

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 17<sup>th</sup> day of  
December, 2014.

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

**ORDER REGARDING APPLICATION TO INTERVENE OUT OF TIME**

Issue Date: December 17, 2014

Effective Date: December 17, 2014

Missouri-American Water Company filed an application with the Commission on September 8, 2014, seeking authority to purchase and operate a sewer system in a rural portion of Benton County, Missouri. The sewer system in question is currently served by Benton County Sewer District No. 1, which is operated by a receiver appointed by the United States District Court of the Western District of Missouri.

On September 10, the Commission issued an order directing that notice of filing of the application be sent to the County Commission of Benton County, to the Missouri Department of Natural Resources, to the members of the general assembly serving Benton County, and to the media serving Benton County. That order also directed that any application to intervene must be filed no later than October 1. The Missouri Department of Natural Resources filed a timely application to intervene on September 24, and was allowed to intervene on October 7.

On November 4, the Commission's Staff filed a motion asking the Commission to schedule a local public hearing to give ratepayers an opportunity to voice any concerns they might have regarding the potential transfer of the sewer system to Missouri-American. The Commission responded by scheduling a local public hearing to take place on November 24.

On November 16, George M. Hall, a resident of the area served by Benton County Sewer District No. 1, filed a motion seeking leave to intervene out of time, or in the alternative, to file a brief as *amicus curiae*. Mr. Hall's motion states that he was unaware of the original notice and the deadline to intervene. The motion claims that Mr. Hall has an interest in Missouri-American's application because the sewer district was never legally established and thus has no assets that can be sold to Missouri-American. He claims that the proposed transaction is merely a ruse to repay the USDA for a fraudulently obtained loan. He also asserts that there is no need for the centralized sewer system that Missouri-American proposes to purchase and operate.

After receiving Mr. Hall's application to intervene, the Commission directed that anyone wishing to respond do so no later than November 20, at 11:00 a.m. Staff filed a timely response opposing Mr. Hall's application to intervene.<sup>1</sup> Staff asserts that Mr. Hall has failed to demonstrate an interest in this case different than that of the general public. It also asserts that granting his request to intervene would not serve the public interest. Staff concedes that Mr. Hall has shown good cause for his failure to file a timely application to intervene in that he did not receive actual notice of the intervention deadline. Staff suggests that rather than being allowed to intervene, Mr. Hall should be allowed an

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<sup>1</sup> The Department of Natural Resources filed an untimely response opposing the application to intervene after 11:00 a.m. on November 20.

opportunity to file an *amicus curiae* brief. Mr. Hall responded to Staff later on November 20.

While Mr. Hall's application to intervene has been pending, Staff filed a recommendation on November 17 that advises the Commission to grant Missouri-American's application. Furthermore, on November 24, the Commission conducted a local public hearing and heard testimony from residents of the sewer district, including Mr. Hall, regarding past management and operational problems, as well as concerns about future operations of the sewer system.

Commission rule 4 CSR 240-2.075 establishes criteria regarding applications to intervene in cases before the Commission. Subsection (3) of the rule states:

- The commission may grant a motion to intervene or add new member(s) if-
- (A) The proposed intervenor or new member(s) has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or
  - (B) Granting the proposed intervention would serve the public interest.

The proposed intervenor must meet one or the other criteria, but is not required to meet both. In addition, when an application is filed late, subsection (10) requires a showing of good cause before the application should be granted.

While Mr. Hall has demonstrated that he has strong opinions about the proposed acquisition of the sewer system by Missouri-American, he has failed to demonstrate that his interests differ from those of the other residents of the sewer district, who comprise the general public for this case. Furthermore, he has failed to demonstrate that his stated interests may be adversely affected by a final order arising from this case. Public Counsel represents the interest of the general public in this and other proceedings and will represent Mr. Hall's interests along with the interests of the other rate payers. Finally, since Mr. Hall

has testified at the local public hearing, the Commission is aware of his concerns and the public interest would not be served by allowing him to intervene in this proceeding. The Commission will deny Mr. Hall's application to intervene out of time, but it will afford him an opportunity to file an *amicus curiae* brief.

**THE COMMISSION ORDERS THAT:**

1. George M. Hall's Motion for Out of Time Intervention is denied.
2. George M. Hall may file an *amicus curiae* brief no later than January 9, 2015.
3. Any party wishing to file a written response to Staff's recommendation may do so no later than January 9, 2015
4. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

R. Kenney, Chm., Stoll, W. Kenney,  
and Hall, CC., concur;  
Rupp, C., dissents.

Woodruff, Chief Regulatory Law Judge