets for a period of not less than 12 months completely escapes counsel for the Applicant in this case. Such a purchase or merger would of course be subject to review by this Commission, as the same is required both by Missouri Statute and this Commission's regulations. Why should the Commission prohibit Environmental Utilities from engaging in transactions which cannot be completed without this Commission's approval? What public purpose does this serve?

#### ADDITIONAL OPC CERTIFICATE CONDITIONS

The Applicant agreed that certain proposed requirements set forth in the pre-filed testimony of Staff and OPC witnesses were reasonable. The Applicant does not agree with additional proposed requirements set forth in OPC's Initial Brief.

First, OPC suggests that the Applicant be required to appoint one of its members to be the authorized signatory for all contracts regarding the regulated activities of the Company. In this regard, OPC demonstrates a lack of understanding of Missouri's Limited Liability Company Act. Under that law, the "manager" of the LLC is the person in charge of conducting its business, not its "members." The "members" are the owners, the manager is the manager. The manager of the Applicant is Debra J. Williams. There is no sound legal or policy basis for prohibiting the LLC

from designating a different manager to manage its business affairs without first notifying the Commission or the Office of Public Counsel, nor would such a restriction legally prohibit the LLC from designating a different manager under applicable Missouri Law. OPC does not cite the Commission to any statute which authorizes the Commission to impose such a requirement on a regulated utility.

Second, OPC suggests that the Applicant be required to submit certain types of contracts to the OPC and the Commission Staff for their review and approval, and if such approval cannot be obtained, to the Commission for approval. The OPC does not cite the Commission to any statute which authorizes the Commission to impose such a requirement on a regulated utility. The OPC does not cite the Commission to any statute which authorizes the OPC to review such a contract, or to make any type of binding agreement for approval of such a contract. The OPC does not cite the Commission to any statute which authorizes the Commission's Staff to review such a contract, or to make any type of binding agreement for approval of such a contract. To the knowledge of Counsel, Staff review of agreements by public utilities has been rejected by the Commission in the past as non-binding upon the Commission, and such a rejection has been upheld by the Court of Appeals. See Capital City Water v. PSC, 850 S.W.2d 903 (Mo. App. W.D. 1993). OPC suggests a procedure which is without legal substance. This additional requirement should be rejected by the Commission.

Third, OPC suggests that the manager of the Applicant obtain "training in the management of small utility companies within six months of the granting of the certificate" at that person's own expense, which shall not be recoverable from ratepayers. Apparently OPC believes that those ratepayers would obtain some benefit from such training, or would not suggest that it is necessary or appropriate. To require the management of the Applicant to obtain

training for the benefit of ratepayers without allowing recovery of the costs of such training amounts to nothing less than a taking without just compensation in violation of the United States and Missouri Constitutions. Further, OPC fails to suggest what "training" would be appropriate, or where such training could be obtained to satisfy this special requirement. The Applicant would note that its management has had extensive "on the job" training since July 7, 2001, and based upon the testimony of Staff witnesses in this case, has done an acceptable job of managing the affairs of Osage Water Company since that time. This proposed requirement is vague, and appears to be unconstitutional.

Fourth, OPC suggests that the managing member shall seek and abide by direction provided by the Commission's Staff's management assistance program. The Applicant is not opposed to participating in a management assistance program, and Debra J. Williams has on numerous occasions sought input and advice of various members of the Commission's Staff. However, the Applicant is opposed to any requirement that it "abide by direction provided by the Commission's Staff." Should the Commission want its Staff to manage the business affairs of this or any other regulated utility, it should first remit a check for the fair value of the assets which are to be appropriated by the government in this manner.

Fifth, OPC suggests that the Applicant provide the Commission for review and approval all proposed transactions between the regulated utility and its owners which could affect the rates charged to the Company's customers. A number of these transactions are before this Commission for review and approval in this case. Future transactions will be subject to review in any future rate case. This requirement adds nothing to the existing regulatory system already established by the Commission.

Sixth, the OPC suggests that the Commission make no binding decisions for ratemaking purposes in this case. This is contrary to the agreed upon statement of issues submitted to the Commission in this case, which specifically provides for a determination of the Applicant's initial rate base in this case.

Finally, the Applicant disputes the conclusion by OPC that this case is "fraught with complications created by the applicants." Neither the Applicant, nor its principals, has made this case complicated. The complications that exist are due to actions of the City of Osage Beach in overbuilding the existing water systems of Osage Water Company, the actions of Pat Mitchell in managing Osage Water Company, the continued efforts of David Hancock to harm the business interests of Osage Water Company and its principals, and the need to provide an alternative method of supplying water to Eagle Woods that does not expose the principals of the Applicant herein to an unreasonable risk of loss of their investment in the Golden Glade water system. The Applicant and its principals have worked diligently and incurred substantial expense in order to bring a lawful solution which accomplishes this goal before the Commission. It is up to this Commission to decide whether to approve this solution, or to allow events to proceed in the absence of the proposed solution.

#### REPLY TO HANCOCK CONSTRUCTION

Hancock Construction Co. failed to present any evidence which would allow this Commission to find that it has an interest in this case different from that of other members of the general public. Its principal admitted that it does not own any property in the proposed service area, it has done no construction work within the proposed service area, and that it has contributed no funds toward the construction of the water system in the proposed service area (Tr. 572, 1-16). Simply put, the intervenor will not be directly affected in any manner whether



the Commission grants or denies the certificate requested in this case. This lack of interest in the proceeding notwithstanding, the Intervenor participated in the proceeding by asking numerous confusing and misleading questions, and points to the inability of the Applicant's manager to answer the same as evidence of a lack of ability to manage a regulated utility company. The logic of this relationship simply escapes counsel for the Applicant.

