

FILED³
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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).)

Missouri Public
Service Commission

Case No. WA-2002-65

**RESPONSE TO APPLICATION TO INTERVENE OUT OF TIME
BY HANCOCK CONSTRUCTION COMPANY**

COMES NOW the Applicant Environmental Utilities, LLC in the above captioned matter
and for its Response to the Application to Intervene Out of Time filed herein by Hancock
Construction Company states:

1. Hancock Construction Company failed to comply with applicable rules of procedure adopted by the Commission in that it failed to serve a copy of its Application to Intervene whether by mail or otherwise on Environmental Utilities. Environmental Utilities was notified of said Application to Intervene by virtue of the consideration of the same being placed on the Commission's agenda for November 15, 2001.
2. Said Application to Intervene fails to state the proposed Intervenor's interest in the case as required by 4 CSR 240-2.075(1). The Application to Intervene appears to allege that the proposed intervenor has a financial interest in Osage Water Company, which holds a certificate of convenience and necessity near the proposed service area in this case. It does not allege that the proposed intervenor has a financial interest in Osage Water Company, or that it has an interest in the proposed service area in this case, and therefore fails to show that the proposed intervenor has an interest in this case. At most, the Application to Intervene may state that Osage Water Company has an interest in the subject matter of this case, in that it has a certificate of convenience and necessity near the proposed service area, in which event the proposed intervenor's remedy is to request


that Osage Water Company intervene herein. Osage Water Company's potential interest herein does not provide a basis for an interest herein by Hancock Construction Company.

3. The Application to Intervene does not show that Hancock Construction Company has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case, nor does it show how granting the proposed intervention would serve the public interest.
4. The Application to Intervene does not state good cause for the proposed intervenor's failure to timely file its application herein within the time provided by the Commission's Order of August 13, 2001, which established an intervention deadline of September 4, 2001.
5. The Application to Intervene incorrectly states that Pat Mitchell is a principal of Environmental Utilities, when in fact Pat Mitchell does not own an interest herein. As shown by the Application filed herein, Environmental Utilities, L.L.C. is wholly owned by Gregory D. Williams and Debra J. Williams.
6. Extensive discovery has already taken place herein, including a pre-hearing conference, data requests by Staff, data requests by OPC, data requests by Environmental Utilities to Staff and OPC, and the filing of Direct Testimony by Environmental Utilities. Allowing an untimely intervention herein at this point in the case will unduly prejudice Environmental Utilities and the other parties herein in the preparation of this case for hearing.
7. The Application to Intervene incorrectly states that Osage Water Company has a vested interest in providing utility service in areas for which it does not hold a certificate of convenience and necessity from the Commission, and suggests that Osage Water

Company should be allowed to compete with Environmental Utilities in geographical areas near OWC's service areas. As a matter of law, OWC has no vested interest in areas for which it does not hold a certificate of convenience and necessity.

8. The proposed intervenor's remedy arising from the Application filed herein by Environmental Utilities lies with the board of directors of Osage Water Company, and a request that OWC pursue intervention herein, not by direct participation in this proceeding. Hancock Construction Company has no interest in the subject matter of this proceeding.

WHEREFORE, Environmental Utilities, LLC prays for an Order of this Commission denying the Application for Leave to Intervene Out of Time filed herein by Hancock Construction Company.


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CERTIFICATE OF SERVICE

I, Gregory D. Williams, do hereby certify that a true copy of the foregoing was on this 16 day of November, 2001, mailed, postage prepaid, to the following:

Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

General Counsel, Missouri Public Service Commission
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