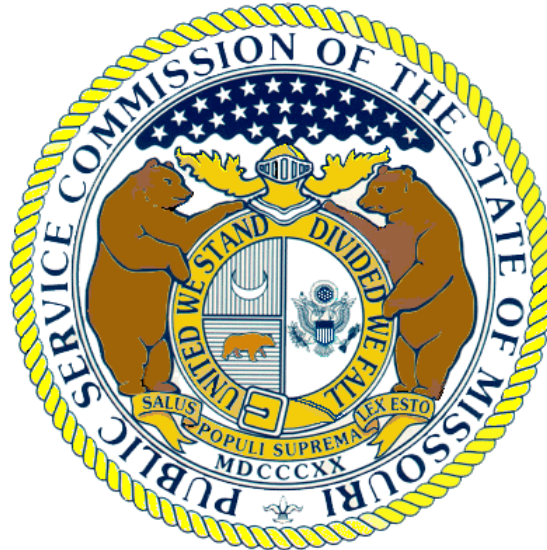


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of Osage)
Utility Operating Company, Inc. to Acquire)
Certain Water and Sewer Assets and for a)
Certificate of Convenience and Necessity)
File No. WA-2019-0185

REPORT AND ORDER

Issue Date: April 8, 2020

Effective Date: May 8, 2020

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OF THE STATE OF MISSOURI**

In the Matter of the Application of Osage)
Utility Operating Company, Inc. to Acquire)
Certain Water and Sewer Assets and for a)
Certificate of Convenience and Necessity) **File No. WA-2019-0185**

APPEARANCES

OSAGE UTILITY OPERATING COMPANY:

Dean L. Cooper, and Jennifer L. Hernandez, Brydon, Swearengen & England, PC, P.O. Box 456, Jefferson City, Missouri, 65102-0456.

CEDAR GLEN CONDOMINIUM OWNERS ASSOCIATION, INC:

Mark W. Comley, Newman, Comley & Ruth, PC, 601 Monroe Street, Suite 301, Jefferson City, Missouri, 65102.

PUBLIC WATER SUPPLY DISTRICT #5, LAKE AREA WASTEWATER ASSN., INC., MISSOURI WATER ASSN., INC.:

Aaron Ellsworth, Ellsworth & Hardwick, P.O. Box 250, 2404 Bagnell Dam Boulevard, Lake Ozark, Missouri, 65043.

GREAT SOUTHERN BANK:

Sue A. Schultz and Anthony J. Soukenik, 600 Washington Ave, 15th Floor, St. Louis, MO 63101.

REFLECTIONS CONDOMINIUM:

Christopher Kurtz and Stanley Woodworth, 5250 W 11th Place, Suite 400, Leawood, KS 66211.

OFFICE OF THE PUBLIC COUNSEL:

Caleb Hall, Senior Counsel, Department of Commerce & Insurance, 200 Madison Street, Suite 650, P.O. Box 2230, Jefferson City, Missouri 65102.

STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION:

Whitney Payne, Senior Counsel, and **Mark Johnson**, Deputy Counsel, Missouri Public Service Commission, 200 Madison Street, Suite 800, P.O. Box 360, Jefferson City, Missouri 65102.

SENIOR REGULATORY LAW JUDGE: Nancy Dippell

REPORT AND ORDER

I. Procedural History

On December 19, 2018, Osage Utility Operating Company, Inc. (Osage Utility) filed an Application and Motion for Waiver¹ for authorization to acquire the water and sewer assets and the certificates of convenience and necessity (CCN) in the four service areas of Osage Water Company and the single service area of Reflections Subdivision Master Association, Inc., and Reflections Condominium Owners Association, Inc. Osage Utility's Application also included a request for an acquisition incentive pursuant to Commission rule 20 CSR 4240-10.085.² On February 19, 2019, Osage Utility filed an Amended Application and Motion for Waiver.

Lake Area Waste Water Association, Inc. (LAWWA), Missouri Water Association, Inc. (MWA), Public Water Supply District No. 5 of Camden County Missouri (PWSD#5), Cedar Glen Condominium Owners Association, Inc. (Cedar Glen), Reflections Condominium Owners Association, Inc. (Reflections COA),³ Great Southern Bank,⁴ and the Reflections Subdivision Master Association, Inc. (Reflections MA),⁵ were granted intervention. The Staff of the Commission (Staff) filed its initial recommendation on May 14, 2019. Several parties filed

¹ The identical application was originally submitted in two files, one for water service (File No. WA-2019-0185) and one for sewer service (File No. SA-2019-0186). Those files were consolidated on January 29, 2019.

² Effective August 28, 2019, all of the Commission's regulations were transferred from the Department of Economic Development's (DED) Title 4 to the Department of Commerce and Insurance's (DCI) (formerly Department of Insurance, Financial Institutions and Professional Registration) Title 20. Thus, when filed, this rule was 4 CSR 240-10.085.

³ Reflections COA is a not-for-profit corporation created by a condominium declaration for the three existing condominium buildings that are part of the Reflections subdivision.

⁴ Great Southern Bank provided the financing for Abba Development Company, L.L.C. (Abba), the developer of the Reflections subdivision. Abba defaulted on its loan and conveyed title to all but three of the condominium buildings at the Reflections subdivision to Great Southern Bank. This included the real estate and the physical assets that are part of the water and sewer systems serving the development.

⁵ Reflections MA was created by a "Declaration of Restrictions for Reflections Subdivision" when Abba created the subdivision. Reflections MA is the entity charged with the operation of the water and sewer facilities serving the Reflections subdivision.

responses to the recommendations and the parties agreed to a procedural schedule. A hearing was set and written direct, rebuttal, and surrebuttal testimony was filed.

On September 9, 2019, Great Southern Bank, Reflections COA, and Reflections MA (collectively referred to as “Reflections”) filed a motion to dismiss the portion of the application related to the sale of the Reflections water and sewer systems. In its motion to dismiss, Reflections claimed that it had terminated its purchase agreement with the managing parent company of Osage Utility, Central States Water Resources, Inc., and had sold the Reflections water and sewer systems to third parties.⁶ As an alternative to dismissing the entire application, Reflections requested the Commission dismiss the portion of the amended application relating to Reflections. The Office of the Public Counsel (Public Counsel) filed a response in support of the motion to dismiss.

On September 9, 2019, LAWWA, MWA, and PWSD#5 (referred to as the “Joint Bidders”) filed a Motion to Strike Portions of the Written Surrebuttal Testimony of Todd Thomas and Josiah Cox, or Alternatively, Motion for Leave to File Testimony in Response. Cedar Glen filed a similar motion. On the same date, Osage Utility filed both a Motion to Strike and/or Limit Scope of the Proceeding and an Amended Motion to Strike and/or Limit Scope of the Proceeding. The motions to strike and motion to limit the proceeding were denied at the hearing.⁷

The Commission issued an order on September 11, 2019, bifurcating for hearing purposes the Reflections and Osage Water Company portions of the case. The Commission also directed Staff to file a revised recommendation regarding only the Osage Water Company systems. The Commission ordered that the other parties would be allowed to offer testimony responsive to Staff’s revised recommendation at the hearing. Staff filed its revised

⁶ The “third parties” were LAWWA and MWA.

