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October 6, 2000

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Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. SR-2000-556

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S RESPONSE TO OSAGE WATER COMPANY'S MOTION TO COMPEL COMPLETION OF STAFF INVESTIGATION AND REPORT AND FOR APPROVAL OF INTERIM RATE INCREASE.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Keith R. Krueger
Deputy General Counsel
(573) 751-4140
(573) 751-9285 (Fax)

KRK/dkf
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

OCT 06 2000

Missouri Public
Service Commission

In the Matter of Osage Water Company's)
Request for a Rate Increase for Sewer)
Service Pursuant to the Public Service)
Commission's Small Company Rate)
Increase Procedure)

Case No. SR-2000-556

**STAFF'S RESPONSE TO OSAGE WATER COMPANY'S
MOTION TO COMPEL COMPLETION OF STAFF INVESTIGATION AND REPORT
AND FOR APPROVAL OF INTERIM RATE INCREASE**

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), and for its Response to Osage Water Company's Motion to Compel Completion of Staff Investigation and Report and for Approval of Interim Rate Increase, states to the Missouri Public Service Commission ("Commission") as follows:

Procedural History

1. On October 12, 1999, Osage Water Company ("OWC" or "Company") filed a letter-form request for increases in its water and sewer system operating revenues, pursuant to the Commission's Small Company Rate Increase Procedure (found in Rule 4 CSR 240-2.200). A copy of the Company's rate increase request letter is attached hereto as "Exhibit A." In this letter, the Company stated its desire to use calendar year 1999 information as the main basis for the rate review, and thus agreed to waive the 150-day tariff sheet filing requirement provided in Rule 4 CSR 240-2.200 for processing the rate increase requests. Specifically, the Company stated the following:

Regarding the 150-day tariff sheet filing period contemplated by the small company rate increase procedure, the Company wishes to state its agreement to an extension of that period at this time. This is believed necessary due to two factors: the Company's desire to use calendar year 1999 information as the main basis for the rate review and the timing of this request (as required by the [stipulation in Case No. WA-94-132]). It simply

appears unlikely that the rate review and necessary follow-up work can be completed within the 150-day period, considering the time that will be needed to close and audit the last few months of the Company's 1999 books and records. I have discussed this matter with appropriate members of the Staff and the OPC, and they have expressed their agreement with the use of calendar year 1999 information as the main basis for the rate review and their agreement to the extension of the 150-day tariff sheet filing period.

2. On August 8, 2000, OWC filed a Motion to Compel Completion of Staff Investigation and Report ("First Motion to Compel"), together with a request for an interim rate increase.

3. On August 23, 2000, the Staff filed its response to the Company's First Motion to Compel.

4. On September 14, 2000, the Commission convened a prehearing conference for the purpose of addressing the issues raised in the Company's First Motion to Compel, and to allow the parties to discuss why the Staff could not complete its investigation within 150 days and when the Staff would be able to complete its investigation. Following statements on the record, the parties continued to discuss the issues in the case, informally and off the record.

5. On October 4, 2000, the Company filed a Motion to Compel Completion of Staff Investigation and Report and for Approval of Interim Rate Increase ("Second Motion to Compel"), together with suggestions in support of the Second Motion to Compel ("Suggestions").

6. On October 5, 2000, the Commission issued its Order Directing Staff Response, in which it directed Staff to file a pleading: explaining why it is taking so long to prepare a recommended stipulation; advising the Commission of the date on which it will provide a recommended stipulation; describing what additional information it received from the Company between August 23, 2000, and September 14, 2000; and, if no new information was received during this time period, to explain why it said, on August 23, 2000, that it needed additional information.

7. On October 5, 2000, the Staff provided the Company and the Office of the Public Counsel ("OPC") with its final revenue requirement recommendations and rate design proposals. A copy of the Staff's e-mail message transmitting this information to the Company is attached hereto as "Exhibit B." On October 6, 2000, the Staff also provided the Company and the OPC with its recommended tariff sheet revisions, which were developed consistent with the Staff's rate design proposals.

