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August 23, 2000

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FILED²
AUG 23 2000
Missouri Public
Service Commission

RE: Case No. SR-2000-556

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF'S MOTION TO REJECT OSAGE WATER COMPANY'S 'INTERIM' TARIFF AND STAFF'S RESPONSE TO OSAGE WATER COMPANY'S MOTION TO COMPEL COMPLETION OF STAFF INVESTIGATION AND REPORT.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Keith R. Krueger
Deputy General Counsel
(573) 751-4140
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KRK/dkf
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

AUG 23 2000

Missouri Public
Service Commission

In the Matter of Osage Water Company's)
Request for a Rate Increase for Sewer)
Service Pursuant to the Public Service)
Commission's Small Company Rate)
Increase Procedure.)

Case No. SR-2000-556

STAFF'S MOTION TO REJECT
OSAGE WATER COMPANY'S 'INTERIM' TARIFF AND
STAFF'S RESPONSE TO OSAGE WATER COMPANY'S
MOTION TO COMPEL COMPLETION OF STAFF INVESTIGATION AND REPORT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and, for its Motion to Reject Osage Water Company's "Interim" Tariff and Response to Osage Water Company's Motion to Compel Completion of Staff Investigation and Report, states to the Missouri Public Service Commission ("Commission") as follows:

1. On October 12, 1999, Osage Water Company ("Company") filed with the Commission its request for informal rate proceedings for its sewer operations. The Company stated that it filed its request pursuant to Rule 4 CSR 240-2.200 – Small Company Rate Increase Procedure.

2. On April 25, 2000, acting upon the request of the Office of the Public Counsel ("Public Counsel"), the Commission established this case for the purpose of considering the Company's rate increase request.

3. On August 8, 2000, the Company filed a Motion to Compel Completion of Staff Investigation and Report ("Motion to Compel"), in which it asked the Commission to order the

Staff to complete its investigation and audit and to file its report and recommendation herein. On the same date, the Company filed with the Commission one tariff sheet "to implement an interim rate increase pending completion of Staff's investigation and report."

4. On August 18, 2000, the Staff filed its Request for Extension of Time to Respond to Company's Motion to Compel Completion of Staff Investigation and Report, requesting that the time for responding to the Motion to Compel be extended to August 23, 2000.

5. In the letter that the Company filed to initiate this proceeding, the Company stated that it was filing its request for a rate increase pursuant to the Commission's Small Company Rate Increase Procedure, which is governed by the provisions of Rule 4 CSR 240-2.200 ("the Rule"). This case has never been converted to any other kind of proceeding, and it is therefore governed by the provisions of Rule 4 CSR 240-2.200.

6. In the said letter, the Company stated that it agreed to an extension of "the 150-day tariff contemplated by the small company rate increase procedure." It did so, the Company said, because of the timing of its request, and because of its desire to use calendar year 1999 information as the main basis for the rate review.

7. The Staff has been unable to complete its audit and investigation in this case, for the following reasons:

a. In order to comply with the Company's request to use 1999 information as the basis for its audit, the Staff was not able to even *begin* its audit until after the conclusion of calendar year 1999. Even then, it was not possible to begin the audit until the Company provided it with accounting information, current through the end of 1999; and

b. The Company has failed to timely provide the required accounting information. In fact, as of the date of filing this motion, the Staff is still waiting for the Company's year-end financial statements for calendar year 1999.

8. There is no provision in the Rule or anywhere else that requires the Staff to complete its audit and investigation within 150 days, and no requirement of law that imposes any other deadline for the Staff to complete its audit and investigation.

9. The Commission should reject the Company's "interim" tariff sheets, because the Rule makes no provision whatsoever for "interim" tariffs, and the Rule does not authorize the Company to file any tariff in the absence of either a three-party agreement between the Company, Staff and Public Counsel, or a two-party agreement between the Company and Staff. No such agreement has been reached in this case.

10. Section (1) of the Rule provides, in part, as follows: "The [rate increase] request shall not be accompanied by any tariff sheets." Subsections (1) (A) and (1) (B) then describe the procedure for negotiations among the parties concerning the need for a rate increase.

11. Subsection (1) (C) of the Rule provides, in part, that: "If the conference between the commission staff, the company and the public counsel results in an agreement concerning additional revenue requirements ... [t]he company may ... file tariff sheet(s) ..."

12. Subsection (1) (D) of the Rule provides, in part, that: "If the conference results in an agreement between the commission staff and the company only, the company at this time shall file the necessary tariff sheet(s) ..."

13. Other than as described in Paragraphs 11 and 12 hereof, there is no provision in the Rule that authorizes the Company to file tariff sheets. Inasmuch as Section (1) of the Rule contains a general prohibition against the filing of tariff sheets, it is therefore clear that the Rule

does not authorize the Company to file tariff sheets unless there is, at the very least, an agreement between the Staff and the Company about what rate increase is appropriate.

14. In the present case, there has been no agreement between the Company and the Staff about what rate increase is appropriate. The procedure to be followed when there is no such agreement is described in Subsections (1) (F) and (1) (G) of the Rule. Subsection (1) (F) of the Rule provides that: "An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed." As the Company correctly noted, no such agreement was reached within 150 days in this case.

15. Subsection (1) (G) of the Rule provides: "If no agreement can be reached between the commission staff and the company, the company may initiate a standard rate case."

16. It therefore appears that if the Company is dissatisfied with the progress of this case, its only option is to file a standard rate case.

WHEREFORE, the Staff requests that the Commission reject the "interim" tariffs that the Company filed in this case and dismiss the Company's Motion to Compel Completion of Staff Investigation and Report.

Respectfully submitted,

DANA K. JOYCE
General Counsel

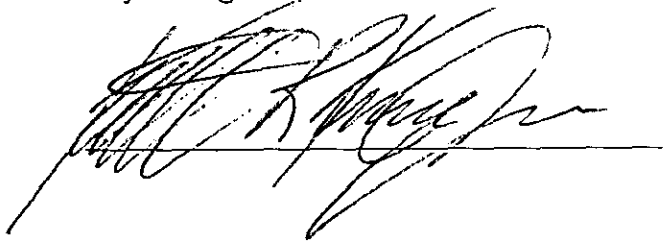


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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 23rd day of August 2000.



Service List for
Case No. SR-2000-556
August 23, 2000

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