⁷ Transcript, pages 15-16.

recommendation on September 13, 2019, in the form of Supplemental Testimony of Natelle Dietrich with Revised Staff Memorandum.⁸ On September 17-18, 2019, a hearing was held regarding only the transfer of assets and CCN for the Osage Water Company water and sewer systems. On September 30, 2019, Osage Utility filed a statement indicating that it was not opposed to the motion to dismiss the Reflections portion of the application.⁹ The Commission will grant the motion and dismiss the request for a CCN and to transfer the assets of the Reflections water and sewer systems.

As part of the procedural schedule, the parties were directed to file a list of issues to be decided by the Commission. The parties could not agree to a single issues list and so Staff and Osage Utility filed a list of issues and the other parties filed a separate list of issues. The difference between the lists was the question of whether the motion to dismiss should be granted and the addition of a sub-item asking the question: “Are the certificates necessary or convenient for the public service?” At the hearing, the parties presented evidence relating to the following over-arching issues identified by the parties:

1. Would the sale of Osage Water Company’s certificates of convenience and necessity and its water and sewer assets to Osage Utility be detrimental to the public interest?
2. Should the Commission approve an acquisition premium for the acquisition of the Osage Water Company and Reflections systems under 20 CSR 4240-10.085?

Additionally, the record was held open until September 30, 2019, for the receipt of post-hearing Exhibit 406, a letter regarding compliance of the Joint Bidders from the Missouri Department of Natural Resources (MDNR). The Commission also gave Osage Utility the opportunity to file additional correspondence from MDNR by September 30, 2019. Neither

⁸ Exhibit 105.

⁹ File No. WA-2019-0185, Statement of Non-Opposition to the Motion to Dismiss Request Related to Reflections Subdivision, (filed September 30, 2019).

Exhibit 406 nor any other post-hearing MDNR correspondence was filed and the record was closed on September 30, 2019. Initial post-hearing briefs were filed on October 3, 2019, and reply briefs were filed on October 17, 2019.

Along with its original and amended applications, Osage Utility requested the Commission waive the requirement to give 60-days' notice prior to filing the application as required in Commission rule 20 CSR 4240-4.017(1). Osage Utility stated that it did not engage in conduct that would constitute a violation of the Commission's ex parte rule. The Commission finds that good cause exists to waive the notice requirement, and a waiver of 20 CSR 4240-4.017(1) is granted.

II. Findings of Fact

Any finding of fact for which it appears that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

1. Osage Utility is a Missouri corporation with its principal place of business in St. Ann, Missouri.¹⁰ Osage Utility was formed for the purpose of providing water and sewer service to the public in the service areas of Osage Water Company and Reflections water and sewer systems.¹¹

2. Osage Utility intends to operate as a "water corporation," a "sewer corporation," and a "public utility" as those terms are defined by statute.¹² As such, Osage Utility is subject to the jurisdiction and supervision of the Commission as established by statute.¹³

¹⁰ Exhibit 1, Direct Testimony of Josiah Cox, p. 1.

¹¹ Ex. 1, Direct Testimony of Josiah Cox, pp. 1 and 4.

¹² Ex. 1, Direct Testimony of Josiah Cox, p. 4.

¹³ Ex. 1, Direct Testimony of Josiah Cox, p. 4.

3. CSWR, LLC (formerly known as First Round CSWR, LLC), is Osage Utility's ultimate parent company.¹⁴ Central States Water Resources, Inc. (Central States) is the managing affiliate for CSWR, LLC.¹⁵

4. Josiah Cox is the President of Osage Utility. Mr. Cox is also the President of Central States.¹⁶

5. Staff is a party in all Commission investigations, contested cases, and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission.¹⁷ Staff participated in this proceeding.

6. Public Counsel is a party to this case pursuant to Section 386.710(2), RSMo,¹⁸ and by Commission rule 20 CSR 4240-2.010(10).

7. The Commission granted a transfer of assets and a CCN to operate as a water and sewer utility to Osage Water Company in 1989 in Commission File No. WM-89-73.¹⁹ Subsequently, Osage Water Company was granted CCNs to provide service to additional water and sewer service areas.²⁰

8. Currently, Osage Water Company provides water and sewer services to four active water and sewer service areas: Cedar Glen, Chelsea Rose, Cimarron Bay, and HWY KK. The

¹⁴ Ex. 1, Direct Testimony of Josiah Cox, p. 5 and Schedule JC-1.

¹⁵ Ex. 1, Direct Testimony of Josiah Cox, p. 5 and Schedule JC-1.

¹⁶ Ex. 1, Direct Testimony of Josiah Cox, pp. 1 and 4.

¹⁷ 20 CSR 4240-2.010(10) and (21) and 2.040(1).

¹⁸ Unless otherwise stated, all statutory citations are to the Revised Statutes of Missouri, as codified in the year 2016.

¹⁹ Ex. 1, Direct Testimony of Josiah Cox, p. 11; Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 18; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 4.

²⁰ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 18; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 4.

HWY KK water service area consists only of the Eagle Woods subdivision; the sewer service area includes both Eagle Woods and Golden Glade subdivisions.²¹

9. Osage Water Company also has six inactive water service areas to which Osage Water Company either never provided service or the City of Osage Beach is currently providing the service. Staff proposes those inactive service areas not be included in Osage Utility's water tariff at the time of any transfer. These inactive service territories are: Osage Beach South, Osage Beach North, Sunrise Beach South, Sunrise Beach North, Shawnee Bend, and Parkview Bay.²² No party objected to these service territories being removed from any future grant of authority.

10. PWSD#5 is a public water supply district organized under Chapter 427, RSMo. PWSD#5 wants to provide water and sewer service to the Cedar Glen service area and has a system adjacent to Cedar Glen with excess water and wastewater capacity.²³

11. LAWVA is a nonprofit member managed corporation established under Chapter 393, RSMo, for the specific purpose of providing wastewater treatment systems.²⁴ LAWVA wants to provide sewer service to the Chelsea Rose, Cimarron Bay, and Eagle Woods service areas. LAWVA currently provides sewer service to over 2,700 members with more than 50 treatment facilities throughout the state. The bulk of its members are in Camden, Morgan, and Miller Counties.²⁵ MWA is governed by a Board of Directors elected by its members.²⁶ MWA's members gain membership status by applying for and receiving water services from MWA.²⁷

²¹ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 18; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 4.

²² Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 18; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 4

²³ Ex. 300, Direct Testimony of David G. Krehbiel, pp. 3-6.

²⁴ Ex. 401, Direct Testimony of Neddie Goss, p. 1.

²⁵ Ex. 401, Direct Testimony of Neddie Goss, p. 1.

²⁶ Ex. 401, Direct Testimony of Neddie Goss, p. 2.

²⁷ Ex. 401, Direct Testimony of Neddie Goss, p. 2.