Intervenor points proudly to the lack of cross-examination of its witness William Cochran as some sort of indication that his testimony must be believed and accepted by the Commission. A review of that testimony will reveal that it consists solely of undocumented and unsupported opinions and conclusions by Mr. Cochran. Mr. Cochran does not support his opinions with any documentation or factual evidence, which would allow this Commission to make its own conclusion as to whether his opinion and conclusions are valid or not. Mr. Cochran did not review any documents concerning the cost of acquisition of assets, did not inspect the water well or distribution system, and did not do any other field investigations to ascertain any factual information which he could present to the Commission to support his opinions and conclusions. In contrast, Staff witness James Russo conducted a field audit of the records of the Company, and Staff witness Martin Hummel performed a physical inspection of the well house and other facilities to be utilized in the provision of service.

Opinions and conclusions are not evidence, and provide no basis for a factual finding by this Commission. It is the duty of this Commission, as the finder of fact in this proceeding, to reach its own opinions and conclusions based on the facts presented to it, not to adopt the opinions and conclusions of a witness as facts.

Simply put, there was nothing to cross-examine Mr. Cochran about, because his testimony contained no facts. His opinions and conclusions are not facts, and while the

Commission may reach similar conclusions and opinions about the facts in this case, neither counsel for the Applicant, nor counsel for any other party, concluded that this Commission was likely to reach the same conclusions and opinions as Mr. Cochran. Hence, no cross examination of Mr. Cochran was necessary.

The remainder of Hancock's Initial Brief is filled with numerous sentence fragments and such poorly phrased wording such that it is difficult to respond in detail to the assertions contained therein. While there may have been some factual evidence to support the positions espoused by Hancock, this Commission will have to ignore weight of the evidence in order to reach the opinions and conclusions the Intervenor has set forth in its brief.

The attitude of the Intervenor toward regulated utilities and the authority of this Commission is perhaps best expressed by the testimony of its principal David Hancock, where he said:

Q. Okay. Now, Mr. Hancock, wouldn't you agree that you personally took water and sewer utility service from Osage Water Company for your personal residence from September of 1998 until June of 2001 without paying for it.

A. That's correct.

Q. And that in order to prevent Osage Water Company from disconnecting service to your personal home you installed a concrete slab over the meter pit?

A. That's correct. Which you've been paid for --- Osage Water Company has been paid for those things.

Q. Osage Water Company filed a lawsuit and collected that money from you; is that correct?

A. Yeah, they - they collected that money.

Q. By lawsuit, correct?

A. Well, it didn't get to a lawsuit.

Q. Well, wasn't a lawsuit filed?

A. I believe there was, yeah.

Q. And Mr. Loraine was hired as your attorney?

A. Uh-huh.

Q. And you paid the bill?

A. That's right.

From this testimony the Commission can only conclude that Mr. Hancock is a thief who has no respect for the rights of Osage Water Company as a regulated utility company, who tampered with the water meter owned by Osage Water Company and serving his personal residence, and that Osage Water Company was forced to file a lawsuit against him to collect for the water and sewer utility service which he had stolen. The Intervenor's assertion in its brief that Osage Water Company has been "extremely litigious" must be construed in light of these pertinent facts. This Commission can only conclude that its order granting Hancock leave to intervene out of time was based on incomplete and inaccurate information provided by the Intervenor, that the Intervenor lacks standing to participate in this proceeding, and that its pleadings and testimony should be stricken from the record.

## CONCLUSION

The Commission has before it an Application by a newly formed Company which has provided experienced, capable, and licensed operators with which to provide lawful water utility service. The necessary capital is in place, and the proposal is economically feasible. The need for water utility service is undisputed. The Commission should recognize this as an excellent

opportunity to expand regulated water utility service in the Lake Area, and grant the Application. The Commission should also make a determination as to the allowable costs and expenses to be included in rate base for the Applicant, so that the proposed investors in the Applicant can be assured that their capital is protected as part of a regulated utility. The Commission should reject special conditions which would impair the investment of capital into the Applicant, and which would impair the profitability of the Applicant's business, or which would duplicate regulatory safeguards already in place.

WHEREFORE, the Applicant prays that the Commission grant its Application herein.



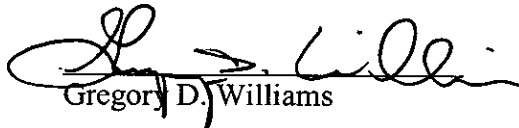
Gregory D. Williams #32272  
Highway 5 at Lake Road 5-32  
P.O. Box 431  
Sunrise Beach, MO 65079  
(573) 374-8761

Attorney for Environmental Utilities, LLC

#### CERTIFICATE OF SERVICE

I, Gregory D. Williams, do hereby certify that a true copy of the foregoing was on this ZJ., day of May, 2002, mailed, postage prepaid, to the following:

Mr. Thomas E. LorAe, Attorney at Law, 4075 Highway 54, Suite 300, Osage Beach, MO 65065; Keith Krueger, Assistant General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102; M. Ruth O'Neill, Office of Public Counsel, P.O. Box 7800, Jefferson City, MO 65102.



Gregory D. Williams