



Missouri Public Service Commission

FILED²

DEC 28 2015

Judge or Division:	Appellate Number:
Appellant: George M. Hall	Missouri Public Service Commission File Number: SA-2015-0065
Respondent: Missouri Public Service Commission	

Missouri Public Service Commission

1:10pm MA

(Date File Stamp)

Notice of Appeal

Notice is given that George M. Hall appeals to the Missouri Court of Appeals Western Eastern Southern District.

12/28/15
Date Notice of Appeal Filed
(to be filled in by Secretary of Commission)

[Signature]
Signature of Attorney or Appellant

The notice of appeal shall include the appellant's application for rehearing, a copy of the reconciliation required by subsection 4 of section 386.420, a concise statement of the issues being appealed, a full and complete list of the parties to the commission proceeding, and any other information specified by the rules of the court. The appellant(s) must file the original and (2) two copies and pay the docket fee required by court rule to the Secretary of the Commission within the time specified by law. Please make checks or money orders payable to the Missouri Court of Appeals. At the same time, Appellant must serve a copy of the Notice of Appeal on attorneys of record of all parties other than appellant(s), and on all parties not represented by an attorney.

CASE INFORMATION

Appellant Name / Bar Number: George M. Hall	Respondent's Attorney / Bar Number: Kevin Thompson	
Address: 31971 Chesapeake Drive Warsaw, Missouri 65355	Address: 200 Madison Street, Suite 800 P. O. Box 360 Jefferson City, Missouri 65102	
Telephone: (660) 723-4283	Fax:	
Date of Commission Decision: 11-12-2015	Date of Application for Rehearing Filed: 12-11-2015	Date Application for Rehearing Ruled On: 12-16-2015

DIRECTIONS TO COMMISSION

A copy of the notice of appeal and the docket fee shall be mailed to the clerk of the appellate court. Unless otherwise ordered by the court of appeals, the commission shall, within thirty days of the filing of the notice of appeal, certify its record in the case to the court of appeals.

Certificate of Service

I certify that on 12-28-2015 (date), I served a copy of the notice of appeal on the following parties, at the following address(es), by the method of service indicated.
Mo. Public Service Commission, Kevin Thompson; Kevin.Thompson@psc.mo.gov: Mo. Public Service Comm. Department of Staff Counsel, staffcounsel@psc.mo.gov; Office of Public Counsel, Dustin Allison, opcservice@ded.mo.gov; Missouri Department of Natural Resources, John K. McManus, jack.mcmanus@ago.mo.gov; Missouri-American Water Dean L. Cooper, dcooper@brydonlaw.com, Timothy W. Luft, Timothy.Luft@amwater.com

Appellant or Attorney for Appellant

STATEMENT OF ISSUES BEING APPEALED

1. **Missouri-American Water lacked standing to apply for the CCN in the instant case absent a showing and evidence of a vote to privatize the Benton County Sewer District #1.**

2. **Missouri Public Service Commission lacked subject matter jurisdiction to entertain the application for a CCN from Missouri-American Water absent the showing and evidence of a vote to privatize the Benton County Sewer District #1.**

3. **Missouri Public Service Commission abused its discretion and fiduciary duty in refusing to verify the validity of the alleged loan obtained by the Benton County Sewer District #1 which was the basis of the Asset Purchase Agreement and submitted as part of Missouri-American Water's application for a CCN.**

4. **Missouri Public Service Commission abused its discretion and fiduciary duty in refusing to consider any facts or evidence the Benton County Sewer District #1 was void ab initio.**

5. **Missouri Public Service Commission abused its discretion and fiduciary duty when denying Appellant the opportunity to represent his interests which were different from the General Public and in absence of representation from Public Counsel or any other party.**

6. **Missouri Public Service Commission abused its discretion and fiduciary duty by allowing the \$750,000 purchase price pursuant to the asset purchase agreement, when said purchase price was unreasonable and allowed the granting of public funds and property to a private corporation in violation of the Missouri Constitution.**

7. The Missouri Public Service Commission Rule on permissive intervention is unconstitutional and systematically denied Appellant any representation to protect his interests.
8. Appellant was denied due process as Amicus Curiae as a result of the Missouri Public Service Commission's rule that no responsive pleadings can be submitted by an amicus curiae after filling of an amicus brief thus prohibiting Appellant to request a hearing or file objections to the Commission granting the application of Missouri-American Water for a certificate of convenience and necessity.
9. Missouri Public Service Commission abused its discretion and fiduciary duty when accepting the feasibility study submitted by Missouri-American Water in its application for the CCN.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Missouri-American Water Company	§
For a Certificate of Convenience and Necessity	§
Authorizing it to Install, Own, Acquire, Construct,	§ File No. SA-2015-0065
Operate, Control, Manage and Maintain a Sewer	§
System in Benton County, Missouri	§