12. MWA is a nonprofit member managed corporation established under Chapter 393, RSMo.²⁸ MWA wants to provide water service to the Chelsea Rose, Cimarron Bay, and Eagle Woods service areas. MWA currently provides water services to over 1,000 members with 20 water production wells.²⁹ Its members are located in Camden, Miller, and Morgan Counties.

13. In September 2019, LAWWA and MWA jointly purchased the Reflections water and sewer system. After this purchase, Osage Utility dropped its opposition to dismissing the Reflections system from its application.³⁰

14. Cedar Glen is a not-for-profit condominium owners corporation. Cedar Glen consists of 216 of Osage Water Company's water and sewer customers.³¹ Cedar Glen is opposed to Osage Utility's application preferring to have PWSD#5 annex the Cedar Glen Condominiums into its territory.³²

15. Osage Water Company currently provides water service to approximately 402 customers, and sewer service to approximately 420 customers in Camden County, Missouri.³³

16. On December 10, 2002, the Commission issued a Report and Order in File No. WC-2003-0134 finding that Osage Water Company had been effectively abandoned by its owners, and that it was unable or unwilling to provide safe and adequate service to its customers.³⁴

²⁸ Ex. 401, Direct Testimony of Neddie Goss, p. 2.

²⁹ Ex. 401, Direct Testimony of Neddie Goss, p. 2; and Tr. p. 458.

³⁰ See, Case No. WA-2019-0185, Reply in Support of Motion to Dismiss or, in the Alternative, Motion to Modify Osage Utility Operating Company, Inc.'s Amended Application, Exhibits A and B.

³¹ Ex. 301, Rebuttal Testimony of David G. Krehbiel, p. 2; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 4.

³² Ex. 300, Direct Testimony of David G. Krehbiel, p. 2.

³³ Ex. 1, Direct Testimony of Josiah Cox, p. 12; Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 19; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 4.

³⁴ Ex. 1, Direct Testimony of Josiah Cox, pp. 11-12; Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 18; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 4. See also, *In the matter of the Staff of the Missouri Public Service Commission, Complainant, v. Osage Water Company, Respondent*, Report and Order, 12 Mo.P.S.C.3d 25, File No. WC-2003-0134 (December 10, 2002).

17. On October 21, 2005, Osage Water Company was placed into permanent receivership by order of the Circuit Court of Camden County, Missouri, pursuant to Section 393.145, RSMo.³⁵ The Circuit Court also ordered the receiver to liquidate the assets of Osage Water Company.³⁶

18. The receiver marketed the Osage Water Company assets and received multiple bids from 2014 to 2017.³⁷

19. The receiver reported the following bids to the Circuit Court on January 14, 2015: (1) Central States, \$479,702.00; (2) Missouri American Water Company, \$250,000.00; (3) jointly Cedar Glen, MWA, and LAWVA, \$160,000.00; and (4) Gregory Williams, satisfaction of judgment against Osage Water Company.³⁸

20. The receiver reported the following bids to the Circuit Court on May 12, 2017: (1) Central States, \$440,000.00; (2) PWSD#5, \$636,000.00 (Cedar Glen service area only); (3) Patrick Mitchell, \$5,000.00 (all assets except Cedar Glen service area); and (4) Gregory Williams, satisfaction of judgment against Osage Water Company.³⁹

21. None of the pre-bankruptcy bids resulted in a sale.⁴⁰

22. On August 28, 2017, after being unable to liquidate the assets of Osage Water Company, the Circuit Court authorized the Osage Water Company receiver to file for Chapter 11 bankruptcy.⁴¹

³⁵ Circuit Court of Camden County, Case No. 26V010200965 (formerly Case No. CV102-965CC); Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-4; Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 19; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 5

³⁶ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-4, p. 4.

³⁷ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 10.

³⁸ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, pp. 10-11.

³⁹ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 11.

⁴⁰ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 11.

⁴¹ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-5.

23. On October 11, 2017, Osage Water Company filed for Chapter 11 bankruptcy.⁴² On October 26, 2017, a bankruptcy trustee was appointed.⁴³

24. The bankruptcy trustee held an auction on October 24, 2018, to liquidate Osage Water Company's assets.⁴⁴ The bankruptcy auction was conducted with the purpose of achieving the "highest and best offers for the [a]ssets."⁴⁵

25. The trustee utilized a "stalking horse" bidding process with Central States being the stalking horse bidder.⁴⁶

26. A stalking horse bidding process is one where the debtor (the bankruptcy trustee in this case) enters into an agreement with a bidder for an initial bid in advance of the auction. The initial bid serves as the baseline for the auction. If a higher bid is not made at the auction then the stalking horse agreement becomes the asset purchase agreement. The stalking horse bidding process is common under Section 363 of the U.S. Bankruptcy Code.⁴⁷

27. The agreement between Central States and the bankruptcy trustee permitted the trustee to solicit other bids, but Central States maintained the right to match those bids.⁴⁸ The initial stalking horse bid by Central States was \$465,000.⁴⁹

28. At the auction, the bankruptcy trustee received bids from the Joint Bidders and Missouri American Water Company, with the Joint Bidders having the highest bid. Then, per the

⁴² Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-6.

⁴³ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-7.

⁴⁴ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-9, p. 2.

⁴⁵ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-10, p. 3.

⁴⁶ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-7; and Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 3.

⁴⁷ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 2.

⁴⁸ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 3.

⁴⁹ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 39.

terms of the stalking horse agreement, Central States was allowed to match that bid, which it did.⁵⁰

29. The bankruptcy trustee determined that Central States was the successful bidder with a bid of \$800,000.⁵¹ The Joint Bidders were the First Back-Up Bidders with a bid of \$800,000.⁵² Missouri-American Water Company was the Second Back-Up Bidder with a bid of \$600,000.⁵³

30. Central States, Joint Bidders, and Missouri-American Water Company each signed a purchase agreement with Osage Water Company.⁵⁴

31. The purchase agreements “were negotiated, proposed, and entered into by the [bankruptcy trustee and Central States, Joint Bidders, and Missouri-American Water Company] in good faith, without collusion, and was the result of arm’s-length bargaining with the parties represented by independent counsel.”⁵⁵

32. On November 14, 2018, the bankruptcy court issued an order approving the sale of Osage Water Company’s assets to Central States under the terms set forth in the asset purchase agreement between Central States and the bankruptcy trustee.⁵⁶ The bankruptcy court order also approved the Joint Bidders as the First Back-Up Bidders and Missouri-American

⁵⁰ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, pp. 12-13.

⁵¹ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-9, p. 2; and Schedule JC-10; and Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 13.

⁵² Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-9, p. 2; and Schedule JC-10.

⁵³ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-9, p. 3; and Schedule JC-10.

⁵⁴ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-9.

⁵⁵ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-10, p. 4 (In the Matter of Osage Water Company, Debtor, U.S. Bankruptcy Court for the Western District of Missouri, Case No. 17-42759-drd11, *Order Approving (A) the Sale of Substantially All of Debtor’s Assets Free and Clear of All Liens, Interests, Claims and Encumbrances and Related Procedures and Bid Protection Pursuant to 11 U.S.C. § 363, (B) the Potential Assumption and Assignment, or Rejection, of Certain Executory Contracts and Unexpired Leases, and Related Procedures, Pursuant to 11 U.S.C. § 365, and (C) Related Relief Pursuant to 11 U.S.C. §§ 102 and 105*, (issued Nov. 14, 2018).); and Ex. 100, Direct Testimony of Natelle Dietrich, Confidential Schedule ND-d2.