8. This pleading is in response to the Commission's October 5, 2000 Order Directing Staff Response.

Staff's Response to the Commission's Order

9. The Commission has requested that the Staff state when it will provide recommended stipulation to OWC. The Staff will provide its standard "Agreement Regarding Disposition of Small Company Rate Increase Procedure" ("Disposition Agreement"), pertaining to the sewer rate increase to the company, via e-mail and facsimile transmission, no later than Friday, October 13, 2000. The Staff will also provide copies of those documents to the OPC. However, inasmuch as there still may be disagreements between the Company and the Staff regarding the provisions of the Disposition Agreement, the Staff cannot say with certainty when a signed Disposition Agreement and the required tariff sheet revisions will be submitted to the Commission.

10. In its pleading on August 23, 2000, the Staff stated that the Company had failed to provide required accounting information. As is further explained in the next sentence of that pleading, the Staff had yet to receive the year-end 1999 financial data of the Company. It was the Company's desire for this precise information that initially prompted the Company to request that the 150-day requirement contained in Rule 4 CSR 240-2.200 be waived. Company president

Greg Williams on several occasions had voiced his preference to use this data, as it was to be prepared on a "system-by-system" basis. The Staff agreed with that assessment, and would have preferred to use that data as a starting point for its audit. However, it became apparent during the time after which the Company's books should have been closed, that either the data would not be available or that it was not being summarized. At this point, the Staff began to compile the Company's cost of service by re-creating financial statements on its own. The Staff's contention, contained in Paragraph 7b of its August 23 pleading, was to again advise the parties that the Company still had not provided the information that was to be the foundation for the Staff's rate case.

11. Between August 23, 2000 and September 14, 2000, the Staff received information concerning the details of the Company's lease of a Bobcat and other information concerning one of the Company's principal employees.

12. As of September 14, 2000, the Staff still had not received the financial data that was to be compiled for the fiscal year ending December 31, 1999. This information would have been helpful to the Staff in many ways. If the information had been provided early in the audit process, the Staff would have used the information as the starting point for its audit. The information, if prepared correctly, would have required less Staff audit time and would have allowed the Staff to complete its audit in a more timely manner. Instead, as has been described above, the Staff had to create its own financial statements concerning the Company's operations. Even today, the information requested over nine months ago would be a useful audit tool for the Staff. If that information was now available to the Staff, it could be compared to the financial statements prepared by the Staff, to verify that Staff's work product was accurate and that the rates prescribed by the Staff were still just and reasonable.

13. Even though the items described in Paragraph 12 were still outstanding on September 14, 2000, the Staff felt confident of the accuracy of the financial statements the Staff had compiled. the Staff was able to complete its work using the information then available, with the apparent consent of the Company, and without harm to the ratepayers. The outstanding items would not have had a significant effect on the Company's audit.

**Staff's Response to Company's Second Motion to Compel
and to Its Suggestions in Support Thereof**

14. The Staff disputes the Company's claims, in Paragraphs 7 and 8 of the Second Motion to Compel, that the Company's financial integrity is at risk, that it will "have to" stop providing essential services, and that it will have to consider filing a proceeding in bankruptcy. The documents that were attached to the Company's Second Motion to Compel are evidence only of the fact that the Company has not paid its obligations; they are *not* evidence of *why* the bills are unpaid. The Staff is aware that the Company was able to pay its former shareholder, Dave Hancock, for several months after issuing a debenture to him on or about October 15, 1998. These payments to Mr. Hancock, in the amount of \$1,000 per month, were made from the revenues that were produced from the same rates that are now in effect. It therefore appears that the Company has ceased paying Mr. Hancock for reasons other than cash flow. Likewise, the record in Cases No. WC-98-211 and WA-98-236 would support the fact that the company had the funds that it needed to make its regular monthly payments to Mr. Hancock. Furthermore, Company officials testified and argued in the Eagle Woods case (Case No. WA-99-437), which the Commission heard in December 1999, that the Company had the financial ability to provide service to Eagle Woods (and, implicitly, to all of its existing service territories) without a rate increase.

15. In its Suggestions herein, the Company made the following inaccurate statement:

"Although provided with an opportunity at the pre-hearing conference on September 14, 2000 to provide the Commission with some evidence that OWC has failed to cooperate in the informal rate procedure, the commission's Staff was unable to provide such evidence, because no lack of cooperation has occurred, and rater conceded that it has, and has had for quite some time, all of the information Staff needs to complete the informal rate case."

