

MEMORANDUM

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MISSOURI
PUBLIC SERVICE COMMISSION

TO: Missouri Public Service Commission Official Case
Case No. WA-97-110
Osage Water Company

FROM: Dale W. Johansen *DWJ* 12/12/97
Water & Sewer Department

William A. Meyer, Jr. *WAM* 12/14/1997
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Utility Operations Division/Date

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General Counsel's Office/Date

SUBJECT: Staff Recommendation for Approval of an Application for a
Certificate of Convenience and Necessity

DATE: December 12, 1997

History of the Case

This docket was established on September 17, 1996 when Osage Water Company (OWC or Company) filed an **Application** requesting a certificate of convenience and necessity (certificate) from the Commission for providing regulated water and/or sewer service in two areas of Camden County. The requested certificate pertains to OWC providing sewer service to an area known as the Chelsea Rose subdivision, and to providing water and sewer service to an area known as the Cimmarron Bay subdivision. OWC already holds a certificate from the Commission to provide water service to the Chelsea Rose subdivision. As a part of the Application (Exhibit B) OWC included a proposed tariff for sewer service. The proposed tariff included a flat customer rate of \$23.90/month and a metered customer rate based upon the flat rate. The Company and Staff had developed and agreed upon these proposed sewer rates in a previous case related to the Chelsea Rose subdivision that the Company withdrew. For the water service to Cimmarron Bay, the Company proposed using its existing water tariff and rates.

On September 20, 1996, the Commission issued its **Order and Notice** in this case and established an intervention deadline of October 21, 1996. The Commission received no applications for intervention in the case.

On May 22, 1997, the Company filed its **Amendment to Application** consisting of proposed changes to its existing water tariff (new Exhibit B-1) and a new proposed sewer tariff (new Exhibit B-2). This filing resulted from negotiations between OWC and the Staff regarding the provisions of the proposed sewer tariff, and the need to add a service area description for the Cimmarron Bay area to the Company's existing water tariff. One change included in the sewer tariff modified the proposed customer rates by differentiating between residential rates and commercial rates. This change established residential rates at the flat rate of \$23.90/month and established commercial rates as a combination of the flat rate and a commodity charge for usage over 6,000 gallons/month based on water usage. These rates are found on sheet 10 of Exhibit B-2.

On October 1, 1997, OWC filed its **Motion to Submit Case on Verified Application and Attachments** (Motion), in which it requested a Commission order approving the Application as amended. On October 14, 1997, the Staff filed the **Staff's Response to Motion to Submit Case on Verified Applications** (Response), in which it objected to the Company's request for various reasons and stated that a further audit of the Company was necessary and would likely be completed by December 12, 1997. On October 29, 1997, the Commission issued its **Order Denying Motion and Ordering Staff Recommendation** (Order), in which it denied the Company's Motion and established a deadline of December 12, 1997 for the Staff to file its recommendation in the case. The Staff is submitting this Official Case File Memorandum in response to the Commission's October 29 Order.

On December 12, 1997, the Osage Beach Fire Protection District (OBFPD) filed a **Motion to Consolidate** in this case, and in Case No. WA-98-36, in which it requested that this case and Case No. WA-98-36 be

consolidated with the OBFPD's pending complaint case against OWC (Case No. WC-98-211). Even considering the Motion to Consolidate, the Staff believes that filing this Official Case File Memorandum as previously ordered by the Commission is still appropriate. The Staff bases this upon three items. First, the OBFPD did not file its Motion to Consolidate until the date that the Staff's recommendation was due. Second, the OBFPD is not a party to this case or Case No. WA-98-36. Third, it is the Staff's belief that the service areas involved in the two subject application cases are not within the boundaries of the OBFPD.

The Staff's Investigation

The Staff's initial investigation of OWC's Application included a general review of the overall proposals, with special attention then being paid to the proposed sewer tariff provisions and the proposed customer rates.

As noted previously, the Company and Staff had developed and agreed upon the proposed sewer rates in a previous case related to the Chelsea Rose subdivision that the Company withdrew, with modifications made during the negotiations on the tariff provisions. As a result, the Staff was comfortable with the proposed sewer rates. Additionally, the Staff believed that the Company's proposal to use its existing water tariff and rates for the service to Cimmarron Bay was appropriate. The Staff does wish to note, however, that this sewer rate is acceptable only as an initial rate and believes it should be reviewed for continued appropriateness after the traditional 18-month start-up period, when additional actual operating expense information will be available.

The next area of emphasis of the Staff's investigation was the Company's proposed sewer tariff. The review of the proposed tariff resulted in several stages of negotiations between the Staff and the Company, which culminated with the Company's filing of the May 22, 1997 Amendment to Application. As noted previously, this filing consisted of

minor proposed changes to the Company's existing water tariff (Exhibit B-1) and a substitution for the originally proposed sewer tariff (Exhibit B-2). Following the May 22 filing, the Staff and Company have agreed upon additional changes to the proposed sewer tariff.

As the Staff's review of the Application was nearing its completion in May of this year, another area of concern surfaced. This area of concern had to do with the fact that as of the end of May the Company was three years (1994 through 1996) behind on the filing of its annual reports with the Commission. Additionally, the Company had not filed its 1992 and 1993 annual reports until March of this year.

While the Staff initially considered the annual report filing delinquencies to be an administrative concern, they also raised the issue of the Staff's ability to properly evaluate the Company's overall financial condition and viability. As a result, the Staff informed the Company, by a letter dated June 12, 1997, that it would write a recommendation for approval of the Application after the Company became current on its annual report filings and the Staff had the opportunity to review the subject annual reports.