⁵⁶ Ex. 1 Direct Testimony of Josiah Cox, Schedule JC-10.

Water Company as the Second Back-Up Bidder per the terms of their agreements with the trustee.⁵⁷

33. Under the terms of their agreement with the bankruptcy trustee, if Central States fails to purchase the Osage Water Company systems, the Joint Bidders as First Back-Up Bidders are obligated to purchase the Osage Water Company systems.⁵⁸

34. The Osage Water Company facilities are currently in need of maintenance and repair.⁵⁹ In its revised memorandum, Staff identified maintenance, repair, and/or permitting concerns at each of Osage Water Company's water and sewer facilities. These needs, as identified by Staff, include: facilities operating without permits from the MDNR; one wastewater treatment system with partially treated or untreated wastewater bypassing the treatment processes; and other immediate repairs and longer-term capital improvements.⁶⁰

35. Central States, Osage Utility's affiliate, has purchased 22 wastewater treatment facilities and associated plant. Central States affiliates provide sewer service to approximately 2,800 customers.⁶¹

36. Central States affiliates own and manage 13 drinking water systems providing water service to approximately 2,900 customers in Missouri and Arkansas.⁶²

37. The following Central States affiliates are public utilities authorized to provide water and sewer service in Missouri subject to the regulation of the Commission: Hillcrest Utility Operating Company, Inc.; Elm Hills Utility Operating Company, Inc.; Raccoon Creek Utility

⁵⁷ Ex. 1 Direct Testimony of Josiah Cox, Schedule JC-10.

⁵⁸ Ex. 1, Direct Testimony of Josiah Cox, Schedule JC-9.

⁵⁹ Ex. 1, Direct Testimony of Josiah Cox, pp. 16-20; Ex. 300, Direct Testimony of David G. Krehbiel, p. 5; and Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Revised Memorandum.

⁶⁰ Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Revised Memorandum, p. 4 of 21.

⁶¹ Ex. 1, Direct Testimony of Josiah Cox, p. 5.

⁶² Ex. 1, Direct Testimony of Josiah Cox, p. 6.

Operating Company, Inc.; Indian Hills Utility Operating Company, Inc.; and Confluence Rivers Utility Operating Company, Inc.⁶³ These Central States-affiliated companies have acquired small Missouri water and sewer companies, improved those systems, brought those systems back into regulatory compliance where needed, and delivered safe and adequate service.⁶⁴ Some of those acquired systems were in receivership and had multiple MDNR deficiencies when purchased.⁶⁵

38. Purchasing distressed systems to rehabilitate and operate them as a viable entity is the basic business plan of Central States.⁶⁶

39. Central States has customer service systems at each Missouri utility it currently operates that provide benefits to the customers and comply with the Commission's Chapter 13 rules.⁶⁷

40. Central States has experience in the operation of water and sewer systems.⁶⁸ As the other Central States-affiliated companies have done, Osage Utility intends to contract with a qualified and licensed utility system operator for water and sewer plant operations. The contract operator will undertake routine day-to-day inspections, checks, sampling, reporting, meter reading, most system repairs, and extraordinary operations tasks.⁶⁹ Central States' computerized maintenance management system will track all these plant operations.⁷⁰

41. Central States has experience in the design and construction of water and sewer systems.⁷¹ In Missouri, Central States-affiliated companies have designed, permitted, and

⁶³ Ex. 5, Surrebuttal Testimony of Josiah Cox, pp. 8-9.

⁶⁴ Ex. 5, Surrebuttal Testimony of Josiah Cox, pp. 8-9.

⁶⁵ Ex. 5, Surrebuttal Testimony of Josiah Cox, pp. 8-9.

⁶⁶ Ex. 202, Direct Testimony of Kerri Roth, p. 9.

⁶⁷ Ex. 1, Direct Testimony of Josiah Cox, p. 7.

⁶⁸ Ex. 1, Direct Testimony of Josiah Cox, p. 8.

⁶⁹ Ex. 1, Direct Testimony of Josiah Cox, p. 8.

⁷⁰ Ex. 1, Direct Testimony of Josiah Cox, p. 8.

⁷¹ Ex. 1, Direct Testimony of Josiah Cox, p. 5.

completed construction, with MDNR approval of approximately \$5.1 million of sewer investments⁷² and approximately \$4.1 million of investments in water systems since March 2015.⁷³

42. Central States affiliates have been able to attract investment capital to construct and maintain facilities necessary to provide safe and adequate water and sewer service in its other purchased systems to date. Osage Utility plans to fund this purchase using equity from its parent company CSWR, LLC.⁷⁴ Osage Utility has access to the funds necessary to make any necessary repairs and replacements to bring the Osage Water Company systems into regulatory compliance and ensure the provision of safe and adequate service.

43. Similar to the other Central States affiliates, Osage Utility has the technical, managerial, and financial capability to own and operate the Osage Water Company water and sewer systems.⁷⁵

44. Osage Utility has experience in the rehabilitation, operation, management, and investment in small water and sewer facilities to systems that have been essentially “treading water” for over 14 years.⁷⁶

45. MWA and LAWVA have not gotten reports from MDNR to determine what repairs or improvements are required by MDNR for the Chelsea Rose, Eagle Woods, or Cimarron Bay water or sewer systems.⁷⁷ Further, the MWA and LAWVA testimony referred to the Eagle Woods subdivision, but made no mention of the Golden Glade subdivision, which is also a part of the Highway KK sewer service area of Osage Water Company.⁷⁸

⁷² Ex. 1, Direct Testimony of Josiah Cox, p. 5.

⁷³ Ex. 1, Direct Testimony of Josiah Cox, p. 6.

⁷⁴ Ex. 1, Direct Testimony of Josiah Cox, pp. 8 and 10.

⁷⁵ Ex. 1, Direct Testimony of Josiah Cox, pp. 5-10.

⁷⁶ Ex. 1, Direct Testimony of Josiah Cox, pp. 5-10.

⁷⁷ Ex. 401, Direct Testimony of Neddie Goss, pp. 3-6.

⁷⁸ Ex. 401, Direct Testimony of Neddie Goss.

46. The Cedar Glen water and sewer systems are not currently in the PWSD#5 service territory, but a portion of the PWSD#5 service territory is adjacent to Cedar Glen with U.S. Highway 54 separating the two areas.⁷⁹ In order to connect the PWSD#5 water systems, including its well and water tower, PWSD#5 would need to receive permissions to cross under U.S. Highway 54.⁸⁰

47. If PWSD#5 connected its system to the Cedar Glen system, the drinking water system would have a redundant well capability for both Cedar Glen Condominiums and for PWSD#5's customers.⁸¹

48. PWSD#5 has prepared no estimate for the interconnection of its system with the Cedar Glen systems, which could take more than two years to complete.⁸²

49. Osage Utility has inspected and analyzed all of the Osage Water Company systems and has a comprehensive plan for addressing the repair and replacement needs of all of the Osage Water Company water and sewer systems.⁸³ Osage Utility estimated the costs of repair and improvements at Cedar Glen Condominiums is \$659,700.⁸⁴

50. Osage Utility's process for determining which repairs are needed includes having a licensed professional engineer work with MDNR, operating the facility on an interim basis to determine which repairs are truly needed, and then going through a competitive bidding process to hire contractors to complete the repairs.⁸⁵

⁷⁹ Ex. 300, Direct Testimony of David G. Krehbiel, pp. 3-4.

