

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
March 21, 2002**

**CASE NO: WE-2002-240**

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

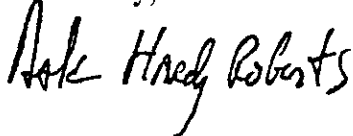
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Missouri Public Service Commission  
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**Enclosed find a certified copy of an ORDER in the above-numbered case(s).**

Sincerely,



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

At a session of the Public Service Commission held at its office in Jefferson City on the 21st day of March, 2002.

**ORDER DENYING APPLICATION TO INTERVENE**  
**AND DENYING APPLICATION TO CONSOLIDATE**

Staff filed its Recommendation on February 5, 2002, indicating that there are certain discrepancies in the Osage Water's 1999 Annual Report when it is compared to the

company's 1998 Annual Report. Staff noted that the discrepancies fall into four specified categories. Staff sent an electronic communication to Osage Water on January 11, 2002, requesting additional information, and counsel for Osage Water indicated that the company would not be able to provide any new information. Staff recommended that the Commission accept the 1999 Annual Report but attach the Staff's January 11, 2002, letter to the Annual Report so that the public would be on notice of the discrepancies and deficiencies. Staff further suggested that the Commission order Osage Water to provide either (1) the missing information, or (2) a written explanation of why the information is not available or why the discrepancies cannot be corrected.

The Commission scheduled a prehearing conference for March 20, 2002, to further address this matter. All parties appeared for the prehearing conference. During the conference, Osage Water indicated that it intends to hire a certified public accountant to assist it in preparing a revised 1999 Annual Report.

### **Application to Intervene**

On March 19, 2002, Hancock Construction Company filed an Application to Intervene and Consolidate. Hancock's application to intervene does not reference or comply with the Commission Rule regarding intervention, 4 CSR 240-2.075.<sup>1</sup> The intervention rule requires, among other things, that the proposed intervener must demonstrate either (A) an interest in the case that is different from that of the general public and which may be adversely affected by a final order arising from the case; or (B) that granting the proposed intervention would serve the public interest. Hancock states that it

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<sup>1</sup> In addition, Hancock does not comply with Commission Rule 4 CSR 240-2.080(3), which requires each pleading to contain a specific reference to the statutory provision or other authority under which the relief is requested.

should be permitted to intervene because its interest in this case "is that it has significant facts to present to the Commission that should be considered in the public interest." Hancock then lists several allegations regarding Osage Water, most of which address record-keeping or accounting issues related to other cases.

Case No. WE-2002-240 was opened to address Osage Water's delinquent 1999 Annual Report. Hancock has failed to show that it has an interest in this matter that is different from that of the general public and which may be adversely affected by a final order arising from the case. Hancock also failed to show that its interest would serve the public interest. Thus, Hancock failed meet the requirements of the Commission's rule regarding intervention. The Commission will deny Hancock's motion to intervene.

### **Motion to Consolidate**

Hancock requests that the Commission consolidate this Annual Report case, WE-2002-240, with Case No. WA-2002-65. Commission Rule 4 CSR 240-2.080(3) requires each pleading to contain a clear and concise statement of the relief requested and a specific reference to the statutory provision or other authority under which the relief is requested. Although Hancock's pleading states that 4 CSR 240-2.080(3) is "Not Applicable", the Commission disagrees. Hancock should have cited and complied with Commission Rule 4 CSR 240-2.110(3), which governs the consolidation of cases. This rule provides that "[w]hen pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay." Hancock does not state the questions of law presented in the two cases or how the questions of law or fact between the two cases are related. In fact, Hancock provides virtually no

information regarding Case No. WA-2002-65, failing to even name the parties involved or describe the nature of that case. Instead, Hancock implies, but does not clearly state, that Case No. WA-2002-65 addresses similar issues regarding "failed reporting and compliance".

The Commission further notes that consolidating this case with WA-2002-65 is likely to substantially delay the resolution of that case, as the continuation of the hearing in WA-2002-65 is set for March 25, 2002. If the cases were consolidated, it would be necessary to reschedule the March 25, 2002, hearing date in order to allow Osage Water, Staff, and the Office of the Public Counsel an opportunity to prepare this Annual Report case for hearing.

Hancock's motion to consolidate fails to comply with the Commission rules and would unreasonably delay resolution of Case No. WA-2002-65. Therefore, the motion to consolidate will be denied.

**IT IS THEREFORE ORDERED:**

1. That the Application to Intervene and Consolidate, filed by Hancock Construction Company, on March 19, 2002, is denied.

2. That this order shall become effective on March 31, 2002.

**BY THE COMMISSION**

*Dale Hardy Roberts*

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

(SEAL)

Simmons, Ch., Lumpe,  
and Forbis, CC., concur.  
Murray, C., dissents.  
Gaw, C., not participating.

Ruth, Senior Regulatory Law Judge

AL/Secretary: Ruth / Pore

3-20 WE-2002-240  
Date Circulated CASE NO.

KS  
Simmons, Chair

me NO  
Murray, Commissioner

JS  
Lumpe, Commissioner

ME VP  
Gaw, Commissioner

JP  
Forbis, Commissioner

3-21 (Good Cause)  
Agenda Date

Action taken: 3-1-1

GAW-NP  
MURRAY - NO

Must Vote Not Later Than ✓

## STATE OF MISSOURI

### OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and  
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 21<sup>st</sup> day of March 2002 .

Dale Hardy Roberts  
Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