MOTION FOR REHEARING

Comes Now, George M. Hall, Amicus Curaie/person of interest, and makes and files this his Motion for Rehearing pursuant to 4 CSR 240-2.160(1) and submits the following:

- On November 11, 2015 this Commission issued a Certificate of Convenience and Necessity to Missouri American Water in this case. The effective date of the Certificate is December 12, 2015.
- This Commission granted the CCN without holding any hearing and has severely erred in its decision.
- George M. Hall, submits all of previous argument and points which are part of the record in this case.
- George M. Hall submits rehearing is warranted in this matter because the Commission did not have jurisdiction to issue the CCN in this case since Missouri American Water lacked standing to apply for any such certificate in

reference to the purchasing and acquiring the public sewer district known as the Benton County Sewer District #1.

- The Benton County Sewer District was a public sewer district created by the vote of the residents in its boundary area. On April 2, 2013 by overwhelming majority vote, the residents of the Benton County Sewer District #1 dissolved the Benton County Sewer District #1 pursuant to the provisions of state law, RSMo 67.950.
- The residents voted to dissolve (terminate and end) the public sewer district. There was no vote of the residents to privatize the district nor is the privatization of the district warranted under the provisions of RSMo 67.950. Absent a vote to privatize the public sewer district known as the dissolved Benton County Sewer District #1, Missouri American Water had no standing to apply for the CCN in this case. No standing to apply, leaves this Commission without jurisdiction to award any such CCN.
- The sale of the Benton County Sewer District #1 assets for the purchase price is illegal, unreasonable, and unconstitutional pursuant to the Missouri Constitution.
- The Benton County Sewer District construction was funded with public taxpayer funds in an amount of approximately \$4,000,000.00. The purchase price of \$750,000 is \$3,250,000 less than the public funds used to construct

the district. If the sale proceeds under its current terms, Missouri American Water increases its bottom line assets by a minimum of \$4,000,000.00 by illegal conversion of public property and public funds.

- The Missouri Constitution, Article VI, Section 25 provides in part:

“No.....political subdivision of the state shall be authorized to lend its credit or grant public money or property to any private individual, association or corporation.....”

- The attempted sale of the Benton County Sewer District #1 to American Water for \$750,000.00 would be granting public money and property to a private corporation all in contravention of Article 6, Section 25 of the Missouri Constitution.
- There have been no waivers of collection of public funds by the United States Legislature or the Missouri Legislature in reference to the public funds expended in the construction of the Benton County Sewer District #1. Thus any sale of the public assets for any lesser amount would be unconstitutional, illegal and unreasonable. (The grant monies (public taxpayer dollars) used to construct the Benton County Sewer District #1 was approximately \$2,500,000.00). George M. Hall maintains that Missouri American Water under the Missouri Constitution cannot benefit from these public funds without submitting this amount in the purchase price. The records in this case

establish that the Benton County Sewer District #1 owes approximately \$1,100,000.00 on a purported loan. This combined with the public taxpayer funds (grant money) of \$2,500,000.00 would require a purchase price of the public sewer district for a minimal amount of \$3,600,000.00 to be legal and constitutional.

- The CCN issued in this case is preempted by pending litigation. There are two appeals pending before the United States District Court for the 8th Circuit wherein oral argument has been conducted and parties are awaiting the decision of the Court. There is currently filed with the 30th Judicial District Court of Benton County, Missouri a petition for declaratory judgment raising 10 constitutional issues arguing that the Benton County Sewer District is and was unconstitutional in its formation, funding, operations and existence and raising the claim that the District was *void ab initio*. These pending constitutional legal matters clearly outweigh the selling of any assets of the Benton County Sewer District #1 to Missouri American Water.
- The Commission has systematically and arbitrarily denied George M. Hall and the majority of the voters in the Benton County Sewer District #1 the right to be heard, the right to representation and denied them due process. There has been no representation before the Commission of the majority voters who dissolved the Benton County Sewer District #1 or those individuals like George M. Hall who refuse to concede to the whims of Missouri American

Water or those who refuse to give up their claim of interest in property since there is no outstanding bonded indebtedness owed by the Benton County Sewer District #1, see RSMo 67.950.