⁸⁰ Tr. p. 338.

⁸¹ Ex. 300, Direct Testimony of David G. Krehbiel, p. 4.

⁸² Tr. pp. 340, 364, 365.

⁸³ Ex. 1, Direct Testimony of Josiah Cox; Ex. 6, Direct Testimony of Todd Thomas; Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation.

⁸⁴ Ex. 6, Direct Testimony of Todd Thomas, p. 3; and Ex. 302, Rebuttal Testimony of Kenneth Hulett, p. 6.

⁸⁵ Tr. pp. 161-162 and 200.

51. Staff found Osage Utility's planned improvements to be reasonable and consistent with the improvements of other water and sewer utilities and they showed a complete plan for bringing the system into compliance and providing safe and adequate service.⁸⁶

52. Staff did not do in-depth cost studies or review in-depth the Joint Bidders' proposal. Staff's witness did not feel comfortable endorsing the Joint Bidders' plan because it was too incomplete.⁸⁷

53. Lake Ozark Water and Sewer has been operating and maintaining the Osage Water Company system on behalf of the receiver and bankruptcy trustee.⁸⁸

54. PWSD#5 received estimates from the Osage Water Company operator, Lake Ozark Water and Sewer, with recommended repairs for the Cedar Glen Condominiums system.⁸⁹ Lake Ozark Water and Sewer identified the needed repairs from MDNR inspection reports.⁹⁰ PWSD#5 estimated the cost of improvements needed at the Cedar Glen Condominium system to be \$39,000.⁹¹

55. PWSD#5 does not have all the permissions and only very general estimates on the interconnection of the Cedar Glen Condominiums to its water system including the cost to lay pipe under U.S. Highway 54.⁹²

56. Osage Utility and PWSD#5 disagree about whether a second well is necessary at Cedar Glen Condominiums.⁹³ There is more than one method of determining the number of

⁸⁶ Tr. pp. 258-259.

⁸⁷ Tr. pp. 252-253.

⁸⁸ Ex. 400, Direct Testimony of David Stone, p. 3.

⁸⁹ Ex. 400, Direct Testimony of David Stone, p. 3.

⁹⁰ Ex. 400, Direct Testimony of David Stone, p. 3.

⁹¹ Ex. 400, Direct Testimony of David Stone, pp. 3-5; and Ex. 302, Rebuttal Testimony of Kenneth Hulett, pp. 6-7.

⁹² Tr. pp. 338 and 404.

⁹³ Tr. pp. 112, 124, 164, 167, and 172.

people served by a well and Osage Utility has a plan for making the determination and ensuring that the system is in compliance with MDNR regulations as to the number of wells needed.⁹⁴

57. LAWVA and MVA have not evaluated the necessary improvements to Eagle Woods, Cimarron Bay, or Chelsea Rose service areas, so LAWVA and MVA did not present any estimates for improvements.⁹⁵

58. PWSD#5 intends to use funding from bonds to finance any additions or improvements.⁹⁶ LAWVA and MVA have not indicated what the source of their financing would be.

59. Any improvements made by Osage Utility will be evaluated by Staff for prudence and presented to and approved by the Commission in a general rate case before being included in rates.⁹⁷

60. At purchase, Osage Utility plans to adopt the current rates for customers until it files its first general rate case.⁹⁸

61. The current water rates for Osage Water Company are as follows:⁹⁹

Monthly Minimum: (Includes 2,000 gallons of water)

For Service through a 5/8" water meter \$24.76 per month

For Service through a 1" water meter \$34.27 per month

For Service through a 1 1/2" water meter \$58.80 per month

For Service through a 2" meter \$66.98 per month

For Service through a 3" meter \$96.19 per month

For Service through a 4" meter \$243.89 per month

Commodity Charge: For metered usage greater than 2,000 gallons per month
\$5.86 per 1,000 gallons

⁹⁴ Tr. pp. 124 and 164.

⁹⁵ Ex. 401, Direct Testimony of Neddie Goss, pp. 4-5.

⁹⁶ Tr. p. 385.

⁹⁷ Tr. pp. 53, 213, 239, and 279.

⁹⁸ Ex. 1, Direct Testimony of Josiah Cox, p. 22.

⁹⁹ Ex. 1, Direct Testimony of Josiah Cox, p. 22. These rates do not include applicable taxes.

62. The current sewer rates for Osage Water Company are as follows:¹⁰⁰

Monthly Bill

Unmetered Condominium \$29.02 per month

For Service through a 5/8" water meter \$29.02 per month

For Service through a 1" water meter \$51.34 per month

For Service through a 1 1/2" water meter \$109.96 per month

For Service through a 2" meter \$129.49 per month

For Service through a 3" meter \$199.25 per month

For Service through a 4" meter \$363.14 per month

63. The purchase of Osage Water Company by Osage Utility will likely result in a rate increase to recover the costs of improvements and repairs.¹⁰¹

64. Osage Water Company's most recent rate cases before the Commission put new rates in effect on September 19, 2009, in File Nos. WR-2009-0149 and SR-2009-0152.¹⁰²

65. Staff determined the net book value of assets proposed to be purchased by Osage Utility as of December 31, 2018, was approximately \$341,508. To calculate this net book value, Staff started with the actual rate base used in Osage Water Company's most recent rate cases and updated plant in service, depreciation reserve, contributions in aid of construction (CIAC), and CIAC amortization values using Osage Water Company's annual reports.¹⁰³

66. If the Joint Bidders become the owners, they will begin charging the Osage Water Company customers the rates currently set for their other customers as soon as the transfer is completed.¹⁰⁴ PWSD#5 will charge the Cedar Glen Condominiums customers \$78 for water and

¹⁰⁰ Ex. 1, Direct Testimony of Josiah Cox, pp. 22-23. These rates do not include applicable taxes.

¹⁰¹ Ex. 1, Direct Testimony of Josiah Cox, p. 23.

¹⁰² Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 22.

¹⁰³ Ex. 105, Supplemental Testimony of Natelle Dietrich with Revised Staff Recommendation, Appendix A, p. 22.