The Company subsequently filed its 1994 and 1995 annual reports on July 22, 1997 and its 1996 annual report on August 27, 1997. By a letter dated September 19, 1997, the Staff informed the Company of several items in the five recently filed annual reports that were in need of correction or additional explanation. A copy of this letter was attached to the Staff's October 14 Response to the Company's October 1 Motion. Although the Company has not responded in writing to the Staff's September 19 letter regarding the annual report deficiencies, it has allowed the Staff access to its books and records to investigate the Staff's concerns.

Following the Commission's October 29 Order regarding OWC's October 1 Motion, the Staff assigned additional personnel to this case and initiated an overall audit of the Company's books and records. The main purpose of this audit was to bring the Staff to a conclusion regarding

OWC's financial ability to successfully carry out its ongoing responsibilities regarding the projects that are the subject of the instant Application.

While the Staff has not yet fully completed the above-referenced audit, the Staff is at a point in the audit process where it can make a recommendation in this case. At this time, the Company appears to be staying current on the payment of its day-to-day operating expenses as they become due. Consequently, the Staff believes that the Company's short-term position is such that it will be able to continue to serve its existing customers and to take on new customers as well, particularly under conditions similar to the Chelsea Rose and Cimmarron Bay situations where the proposed rates will apparently more than cover the Company's day-to-day operating expenses. However, as discussed further below, there are substantial unpaid balances from prior years that raise long-term concerns. Most of those unpaid balances are related to services provided by principals of the Company.

As noted above, the Company has substantial unpaid balances from prior years. To put these into perspective, the Company's records show it has annual revenues between \$50,000 and \$60,000 and accounts payable, including disputed invoices and amounts owed principals of the Company, totaling more than \$560,000. While this situation certainly brings the Company's long-term financial solvency into question, many of these unpaid balances have existed since 1994 and thus do not necessarily affect the Company's ability to continue to operate in the near term.

The Staff's remaining audit work will focus on determining an appropriate rate base/operating expense relationship related to the services provided by the Company's principals, and the overall effect of these and the other unpaid balances on the Company's financial status. However, these matters do pertain more to long-term ratemaking issues than to shorter-term certificate, service area expansion and operating issues. Resolution of these matters should answer any remaining questions and address the Staff's concerns regarding the Company's long-term financial viability.

Conclusions

Based upon the review and audit completed to date, the Staff's conclusion is that, in this instance and at this point in time, the Company has met the five "certificate criteria" set out in paragraph 10 of the Staff's October 14 Response. Specifically, the Staff believes the Company has shown: that there is a need for the proposed services; that it is technically qualified to provide the proposed services; that it has the financial ability (at least in the near term) to provide the proposed services; that the proposal is economically feasible; and, thus, that the proposed services will promote the public interest. As a result, the Staff believes that approval of the Company's Application is appropriate.

Recommendations

Based upon the above, the Staff recommends that the Commission grant the Osage Water Company a certificate of convenience and necessity related to the Company providing sewer service to the public in the areas known as the Chelsea Rose and Cimmarron Bay subdivisions in Camden County, Missouri. The Staff also recommends that the Commission authorize the Company to provide water service to the public in the Cimmarron Bay subdivision. The Staff further recommends that the Commission's granting of the referenced certificate and authority become effective upon approval of the requisite tariff filings, as set out below.

As a part of the granting of the referenced certificate and authority, the Staff recommends that the Commission order the Company to file a complete tariff pertaining to its provision of sewer service, including the proper descriptions of the two subject areas, with the contents of the tariff to be consistent with Exhibit B-2 to the May 22, 1997 Amendment to Application and subsequent agreed-upon changes. The Staff also recommends that the Commission order the Company to file the necessary revisions to its existing water tariff pertaining to the description of the service area for the Cimmarron Bay subdivision, with the revisions to be consistent with Exhibit B-1 to the May 22, 1997 Amendment to Application.

The Staff further recommends that the Commission's order also include provisions: requiring the Company to maintain its books and records in accordance with the Commission approved *Uniform System of Accounts*; establishing an 18-month review period for the appropriateness of the sewer rates; authorizing the use of the existing water tariff and rates for service to Cimmarron Bay; and approving the sewer depreciation rates set out on Attachment 1 hereto, as the Staff used these in developing the proposed sewer customer rates.

Finally, the Staff recommends that the Commission's order clearly state that nothing in this case will be considered determinative of the ratemaking treatment to be afforded the subject services and related matters in future ratemaking proceedings.

Attachment 1 - Sewer Depreciation Rates

copies: Director - Utility Operations Division
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OSAGE WATER COMPANY DEPRECIATION RATES

(SEWER)

Case No. WA-97-110

<u>Acct. No.</u>	<u>Description of Account</u>	<u>Annual Rate</u>
311	Structures & Improvements	3.0%
352.1	Collection Sewers (Force)	2.0%
352.2	Collection Sewers (Gravity)	2.0%
353	Other Collection Plant	4.0%
354	Services to Customers	2.0%
355	Flow Measurement Devices	3.3%
362	Receiving Wells & Pump Pits	5.0%
363	Pumping Equipment	10.0%
373	Treatment & Disposal Facilities	4.5%
374	Plant Sewers	4.5%
375	Outfall Sewers	2.0%
376	Other Treatment & Disposal Plant	5.0%
391	Office Furniture & Equipment	5.0%
391.1	Office Computer Equipment	20.0%
392	Transportation Equipment (7 yr ,+ 9% salv)	13.0%
393	Other General Equipment	10.0%
394	Tools, Shop, Garage Equipment	5.0%
395	Laboratory Equipment	5.0%
396	Power Operated Equipment	6.7%
397	Communication Equipment	6.7%
398	Miscellaneous Equipment	5.0%