

MEMORANDUM

TO: Missouri Public Service Commission Official Case File  
Case No. WA-98-36  
Osage Water Company

FROM: Dale W. Johansen  
Water & Sewer Department

William A. Meyer, Jr.  
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*Wes Henderson* 12-12-97  
Utility Operations Division/Date

*RES by Dale W. Johansen*  
Utility Services Division/Date

*Wm K. Hays* 12/12/97  
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 July 28, 1997 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 sewer service in an unincorporated area of Camden County known as the Cedar Glen Condominiums (Cedar Glen). As a part of the Application OWC stated its intention to provide the proposed water service under the terms and rates of its existing water tariff, and to provide the proposed sewer service under the terms and rates of the sewer tariff being considered in the context of Case No. WA-97-110. The Staff filed its Official Case File Memorandum in Case No. WA-97-110 on this same date and discussions regarding the proposed sewer tariff can be found therein.

On July 30, 1997, the Commission issued its **Order and Notice** in this case and established an intervention deadline of August 29, 1997. The Commission received no applications for intervention in the case.

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On September 15, 1997, the Company submitted copies of the engineering plans and specifications for the proposed water and sewer systems to the Staff for its review and evaluation.

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-97-110, in which it requested that this case and Case No. WA-97-110 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-97-110. 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 proposal, with special attention then being paid to the proposed use of the Company's existing and/or proposed water and sewer tariffs, the proposed service area and the Company's overall financial situation.

As noted previously, the Company proposes to provide the water and sewer service in the requested area under the terms of existing and/or proposed tariff provisions and rates. The Staff believes this is appropriate, with the caveat that the sewer rate be considered only an initial rate subject to review for appropriateness at the end of an 18-month start-up period. Further discussions on this matter are also in the Staff's Official Case File Memorandum for Case No. WA-97-110.

The next area of emphasis of the Staff's investigation was the Company's proposed service area. The Staff's main concern in this regard was the fact that no definite plans exist for development within a fairly large portion of the proposed service area. The Staff's view is that the service area should be modified to include only the portion where it is currently clear that development is taking place or is definitely planned. To address this concern, the Staff contacted representatives of the Company and the involved developer, Cedar Glen Construction, to discuss the possibility of reducing the size of the proposed service area. As a result of these discussions, the Company and the developer have verbally agreed with the Staff to a reduction in the size of the proposed service area. This agreement calls for the service area to be modified such that only the area south of Highway 54 will be included in the certificated area. This is the portion of the originally proposed service area where development is currently taking place and additional development is planned.

As the Staff discussed in detail in its Official Case File Memorandum for Case No. WA-97-110, the concerns regarding the Company's financial situation originally surfaced as a result of the Company being delinquent in the filing of several of its past annual reports.

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. For this reason, 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 Cedar Glen situation where the proposed rates will apparently more than adequately 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 solvency into question, many of these balances have existed since 1994 and thus do not necessarily affect the Company's ability 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 8 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 it is appropriate for the Commission to approve the Company's Application. Additionally, as previously noted the Staff's concerns regarding the size of the proposed service area have been alleviated.

### 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 water and sewer service to the public in the area known as the Cedar Glen Condominiums Camden County, limited, however, to the portion of the originally proposed service area that is located south of Highway 54. The Staff further recommends that the Commission's granting of the referenced certificate become effective upon approval of the sewer tariff being considered in Case No. WA-97-110 and the tariff modifications set out below.

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As a part of the granting of the referenced certificate, the Staff recommends that the Commission order the Company to file proposed tariff sheets modifying the appropriate service area maps and legal descriptions contained in the existing water tariff and proposed sewer tariff, consistent with the agreement on that subject discussed herein.

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; and authorizing the use of the existing water tariff and rates, and the proposed sewer tariff and rates subsequent to their approval in Case No. WA-97-110.

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.

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