¹⁰⁴ Tr. p. 442.

sewer service.¹⁰⁵ The areas being served by MWA and LAWVA will pay a combined base rate of \$94 for water and sewer service plus a usage charge.¹⁰⁶

67. Staff made the following recommendations that Osage Utility has agreed to comply with¹⁰⁷ as part of any grant of authority to transfer the assets of and receive a CCN for Osage Water Company service territories:¹⁰⁸

- a. Authorize Osage Water Company to sell and transfer utility assets to Osage Utility, and transfer the CCNs currently held by Osage Water Company to Osage Utility upon closing on any of the respective systems;
- b. Upon closing on each of the Osage Water Company water and sewer systems, authorize Osage Water Company to cease providing service, and authorize Osage Utility to begin providing service;
- c. Require Osage Utility to file Tariff Adoption Notice tariff sheets for the corresponding water and sewer tariffs of the regulated Osage Water Company systems within ten (10) days after closing on the Osage Water Company assets;
- d. Upon closing on each of the water and sewer systems, authorize Osage Utility to provide service by applying, on an interim basis, the existing rates, rules and regulations as outlined in Osage Water Company's water tariff and sewer tariff, until the effective date of respective adoption notice tariff sheets, as recommended above;

¹⁰⁵ Ex. 302, Rebuttal Testimony of Kenneth Hulett, p. 5; and Ex. 300, Direct Testimony of David G. Krehbiel, p. 5.

¹⁰⁶ Tr. p. 441.

¹⁰⁷ Ex. 1, Direct Testimony of Josiah Cox, pp. 26-28.

¹⁰⁸ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, pp. 16-18.

- e. Require Osage Utility to create and keep financial books and records for plant-in-service, revenues, and operating expenses (including invoices) in accordance with the NARUC Uniform System of Accounts;
- f. Require Osage Utility to, going forward, keep and make available for audit and review all invoices and documents pertaining to the capital costs of constructing and installing the water and sewer utility assets;
- g. Approve depreciation rates for water and sewer utility plant accounts as described and shown in Attachment 1 to Staff's Memorandum;¹⁰⁹
- h. Require Osage Utility to distribute to all customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its water service, consistent with the requirements of Commission Rule 20 CSR 4240-13, within thirty (30) days after the effective date of approval of a CCN by the Commission;
- i. Require Osage Utility to, within ninety (90) days of the effective date of a Commission order approving Osage Utility's application, complete repairs to resolve the bypassing of treatment at any wastewater treatment system;
- j. Resolve all issues regarding noncompliance with MDNR regulations for all water and sewer systems;
- k. Require Osage Utility to provide adequate training for the correct application of rates and rules to all customer service representatives, including those employed by contractors, prior to the customers receiving their first bill from Osage Utility;

¹⁰⁹ Ex. 100, Direct Testimony of Natelle Dietrich, Schedule ND-d2, p. 39.

- I. Require Osage Utility to provide to the Customer Experience Department Staff of the Commission a sample of ten (10) billing statements of bills issued to Osage Water Company customers within thirty (30) days of such billing;
- m. Require Osage Utility to file notice in this case once Staff's recommendations regarding customer communications and billing, listed above, have been completed; and
- n. Require Osage Utility to file a rate case with the Commission no later than twenty-four (24) months after the effective date of an order approving Osage Utility's Application.

68. Staff's recommended conditions are reasonable and necessary to the provision of safe and adequate water and sewer service.

69. The grant of a CCN to provide water and sewer service to the Osage Water Company service areas promotes the public interest.

70. Osage Water Company is a nonviable utility.¹¹⁰

71. Osage Utility has the managerial, technical, and financial capability to operate the Osage Water Company systems and will not be materially impaired by the acquisition.¹¹¹ Osage Utility is a viable utility.

72. Osage Utility submitted preliminary plans showing how it intends to correct plant, managerial, and operational deficiencies of the Osage Water Company water and sewer

¹¹⁰ Ex. 100, Direct Testimony of Natelle Dietrich, Confidential Schedule ND-d2, p. 36; and Ex. 1, Direct Testimony of Josiah Cox, p. 24.

¹¹¹ Ex. 100, Direct Testimony of Natelle Dietrich, Confidential Schedule ND-d2; and Ex. 1, Direct Testimony of Josiah Cox, p. 25.

systems, and has committed to making necessary corrections within the timeframe set out in the acquisition incentive rule and Staff's recommendations.¹¹²

73. Before the Joint Bidders could purchase the Osage Water Company assets, they would also need to seek authority for the transfer from the Commission.¹¹³

74. Central States may choose not to consummate the purchase if the Commission's order makes the purchase not economically feasible in Central States's opinion.¹¹⁴

75. Osage Utility did not provide the records related to the original cost of Osage Water Company as required by the acquisition incentive rule.¹¹⁵

III. Conclusions of Law

The Commission has reached the following conclusions of law.

A. Osage Water Company is a "water corporation," "sewer corporation," and a "public utility" as those terms are defined in Section 386.020, RSMo. Osage Water Company is subject to the Commission's jurisdiction, supervision, control, and regulation as provided in Chapters 386 and 393, RSMo. After a CCN and the transfer of assets and operations takes place, Osage

¹¹² Ex. 100, Direct Testimony of Natelle Dietrich, Confidential Schedule ND-d2; and Ex. 1, Direct Testimony of Josiah Cox, p. 25.

¹¹³ Section 393.170.3, RSMo.

¹¹⁴ Ex. 1, Direct Testimony of Josiah Cox, pp. 24-26; and Exhibit 5, Surrebuttal Testimony of Josiah Cox, pp. 2-8.

¹¹⁵ 20 CSR 4240-10.085(3)(A)2.A-H.

Utility will also be a “water corporation,” “sewer corporation,” and a “public utility” as those terms are defined in Section 386.020, RSMo.

B. Section 393.190.1, RSMo., requires Osage Water Company to receive approval from the Commission prior to transferring its assets. Section 393.170, RSMo., requires Osage Utility to have a CCN granted by the Commission prior to providing a water and sewer service.

C. The Commission may grant a water corporation and a sewer corporation certificates of convenience and necessity to operate after determining that the services are “necessary or convenient for the public service.”¹¹⁶ The term "necessity" does not mean "essential" or "absolutely indispensable," but rather that the proposed project "would be an improvement justifying its cost," and that the inconvenience to the public occasioned by lack of the proposed service is great enough to amount to a necessity.¹¹⁷ It is within the Commission's discretion to determine when the evidence indicates the public interest would be served by the award of the certificate.¹¹⁸

D. The Commission articulated the specific criteria to be used when evaluating applications for utility CCNs in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 561 (1991). The *Intercon* case combined the standards used in several similar certificate cases, and set forth the following criteria: (1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed service; (3) the applicant must have the financial ability to

¹¹⁶ Section 393.170.3, RSMo (Supp. 2019).

¹¹⁷ *State ex rel. Intercon Gas, Inc., v. Public Service Commission of Missouri*, 848 S.W.2d 593, 597 (Mo. App. 1993), citing *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d 216, 219 (Mo. App. 1973), citing *State ex rel. Transport Delivery Service v. Burton*, 317 S.W.2d 661 (Mo. App. 1958).

¹¹⁸ *St. ex rel. Ozark Electric Coop. v. Public Service Commission*, 527 S.W.2d 390, 392 (Mo. App. 1975).

provide the service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest.¹¹⁹

E. Pursuant to Section 393.170.3, the Commission may also impose the conditions it deems reasonable and necessary for the grant of a CCN.

