

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

December 19, 2001

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

FILED³

DEC 21 2001

Attn: Filing Desk

Missouri Public
Service Commission

Re: Environmental Utilities, LLC
WA-2002-65

Dear Judge Roberts:

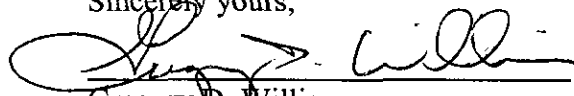
Please find enclosed for filing in the above referenced matter the original and 9 copies of the following pleadings:

1. Position Statement of Environmental Utilities, LLC

An additional copy of the same 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: Victoria Kizito
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

FILED³

DEC 21 2001

**POSITION STATEMENT OF ENVIRONMENTAL
UTILITIES, LLC**

Missouri Public
Service Commission

COMES NOW Environmental Utilities, LLC and for its Statement of Position with

respect to the Proposed List of Issues filed herein by the Staff of the Public Service Commission
on December 12, 2001 states:

AGREED UPON ISSUES FOR DETERMINATION

Issue: Is the Applicant qualified to provide public water utility service within the proposed
service area?

Position: The principals of Environmental Utilities are experienced in the operation of water
utility systems and have the qualifications necessary to provide public water utility
service within the proposed service area. Licensed operators are available for hire on a
contract basis to satisfy the requirements of the Missouri Department of Natural
Resources. Therefore, the Applicant is qualified to provide public water utility service
within the proposed service area.

Issue: Is there a public need for public water utility service within the proposed service area?

Position: There is a public need for water utility service to existing and proposed homes within
the proposed service area. This need would best be met by providing water utility service
through a public utility company, rather than a homeowner's association or other entity.
Therefore, there is a public need for public water utility service within the proposed
service area.

Issue: Is the Applicant's proposal to provide public water utility service within the proposed service area economically feasible?

Position: Both the feasibility study submitted by the Applicant in the Application and the feasibility study submitted by Staff in the Rebuttal Testimony of Jim Merciel show that the proposed service is economically feasible, in that the anticipated revenues from operation of the system are sufficient to pay the operating expenses and provide a return on investment to the Applicant. Further, the anticipated return on investment is such that a deficiency in actual revenues in comparison to anticipated revenues would principally affect the return on investment, and therefore a failure to meet projected revenues should not adversely affect the Applicant's ability to pay operating expenses. Therefore, the proposed service places the risk on the Applicant rather than the ratepayers of failure to meet anticipated projections.

Issue: Is the Applicant financially able to provide the proposed public water utility service?

Position: The principals of the Applicant have provide the necessary cash to pay for the required components of the water utility system, and have provided evidence of the Applicant's ability to obtain additional bank financing should it be needed in the future. Since the Applicant will have all of the funds required to place the system in operation, the Applicant is financially able to provide the proposed public water utility service.

Issue: Is granting the certificate of convenience and necessity requested by the Applicant in the public interest?

Position: Yes. The Applicant has satisfied the other requirements of Tartan Energy and making regulated public utility service available within the proposed service area is in the interest of the members of the public residing within the proposed service area.

Issue: What is the amount of the investment in the water plant and certificate costs that will be included in the Applicant's rate base if the certificate is granted?

Position: All of the actual costs in the construction of the public water supply, together with a general overhead allowance of 10% of those costs, a reasonable value of the real estate utilized, together with the actual legal expenses for organization of the Applicant and incurred in this case should be included in the Applicant's rate base if the certificate is granted.

Issue: If a certificate is granted, should conditions be imposed on the Applicant?

Position: No special conditions are necessary.

Issue: Should any of the proposed tariffs filed by the Applicant be withdrawn or modified?

Position: The proposed tariff should be approved as submitted. Proposed Rules 15, 16 and 17 are not essential to the operation of the proposed water utility system, but are desirable from the Applicant's viewpoint.

INTERVENOR'S PROPOSED ADDITIONAL ISSUES

The Applicant's position is that the Intervenor's Proposed Additional List of Issues are not properly before the Commission in that the Commission's order with respect to the Proposed List of Issues required that all of the parties agree upon the issues to be decided by the Commission, and no other party has agreed that the Intervenor's additional issues should be decided by the Commission. However, the Applicant's position with respect to those additional issues is as follows:

Issue: Whether there has been a transfer of equipment and systems from Osage Water Company to Environmental Utilities.

Position: This is not relevant to the Commission's determination whether to grant a certificate in this case. No such transfers have occurred. Any claim of injury from such transfers would belong to Osage Water Company, not the intervenor, and the intervenor lacks standing to assert such a claim.

Issue: Whether Environmental Utilities and its principals by seeking a Certificate of Convenience and Necessity as requested in its Application will contribute to the non-profitability of Osage Water Company, hereby causing Osage Water Company to be less culpable of paying its valid debts (Hancock Debenture) as authorized in prior rate base cases.

Position: The profitability, or lack thereof, of Osage Water Company as a separate corporation is not an issue for determination by the Commission in connection with the Application in this case, nor does it bear upon any of the established criteria for determining whether a certificate should be granted. Any claim or cause of action arising from the Application herein would belong to Osage Water Company, not the intervenor, and the intervenor lacks standing to assert such a claim or cause of action. Osage Water Company lacks the capital required to provide the public water utility service needed within the proposed service area. The economic feasibility studies indicate that the proposed utility service will not generate substantial economic profits which would allow the proposed system to generate cash beyond that required to pay operating expenses and provide a return on the capital required to provide the service, so the proposed utility service would have no value to Osage Water Company or any other public utility company. Osage Water Company has not sought to intervene in this proceeding.

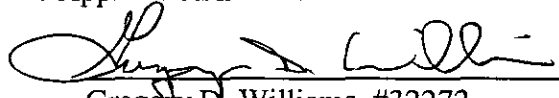
Issue: Whether Osage Water Company as a regulated utility has a public interest that is being harmed by allowing its assets to be used by a competing utility company.

Position: This is not relevant to the Commission's determination whether to grant a certificate in this case. No such use of assets has occurred. Any claim of injury from such use of assets would belong to Osage Water Company, not the intervenor, and the intervenor lacks standing to assert such a claim.

Issue: Whether the customers of Osage Water Company are being properly served by allowing its assets to be used by a competing utility in an adjacent area.

Position: This is not relevant to the Commission's determination whether to grant a certificate in this case. No such use of assets has occurred. Any claim of injury from such a use of assets would belong to Osage Water Company, not the intervenor, and the intervenor lacks standing to assert such a claim.

WHEREFORE, the Applicant prays that the Commission enter its Order granting the certificate of convenience requested in the Application herein.


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

CERTIFICATE OF SERVICE


I, Gregory D. Williams, do hereby certify that a true copy of the foregoing was on this 19th day of December 2001, mailed, postage prepaid, and transmitted by e-mail, to the following:

M. Ruth O'Neill
Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Victoria Kizito
General Counsel, Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Thomas E. Loraine

4075 Highway 54, Suite 300
Osage Beach, MO 65065



Gregory D. Williams