16. This single sentence contains numerous errors that need to be called to the attention of the Commission. The entire transcript of this prehearing conference consisted of only three pages. The discussion of substantive issues consisted of only 30 lines, beginning at page 4, line 6 and continuing to page 5, line 10. The following dialogue is a fair excerpt of the only substantive statements that Staff's counsel made on this subject:

JUDGE MILLS: Has there been any discussion to try to resolve this seeming impasse?

...

MR. KRUEGER: I haven't talked with the Company, but I believe that we've now completed the EMS runs, and I thought that information had been provided to [Mr. Williams]. It's my understanding that we can probably prepare a recommended stipulation within a couple of weeks. Rate design issues still need to be addressed.

JUDGE MILLS: Okay. So we seem to have gotten beyond the question of what documents need to be provided and whether there's stuff still outstanding; is that correct?

MR. KRUEGER: I believe we have all of the documentation that we need at this time.

17. From a careful reading of the foregoing, it is clear that:

- a. The Commission did not ask the Staff "to provide the commission with some evidence that OWC has failed to cooperate," as Mr. Williams implied in his suggestions.
- b. There was no statement – by anyone – that "Staff was unable to provide such evidence."
- c. There was no statement – by anyone – that the company had cooperated or that it had failed to cooperate.

d. The Staff did not concede that it "has and for some time, all of the information the Staff needs to complete the informal rate case."

18. As the Company noted in its Suggestions, the Commission stated in its September 5, 2000 order that, in some cases, where there has been non-cooperation by the requesting utility, the informal procedure may take longer than the formal rate case procedure. The Staff submits that there is ample evidence in this case that the Company has failed to timely provide necessary information and that the resulting delay has not been unreasonable.

19. The Staff explicitly denies the Company's claim, at page 2 of its Suggestions, that Staff has acknowledged that OWC has not been the cause of the delay in this case.

20. For the reasons set out below, it is misleading for the Company, and thus misguided for the Commission to compare the time frame involved in this small company "informal" rate case, which the Company initiated on October 12, 1999, to a "formal" rate case that might have been filed on that same date:

a. The test year requested by the Company did not end until December 31, 1999. As a result, even if the 1999 financial information had been available immediately, the Company could not have prepared its proposed tariff provisions and supporting direct testimony, and thus filed a formal rate case, until January 3, 2000, which is 84 days after the Company initiated the subject informal rate cases.

b. Companies cannot usually close their books until about one month after the end of the accounting period. If OWC had closed its books for 1999 on February 1 and then prepared and filed its proposed tariff revisions and supporting direct testimony ten days later, the Company would have initiated a formal rate case 123 days after the it initiated the subject informal rate case.

c. The Company could not, however, have filed its proposed tariff revisions and supporting direct testimony and thus initiated a formal rate case even by early February, because it did not have useable financial records for calendar year 1999 (its requested test year) by February 1, 2000. In fact, the Company still does not have its final calendar year 1999 financial information even as of this date, as that information has not been released by the Company's accountant. Consequently, in order to use the Company's requested test year of 1999, the Staff has essentially had to recreate the company's 1999 financial records "from scratch."

Staff's Response to the Company's Request for Relief

21. The Company has requested that the Commission order the Staff to complete its investigation and audit. As noted above in Paragraph 7 above, the Staff has already provided its revenue requirement recommendations and rate design proposals and suggested tariff sheet revisions to the Company. As a result, this request is moot.

22. The Company has also requested that the Commission order the Staff to "file its report and recommendation herein." The Commission's small company rate increase procedure does not require the Staff to file a "report and recommendation," as apparently contemplated by the Company, and the Staff does not customarily file its recommendation in informal rate cases until near the end of such proceedings. Instead, as provided for in the small company rate increase procedure, the Staff develops a proposed Disposition Agreement that is consistent with its audit findings, rate design proposals and other recommendations and presents that document to the Company, and to the OPC for their review and consideration. Once an agreement is reached between at least the involved company and the Staff, proposed tariff revisions and a signed Disposition Agreement are filed with the Commission. As noted in Paragraph 9 above,

the Staff will provide its Disposition Agreement for the subject informal rate case to the Company by not later than October 13, 2000.