F. The standard for a transfer of assets is that the transfer is not detrimental to the public interest.¹²⁰ The Commission has previously stated how this standard should be applied:

What is required is a cost-benefit analysis in which all of the benefits and detriments in evidence are considered. The *AG Processing* decision^[121] does not, as Public Counsel asserts, require the Commission to deny approval where a risk of future rate increases exists. Rather, it requires the Commission to consider this risk together with the other possible benefits and detriments and determine whether the proposed transaction is likely to be a net benefit or a net detriment to the public. Approval should be based upon a finding of no net detriment.¹²²

G. The Commission has also stated as follows as to the “public interest”:

The public interest is a matter of policy to be determined by the Commission. It is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest would be served. Determining what is in the interest of the public is a balancing process. In making such a determination, the total interests of the public served must be assessed. This means that some of the public may suffer adverse consequences for the total public interest. Individual rights are subservient to the rights of the public. The “public interest” necessarily must include the interests of both the ratepaying public and the investing public; however, as noted, the rights of individual groups are subservient to the rights of the public in general.¹²³

¹¹⁹ The factors have also been referred to as the “Tartan Factors” or the “Tartan Energy Criteria.” See Report and Order, *In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity*, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994), 1994 WL 762882, *3 (Mo. P.S.C.).

¹²⁰ *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App, 1980). Citing, *State Ex Rel. City of St. Louis v. Public Service Com’n of Missouri*, 73 S.W.2d 393, 400 (Mo. banc 1934).

¹²¹ *State ex rel. AG Processing, Inc. v. Pub. Serv. Comm’n of State*, 120 S.W.3d 732 (Mo. 2003).

¹²² File No. EO- 2004-0108, *In the Matter of the Application of Union Electric Company, Doing Business as AmerenUE, for an Order Authorizing the Sale, Transfer and Assignment of Certain Assets, Real Estate, Leased Property, Easements and Contractual Agreements to Central Illinois Public Service Company, Doing Business as AmerenCIPS, and, in Connection Therewith, Certain Other Related Transactions*, Report and Order on Rehearing (issued February 10, 2005), pp. 48-49.

¹²³ *In the Matter of the Joint Application of Great Plains Energy Incorporated, Kansas City Power & Light Company, and Aquila, Inc.*, Report and Order, Case No. EM-2007-0374, 2008 Mo. PSC LEXIS 693, 458-459 (MoPSC July 1, 2008).

H. As the applicant, Osage Utility bears the burden of proof.¹²⁴ The burden of proof is the preponderance of the evidence standard.¹²⁵ In order to meet this standard, Osage Utility must convince the Commission it is “more likely than not” that its acquisition of Osage Water Company will not be detrimental to the public.¹²⁶

I. An acquisition incentive is defined as “[a] rate of return premium, debt acquisition adjustment, or both designed to incentivize the acquisition of a nonviable utility[.]”¹²⁷ A debit acquisition adjustment is an adjustment “to a portion or all of an acquiring utility’s rate base to reflect a portion or all of the excess acquisition cost over depreciated original cost of the acquired system[.]”¹²⁸

J. The acquisition incentive rule, 20 CSR 4240-10.085, sets out the criteria for approval of an acquisition incentive. Section (2) of the acquisition incentive rule requires an application for the incentive to “be filed at the beginning of a case seeking authority” to purchase or sell the assets. Section (2) also requires the Commission to grant the request if the Commission finds the request for the incentive to be in the public interest. The Commission does not conclude that the request for an acquisition incentive is in the public interest.

K. Paragraph (3)(A)2 of 20 CSR 4240-10.085 sets out the “[r]ecords related to the original cost of the nonviable utility” that are required to be submitted to the Commission upon filing an application for an acquisition incentive.¹²⁹ Osage Utility has not met these filing requirements.

¹²⁴ *State ex rel. GS Technologies Operating Co., Inc. v. Pub. Serv. Comm'n of State of Mo.*, 116 S.W.3d 680, 693 (Mo. App. 2003).

¹²⁵ *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996).

¹²⁶ *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999); *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

¹²⁷ 20 CSR 4240-10.085(1)(A).

¹²⁸ 20 CSR 4240-10.085(1)(B).

¹²⁹ Those records include the following:

L. Subsection (4)(I) of the acquisition incentive rule also requires the applicant to demonstrate “[t]he acquisition would be unlikely to occur without the probability of obtaining an acquisition incentive.” The stated purpose of the acquisition incentive rule is to “encourage acquisition of nonviable water or sewer utilities. . . .”¹³⁰

IV. Discussion

This is a unique case dealing with the transfer of assets of Osage Water Company, a water and sewer corporation that has been before the Commission on many occasions and has been in receivership for over 15 years. Most recently, Osage Water Company filed for federal bankruptcy and the bankruptcy trustee held an auction to liquidate Osage Water Company’s assets. Through a “stalking horse” bidding process, Osage Utility matched the highest bid at the bankruptcy auction and was found by the court to be the winning bidder. The Joint Bidders were designated as the back-up bidders and have a binding contract to purchase the Osage Water Company systems if Osage Utility does not do so.

On December 19, 2018, Osage Utility filed an application¹³¹ seeking to acquire the water and sewer assets and the CCN in the four service areas of Osage Water Company (Cedar Glen,

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- A. Accounting records and other relevant documentation, and agreements of donations of contributions, services, or property from states, municipalities, or other government agencies, individuals, and others for construction purposes;
 - B. Records of un-refunded balances in customer advances for construction (CAC);
 - C. Records of customer tap-in fees and hook-up fees;
 - D. Prior original cost studies;
 - E. Records of local, state, and federal grants used for construction of utility plant;
 - F. Relevant commission records;
 - G. A summary of the depreciation schedules from all filed federal tax returns; and
 - H. Other accounting records supporting plant-in-service[.]

¹³⁰ 20 CSR 4240-10.085, Purpose.

¹³¹ An amended application was later filed on February 19, 2019.

Eagle Woods, Cimarron Bay, and Chelsea Rose).¹³² Osage Utility's application included a request for an acquisition incentive pursuant to 20 CSR 4240-10.085.¹³³

Osage Utility also requested authority to purchase the single service area of the Reflections water and sewer systems. As discussed above, the Reflections water and sewer systems have been purchased by LAWWA and MWA and Osage Utility no longer opposes dismissing the Reflections system from its application. Therefore, the Commission will grant the motion to dismiss the Reflections water and sewer CCN and asset transfer from the application.

The contested issues at hearing ultimately revolve around whether the grant of authority and transfer of the Osage Water Company assets to Osage Utility is not detrimental to the public interest. Joint Bidders, Cedar Glen, and Public Counsel oppose the transfer of assets arguing that such a transfer is detrimental to the public interest because if the Joint Bidders purchased the assets, they would provide water and sewer services at lower rates than Osage Utility. Additionally, Public Counsel objects to the grant of an acquisition incentive and Staff objects to the acquisition incentive as requested.

a. Would the sale of Osage Water Company's certificates of convenience and necessity and its water and sewer assets to Osage Utility Operating Company be detrimental to the public interest?

