

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
September 5, 2000**

CASE NO: SR-2000-556

Office of the Public Counsel
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Jefferson City, MO 65102

General Counsel
Missouri Public Service Commission
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Jefferson City, MO 65102

Gregory D. Williams
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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,

A handwritten signature in cursive script that reads "Dale Hardy Roberts".

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

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 5th
day of September, 2000.

In the Matter of Osage Water Company's)	
Request for a Rate Increase for Sewer)	<u>Case No. SR-2000-556</u>
Service Pursuant to the Public Service)	<u>Tariff No. 200100122</u>
Commission's Small Company Rate Increase)	
Procedure)	

**ORDER REJECTING TARIFFS, GRANTING REQUEST FOR
EXTENSION OF TIME, AND SETTING PREHEARING CONFERENCE**

On August 8, 2000, Osage Water Company (Osage) submitted to the Commission tariff sheets designed to implement an interim rate increase. Osage also filed a motion requesting that the Commission order its Staff to complete its investigation and audit, and file its recommendation¹. Osage stated that it filed, on October 12, 1999, a request for a rate increase pursuant to 4 CSR 240-2.200. Osage states that Staff began its audit in 1999, and was last on-site at Osage's offices in May, 2000. Osage states that Staff has not notified it that its audit is complete, nor has Staff arranged a conference to discuss the results of its audit. Osage implies that 10 CSR 240-2.200(A) [sic]² requires Staff to complete its audit within 150 days of Osage's initial filing, and states that Staff has not done so. Osage asserts that it has been prejudiced by Staff's failure to complete

1 The Commission will not rule on that motion until after the prehearing conference scheduled herein.

2 Osage probably refers to 4 CSR 240-2.200(F).

its audit in a timely manner. Osage does not cite any rule or statute that gives it authority to file an interim rate increase.

On August 13, 2000, Staff filed a request for an extension of time to reply to Osage's August 8, 2000, motion. Staff cites the press of other business, including moving its offices, and requested an extension of three business days. The request is reasonable under the circumstances, and the Commission will grant it.

On August 23, 2000, Staff filed its response to Osage's August 8, 2000, motion. Staff states that nothing in 4 CSR 240-2.200 requires it to complete its audit within 150 days. Staff states that its delay in completing its audit has been due to Osage's delays in providing necessary information. Staff asserts that Osage has not yet provided year-end financial statements for calendar year 1999. The Commission recognizes that 4 CSR 240-2.200 does not explicitly establish a deadline for the completion of a Staff investigation in a small company rate case. However, only in extraordinary circumstances (such as non-cooperation by the requesting utility) should the informal procedure take longer than the formal rate case procedure.

Staff notes that 4 CSR 240-2.200 establishes the filing of a standard rate case as a company's remedy if no agreement is reached. The Commission agrees that a standard rate case is the remedy if no agreement is reached. In this case, if Osage had filed a standard rate case at the time it filed its small company request, the operation of law date would be only a week or two away. Osage could have filed a standard rate case when no agreement had been reached after 150 days. If Osage has to resort to filing a standard rate case now, and that case goes to hearing, almost two years

will have elapsed between the time it first requested rate relief and the effective date of a report and order determining the appropriate relief.

On August 30, 2000, Osage filed suggestions in support of its motion to compel Staff to complete its audit. Osage asserts that 4 CSR 240-2.200 requires Staff to complete its audit in a timely fashion. Osage states that it has answered every data request submitted by Staff and the Office of the Public Counsel, and furnished Staff all of its accounting records. Osage also states that Staff has conducted numerous on-site audits.

The Commission cannot at this time determine why the process has broken down. However, it seems clear, because of the amount of time that has passed since the small company request was submitted, that the process has broken down. The Commission will schedule a prehearing conference to allow the parties to discuss, both on and off the record, the questions of what information Osage has provided, what information Staff has requested, what information Staff believes it still requires, when the Staff audit will be completed, and related questions.

Osage argues in its August 30, 2000, suggestions that granting its request for interim relief is lawful and reasonable. Osage cites State ex rel. Laclede Gas Co. v. Public Service Commission, 535 S.W.2d 561 (Mo. App. 1976) and State ex rel. Utility Consumers' Council of Missouri, Inc. v. Public Service Commission 585 S.W.2d 41 (Mo. 1979) for the proposition that the Commission has the power to authorize interim rate increases. The Commission agrees that it has such power, but the instant situation has not been shown to be an appropriate one for the exercise of it. Laclede, supra, contemplates interim increases in emergency situations when the financial integrity of a utility is threatened. Osage has not alleged, much less proven, that its circumstances are so dire as to warrant the

exercise of the extraordinary remedy of interim relief. The request for an interim rate increase will be denied, and Osage's tariffs will be rejected.

IT IS THEREFORE ORDERED:

1. That the proposed tariff sheets submitted on August 8, 2000, by Osage Water Company, and assigned Tariff No. 200100122, are rejected.

2. That the request for interim relief filed on August 8, 2000, by Osage Water Company is denied.

3. That a prehearing conference will be held on September 14, 2000, beginning at 10:00 a.m. The prehearing conference will be held at the offices of the Public Service Commission in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. This hearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this public hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

4. That this order shall become effective on September 15, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer, Murray, Schemenauer,
and Simmons, CC., concur

Mills, Deputy Chief Regulatory Law Judge

AIJ/Sec'y:

Mills/Bove

Date Circulated

9-1

CASE NO. SR-2000-556

LT
Lumpke, Chair

MD
Draemer, Vice Chair

CM-2, 3
Murray, Commissioner

AS
Schemenauer, Commissioner

KS
Simmons, Commissioner

9-5
Agenda Date

Action taken:

5-044

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 5th day of September 2000.

Dale Hardy Roberts

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