23. The Commission rule governing small company informal rate cases makes no provision for interim rate increases and they are inappropriate for reasons specified in the pleading that the Staff filed on August 23, 2000, and because they are only authorized when "ancillary to a permanent rate increase" (see *State ex rel. Laclede Gas Co. v. Public Service Commission*, 525 S.W.2d 561 (Mo. App. 1976). Furthermore, an interim rate increase will not be necessary if the Company accepts the revenue requirement recommendations and rate design proposals and proposed tariff sheet revisions that the Staff has now proposed, and enters into the Disposition Agreement that the Staff will be submitting to the Company by no later than October 13, 2000. For the record, the Staff notes that the rates that the Staff has recommended exceed the rates that the Company included in its previously proposed interim tariff sheets.

Additional Staff Comments

24. In the event there are concerns about whether the company has been treated "differently" or "unfairly" when compared to other companies that utilize the small company rate increase procedure, the Staff would offer the following.

25. In this instance, the Staff admits that the Company has received "different" treatment than other companies going through an informal rate case, but submits that the treatment has been far from unfair and has even been preferential. In support of these statements the Staff offers the following examples:

- a. In most instances, the Staff will not proceed with an informal rate case when it cannot begin its audit soon after the case is initiated. In this instance, the Staff agreed

with the Company's suggested test year of calendar year 1999 and thus also agreed "up front" with the Company in an extension of the 150-day tariff sheet filing time period.

b. In most instances, the Staff will "close" an informal rate case if the involved company becomes delinquent on the payment of its Commission assessments while the rate case is pending. In this instance, OWC became delinquent on its assessment payments as of July 15, 2000, but the Staff continued on with the rate case.

c. In most instances, the Staff will "close" an informal rate case if the involved company becomes delinquent on the filing of its Commission annual report while the rate case is pending. In this instance, OWC became delinquent on its annual report filing as of April 15, 2000, but the Staff continued on with the rate case. (In fact, the Company has still not filed its 1999 annual report.)

d. In most instances, when dealing with a company the size of OWC, the Staff will "close" an informal rate case once it becomes clear that the involved company does not have any of the financial statements needed by the Staff to conduct a meaningful audit. In this instance, as noted previously, the Staff continued on with the audit and essentially recreated the Company's 1999 financial information "from scratch" in order to complete the subject informal rate cases.

e. In most instances, the Staff does not provide preliminary audit information to the involved company for its review, but normally provides its revenue requirement recommendations, rate design proposals and proposed tariff revisions in a single "settlement packet" once all of the work necessary to complete those documents is completed. In this instance, the Staff provided the Company with preliminary audit

information and, in fact, spent much time negotiating with the Company on disputed items to the detriment of completing its overall work product in a timely manner.

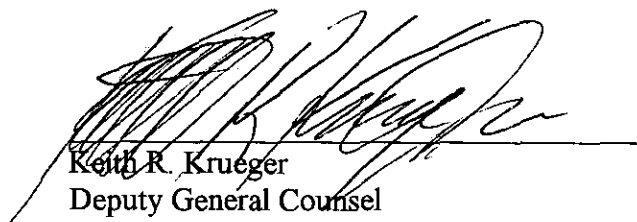
f. In this instance, the informal rate case process could/should have been stopped and a formal rate case process started when the Company filed its revised tariff sheets requesting an "interim" rate increase. However, the Staff chose not to make an argument in favor of that position, but instead chose only to recommend that the Commission reject the interim tariff sheet revisions and allow the informal rate case process to continue.

26. The Staff will expedite the handling of any request for clarification or tariff filing that it receives from the Company based on the rate and tariff information that the Staff furnished to the Company on October 5, 2000.

WHEREFORE, the Staff respectfully requests that the Commission issue an order denying the Company's October 4, 2000 Motion to Compel, and thus allowing the Company's pending informal rate cases to proceed to their conclusion in normal fashion.

Respectfully submitted,

DANA K. JOYCE
General Counsel




Keith R. Krueger
Deputy General Counsel
Missouri Bar No. 23857

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 6th day of October 2000.



