

118

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 19th
day of October, 1999.

In the Matter of the Application of)	
Osage Water Company for Permission,)	
Approval, and a Certificate of)	
Convenience and Necessity Authorizing)	
It to Construct, Install, Own,)	<u>Case No. WA-98-236</u>
Operate, Control, Manage and Maintain)	
a Water System for the Public Located)	
in Parkview Bay Subdivision, Osage)	
Beach, Missouri.)	
Osage Beach Fire Protection District,)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-98-211</u>
)	
Osage Water Company,)	
)	
Respondent.)	

ORDER DENYING APPLICATIONS FOR REHEARING

On August 10, 1999, the Commission issued its Report and Order, which became effective on August 20. On August 19, the City of Osage Beach (City) filed an application for rehearing. On August 25, Osage Water Company (Osage) filed a pleading opposing the City's application for rehearing. On August 26, the Osage Beach Fire Protection District (District) filed an application for rehearing. On August 27, the Staff of the Commission filed pleadings opposing both applications

for rehearing. Also on August 27, Osage filed a pleading opposing the District's application for rehearing.

Osage argues that the City cannot file an application for rehearing because it is not a party to the case. The Commission does not agree with this reading of the law. As discussed below, the Staff properly interprets the statute governing rehearings.

Staff states that the City lacks standing to apply for rehearing, because the City does fall within the purview of Section 386.500.1, RSMo 1994. That statute states in part:

1. After an order or decision has been made by the commission, the public counsel or any corporation or person or public utility interested therein shall have the right to apply for a rehearing in respect to any matter determined therein...

Staff asserts that since the City is not the Public Counsel, a corporation, a person, or a public utility, it may not seek rehearing. The City did not respond to either the Staff or Osage.

The Commission agrees with Staff's reading. Section 386.500.1 clearly states the entities that are allowed to file an application for rehearing, and the City is not one of those entities. Its application for rehearing will be rejected.

Both Staff and Osage argue the District's application was untimely. Section 386.500.2 states that no cause of action shall accrue in any court unless an application for rehearing was filed before the effective date of the order. 4 CSR 240-2.160(1) states that applications for rehearing may be filed prior to the effective date of the order. The District filed its application for rehearing six days after the Report

and Order had become effective. Its application was untimely and will be rejected.

Because neither application for rehearing is properly before the Commission, the Commission need not address the merits of the arguments raised in them.

IT IS THEREFORE ORDERED:

1. That the application for rehearing filed on August 19, 1999, by the City of Osage Beach is rejected.
2. That the application for rehearing filed on August 26, 1999, by the Osage Beach Fire Protection District is rejected.
3. That this order shall become effective on October 19, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, and Drainer, CC., concur
Murray, C., dissents
Schemenauer, C., absent

Mills, Deputy Chief Regulatory Law Judge

RECEIVED

OCT 20 1933

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION