

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 30th day of
August 2007.

Jason Becker,)	
Becker Development Company,)	
)	
Complainant,)	
)	
v.)	<u>Case No. SC-2007-0044 et al.</u>
)	
Aqua Missouri, Inc.,)	
)	
Respondent.)	

ORDER DENYING APPLICATION FOR REHEARING

Issue Date: August 30, 2007

Effective Date: August 30, 2007

On July 12, 2007, the Commission issued a Report and Order regarding Jason Becker and Becker Development Company's (Becker) complaints against Aqua Missouri, Inc. That Report and Order became effective on August 11. On August 3, Aqua Missouri filed a timely application for rehearing. No other party has applied for rehearing. Becker filed a response opposing the application for rehearing on August 9. Staff filed a response opposing the application for rehearing on August 27.

Aqua Missouri cites four grounds for rehearing. First, Aqua Missouri complains that the Report and Order fails to identify the responsible party if the permitted capacity of its sewer system is exceeded when additional homes are connected to the sewer system. Aqua Missouri's concern is not justified. The Report and Order clearly requires Aqua Missouri to take the steps necessary to restore the original capacity of its sewer system to

allow up to ten additional houses to be connected to that system. The Report and Order does not require Aqua Missouri to violate Department of Natural Resources' regulations by exceeding its capacity, and if connecting additional houses will cause the restored system to exceed its capacity, it may refuse to connect those houses. However, Aqua Missouri must take the necessary steps to restore the original capacity of its sewer system before it would be justified in refusing to connect up to ten additional houses.

Aqua Missouri's second ground for seeking rehearing is a claim that the Report and Order fails to distinguish between individual homeowners and a property developer. Aqua Missouri correctly states that individual homeowners and property developers are not similarly situated for most purposes, and Aqua Missouri is justified in treating them differently for most purposes. But, the Commission's Report and Order does not require individual homeowners and property developers to be treated the same for all purposes. Rather, it requires Aqua Missouri to connect developer homes and individually built homes on an equal basis to the extent that they can be connected using the restored original capacity of the company's sewer system.

The third basis for Aqua Missouri's application for rehearing is a claim that the Commission's Report and Order is inconsistent. The Report and Order, at page 16, requires Aqua Missouri to connect up to ten new houses to the existing sewer system, with the ten new houses to be allocated on a first-come, first-served basis. In allotting those houses, Aqua Missouri is to treat Becker on the same basis as any other potential customer. The next paragraph of the Report and Order also finds that Becker is not required to enter into a developer agreement to utilize that existing capacity and specifically states: "Becker has done everything necessary to receive service for ten additional houses

that the Commission has determined can be served through the current capacity of the sewer system.” By that statement, the Commission merely reiterated that Becker was not required to enter into a developer agreement to obtain service for those ten houses. The Report and Order does not relieve Becker of the obligation to apply for service or obtain approval of main extensions as required by other aspects of Aqua Missouri’s tariff. With that clarification, there is no inconsistency in the Commission’s Report and Order.

Aqua Missouri’s fourth, and final, basis for rehearing is a claim that the Report and Order fails to clarify whether Aqua Missouri can recover costs of maintenance and repairs to its current sewer system through its rates. The cost of maintaining and repairing a utility’s facilities is normally recoverable from customers through rates. However, this is not a rate case and the Commission cannot make a decision in this case that would determine future rates for Aqua Missouri. If Aqua Missouri believes it should recover these costs from its customers, it must file a new rate case. Only in that future rate case can the Commission make a final determination on the recovery of these costs.

Section 386.500.1, RSMo (2000), indicates the Commission shall grant an application for rehearing if “in its judgment sufficient reason therefor be made to appear.” Aqua Missouri has not shown sufficient reason to grant rehearing and the Commission will deny the application for rehearing.

IT IS ORDERED THAT:

1. Aqua Missouri, Inc.’s Application for Rehearing is denied.
2. Aqua Missouri, Inc.’s Request for Stay of Effect of Report and Order is denied.

3. This order shall become effective on August 30, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Clayton and Appling, CC., concur.
Murray and Gaw, CC., dissent

Woodruff, Deputy Chief Regulatory Law Judge