OSAGE WATER COMPANY

P.O. BOX 777
CAMDENTON, MO 65020
CLEAN WATER FOR A GROWING COMMUNITY

Business Office
Highway 54 West
Osage Beach, MO 65065
573-346-0030

Corporate Office
P.O. Box 431
Sunrise Beach, MO 65079
573-374-8761

MISSOURI PUBLIC SERVICE COMMISSION
REC'D OCT 12 1999

October 6, 1999

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

RE: Requests for Increases in Water and Sewer System Operating Revenues
Small Company Rate Increase Procedure

Dear Mr. Roberts:

Osage Water Company (the Company) holds certificates of public convenience and necessity granted by the Missouri Public Service Commission (the Commission), under which the Company provides water supply and distribution services and sewer collection and treatment services in various portions of Camden County, Missouri. The Commission first authorized the Company to provide regulated water utility service in 1987 and regulated sewer utility service in March 1998. The Company currently provides service to approximately 317 water customers and approximately 103 sewer customers within its certificated areas under the provisions of its Commission-approved tariffs. The Company's customer rates for both water and sewer service are essentially the same as those established when the Commission first authorized the Company to provide its regulated services.

Pursuant to 4 CSR 240-2.200, the Commission's Small Company Rate Increase Procedure, the Company is hereby requesting an increase of its annual water system operating revenues to \$209,578 and an increase of its annual sewer system operating revenues to \$98,625. Based upon the Company's current customer rates and customer numbers, these increases represent changes of approximately 99.60% in the Company's water system operating revenues and approximately 121.86% in the Company's sewer system operating revenues. Changes in the design of the Company's customer rates and certain of its service charges, for both water and sewer service, are also contemplated and will be discussed with the Commission Staff (the Staff) and the Office of the Public Counsel (the OPC) during the pendency of this small company rate increase procedure.

Specific reasons for the requested increases in the Company's operating revenues, applicable to both its water and sewer systems, include: increases in utility plant investment; increases in operation and maintenance expenses; increases in the Commission's annual utility assessments; funding of a depreciation reserve, changes in the number and type of customers served, and to allow for full and part time staff to be employed directly by the Company rather than provided on a contract basis from affiliated. Additionally, the Company is initiating this small company rate increase procedure consistent with the terms of a Stipulation and Agreement between the Company, the Staff and the OPC

Exhibit A

Mr. Dale Hardy Roberts
Re: Rate Increase Request
October 6, 1999
Page 2 of 2


that was entered and approved by the Commission in Case No. WA-94-132. That Stipulation required that the Company "file a rate case" at the end of a specified five-year rate moratorium period, with which the submittal of this letter coincides.

Regarding the 150-day tariff sheet filing period contemplated by the small company rate increase procedure, the Company wishes to state its agreement to an extension of that period at this time. This is believed necessary due to two factors: the Company's desire to use calendar year 1999 information as the main basis for the rate review and the timing of this request (as required by the above-referenced Stipulation). It simply appears unlikely that the rate review and necessary follow-up work can be completed within the 150-day period, considering the time that will be needed to close and audit the last few months of the Company's 1999 books and records. I have discussed this matter with appropriate members of the Staff and the OPC, and they have expressed their agreement with the use of calendar year 1999 information as the main basis for the rate review and their agreement to the extension of the 150-day tariff sheet filing period.

Lastly, I wish to advise you that the Company is current on the payment of its Commission annual assessments and the filing of its Commission annual reports, and will remain so during the pendency of this small company rate increase procedure.

Thank you for your attention to this important matter. Please contact me at your convenience if you need additional information regarding this request.

Sincerely,


Gregory D. Williams
President & Secretary
Osage Water Company

Copy: Randy Hubbs - Commission Staff
Shannon Cook - Office of the Public Counsel ✓

Johansen, Dale

From: Hubbs, Randy
Sent: Thursday, October 05, 2000 9:15 AM
To: Greg Williams (E-mail)
Cc: Johansen, Dale; Meyer, Greg; Russo, Jim; McMellen, Amanda; Krueger, Keith; Merciel, James
Subject: Osage Water Rate Design

Greg, Here is a copy of the Staff's cost-of-service and rate design worksheets. Please give me a shout if you have any questions.

Randy



2000-SmCo Rate Case
- Osage Wa...



REvenues Water &
sewer 9-28-00...



Staff's letter to
Company - Re...

Service List for
Case No. SR-2000-556
October 6, 2000

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