WHEREFORE, George M. Hall, requests that this Commission grant a rehearing on the matters concerning the issuance of a CCN in this case, that George M. Hall be allowed to present his claims at a rehearing, and that after such rehearing, this Commission deny the application of Missouri American Water for a CCN to purchase and operate the dissolved Benton County Sewer District #1 and for such other relief the Commission deems proper and just.

Respectfully submitted,

/s/ George M. Hall
George M. Hall, Amicus Curaie/person of interest
31971 Chesapeake Dr.
Warsaw, Missouri 65355
(660)723-4283
bonzimagnum@yahoo.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 11th day of December 2015, a true and correct copy of the forgoing Motion was e-mailed to the following individuals:

Missouri Public Service Commission Kevin Thompson
200 Madison Street, Suite 800
P.O. Box 360 Jefferson City, MO 65102
Kevin.Thompson@psc.mo.gov

Missouri Public Service Commission
Department Staff Counsel
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Office of the Public Counsel Dustin Allison
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Missouri Department of Natural Resources John K McManus
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Missouri-American Water Company
Timothy W Luft
727 Craig Road St. Louis, MO 63141
Timothy.Luft@amwater.com

By: /s/ *George M. Hall*

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MOTION FOR WITHDRAWL OF ORDER

GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY

Comes Now, George M. Hall, Amicus Curiae/and person of interest, and makes and files this his Motion for Withdrawl of the Order Granting Certificate of Convenience and Necessity issued November 12, 2015 and effective December 12m 2015, in this case and respectfully submits the following:

- In its order dated November 12, 2015, the Commission failed to mention, recognize, or even consider the two appeals currently pending before the United States Court of Appeals for the 8th Circuit in Appeal Nos. 13-3394/14-3195 which involve matters concerning the Benton County Sewer District # 1and the purported Asset Purchase Agreement. Oral argument has taken place on these two appeals and the parties are awaiting the decision from the Court.
- Item #57 of this Commission’s Docket entries in this case reflects that a Petition For Declaratory Judgment alleging ten (10) counts of unconstitutionality in reference to the Benton County Sewer District #1 was

filed with the 30th Judicial Circuit Court of Benton County, Missouri in Case No. 15BE-CC00047 on November 24, 2015 and further a Notice of Lis Pendens was filed with the Recorder of Deeds Office of Benton County, Missouri on November 30, 2015.

- On October 1, 2015 a Notice of Claim of Interest In Property and Intent To Preserve Interest was filed Recorder of Deeds for Benton County Missouri against the real property of the Benton County Sewer District #1.
- This Commission lacks jurisdiction for issuing a Certificate of Convenience and Necessity to Missouri American Water in this case. The Benton County Sewer District was dissolved by vote on April 2, 2013. The ballot language was for dissolution of the district, termination and ending. There was never a vote of the residents to privatize the public sewer district. Absent the vote to privatize, Missouri American Water has no standing to file an application for a certificate of convenience and necessity. If a vote to privatize is not necessary to invoke standing, then why doesn't this Commission just give Missouri American water a blanket Certificate of Convenience and Necessity encompassing the entire State of Missouri and allow Missouri American Water to acquire all sewer and water utilities in the State including those that serve these very Commissioners and then let's not forget to not allow intervention or representation of any interested or affected party? If this Commission is going to condone one unconstitutional act, it might as well do

it on a grand scale and do it State wide.

- The interests of the majority of the residents, who successfully voted for dissolution of the Benton County Sewer District #1, has had no representation and has been denied all representation before this Commission. By issuing the Certification of Convenience and Necessity in this case, this Commission has breached its fiduciary duties and has become an active participant and coconspirator to necessitate the covering up of a fraud and the commission of a fraud upon the majority voters of the Benton County Sewer District #1.
- Because of the legal matters pending before the United States Court of Appeals for the 8th Circuit, the constitutional issues pending before the 30th Judicial District Court of Benton County, Missouri, the lack of standing of Missouri American Water and the lack of jurisdiction of this Commission clearly outweigh the conspiring to cover up a fraud and the commission of a fraud upon the voters of the Benton County Sewer District #1 and the authorizing and approval of the selling of assets to Missouri American Water.

Wherefore, George M. Hall, Amicus Curiae and person of interest requests the Certificate of Convenience and Necessity be withdrawn in this case until the disposition of the aforementioned pending legal matters involving the Benton County Sewer District #1.

Respectfully submitted,

/s/ George M. Hall

George M. Hall, Amicus Curaie/person of interest
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