This first issue has two parts – granting the CCN and approving the transfer of the assets. The parties discussed at the hearing, and in the briefs, whether Osage Utility could actually purchase an existing CCN, or whether this was an application for a new CCN. Regardless of whether this is the transfer or the grant of a new CCN, in order to be granted such authority,

¹³² CSWR formed Osage Utility to be the utility corporation owning and operating the Osage Water Company assets. Osage Utility filed the application for approval with the Commission. Given the receivership and bankruptcy status of Osage Water Company, it was appropriate for the purchaser to file the application.

¹³³ Effective August 28, 2019, all of the Commission's regulations were transferred from the Department of Economic Development's (DED) Title 4 to the Department of Commerce and Insurance's (DCI) (formerly Department of Insurance, Financial Institutions and Professional Registration) Title 20. Thus, when filed this rule was 4 CSR 240-10.085.

Osage Utility must show that it is qualified to own and operate Osage Water Company's assets. The Commission traditionally determines if a company is qualified to become a public utility by analyzing the *Tartan* factors. The Tartan Factors contemplate a 1) need for service, 2) the utility's qualifications, 3) the utility's financial ability, 4) the feasibility of the proposal, and 5) promotion of the public interest.

Because a CCN has already been granted to Osage Water Company and it currently provides service to water and sewer customers under that CCN, there is an obvious need for the service.¹³⁴ Osage Utility has also shown that it is qualified to provide the service. Staff agreed and no other party disputed that Osage Utility has the technical, managerial, and financial capability to provide safe and adequate service to the Osage Water Company service area.¹³⁵ The Company has also put forth a comprehensive plan for improvements that may be needed to provide safe, adequate and reliable service.

Once the technical, managerial, and financial qualifications are established, the Commission must look to whether the transfer of the assets and the award of the CCN is "not detrimental to the public interest."¹³⁶ The Commission has previously stated that this means there is no net detriment after considering all of the benefits and all of the detriments, including the risk of increased rates.¹³⁷

¹³⁴ With the exception of the areas that Osage Water Company is not currently providing service and never has provided service, which the Commission finds are not necessary and will be removed from the Osage Water Company tariffs transferred to Osage Utility.

¹³⁵ Dietrich Direct, Confidential Schedule ND-d2 pg. 32-33; Cox Direct pg. 8-10.

¹³⁶ *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App, 1980). Citing, *State Ex Rel. City of St. Louis v. Public Service Com'n of Missouri*, 73 S.W.2d 393, 400 (Mo. banc 1934).

¹³⁷ File No. EO- 2004-0108, *In the Matter of the Application of Union Electric Company, Doing Business as AmerenUE, for an Order Authorizing the Sale, Transfer and Assignment of Certain Assets, Real Estate, Leased Property, Easements and Contractual Agreements to Central Illinois Public Service Company, Doing Business as AmerenCIPS, and, in Connection Therewith, Certain Other Related Transactions*, Report and Order on Rehearing (issued February 10, 2005), pp. 48-49.

The Joint Bidders, Cedar Glen, and Public Counsel argue that Osage Utility should not be granted authority for the transfer because it would be detrimental to the public interest for Osage Utility to own these assets instead of the Joint Bidders. These parties' major argument is that the Joint Bidders would be able to provide water and sewer services at lower rates. However, as discussed in more detail below, the Commission has only the application of Osage Utility before it and the Joint Bidders' evidence of the improvements necessary and the costs of those improvements is incomplete. Additionally, the courts have said that increased rates on their own do not mean the transfer is detrimental to the public.¹³⁸ Increased rates can be one factor, but there must be a balancing of all the benefits and detriments to determine if the transfer as a whole would be detrimental to the public.¹³⁹ After weighing the benefits and detriments, the Commission finds the evidence shows the granting of Osage Utility's application will not be detrimental to the public.

When weighing the benefits, the Commission considered that the rates are likely to increase no matter who is providing services. The evidence showed that improvements are needed throughout the water and sewer systems and Osage Water Company customers have not had a rate increase for ten years. At purchase, Osage Utility plans to adopt the current rates for customers until it files its first general rate case, which will be within 24 months.¹⁴⁰

In support of their argument that Osage Utility's rates will be unreasonable, and, therefore, detrimental to the public, the Joint Bidders, Cedar Glen, and Public Counsel pointed to several facts they argued would make Osage Utility's rates higher than the Joint Bidders. They point to the fact that Osage Utility is a for-profit company and its rates will include some additional amount

¹³⁸ *State ex rel. AG Processing, Inc. v. Pub. Serv. Comm'n of State*, 120 S.W.3d 732, 737 (Mo. 2003).

¹³⁹ *State ex rel. AG Processing, Inc. v. Pub. Serv. Comm'n of State*, 120 S.W.3d 732, 737 (Mo. 2003).

¹⁴⁰ Ex. 1, Direct Testimony of Josiah Cox, pp. 26-28.

of earnings for its shareholders that as non-profit entities the Joint Bidders would not charge. The Joint Bidders argue that Osage Utility plans to make unnecessary improvements that will raise rates needlessly and that Osage Utility's estimates for its planned improvements are unreasonably high. The Joint Bidders also argue that Osage Utility's parent and affiliates have a history of seeking large rate increases for the companies it purchases. Additionally, they argue that Osage Utility's affiliated companies have a history of very high finance rates, while PWSD#5 has bond money available at low interest rates to make the purchase. The Commission is not persuaded by these arguments that Osage Utility's rate, after a rate case will be unreasonable or detrimental to the public.

During the hearing, an estimate of Osage Utility's combined rates for water and sewer service was presented based on the pro forma financial statements projecting revenues after Osage Utility's initial rate case and based on the improvements it identifies as needed.¹⁴¹ That estimated rate, if approved during a rate case, would be a significant increase for Osage Water Company's customers and would be substantially more than the rates proposed by the Joint Bidders. If all these estimates and proposed rates were to become reality, the higher rates charged by Osage Utility could be a financial detriment to Osage Water Company's customers. However, that financial detriment is tempered by the fact that Osage Water Company's customers will not have an immediate rate increase. Rather, a rate increase will come only after a rate case before the Commission. In contrast, if the Joint Bidders become the owners, they will immediately increase the rates even before any improvements are made.

The Commission found the evidence put forth by Osage Utility of improvements and cost estimates that may be needed to be a comprehensive plan for providing safe, adequate, and

¹⁴¹ Tr. p. 100. That rate, derived from the pro forma financial statements of Osage Utility, was considered confidential and will not be specifically set out here.

reliable service for all of Osage Water Company's customers. Osage Utility has evaluated all of Osage Water Company's systems and their needed repairs while the Joint Bidders' evidence focuses almost exclusively on the Cedar Glen Condominiums. Osage Utility also has experience in rehabilitating nonviable water and sewer systems. Although Staff did not do in-depth cost studies or review in-depth the Joint Bidders' proposal, Staff's witness testified that in his opinion, Osage Utility's preliminary estimates and planned improvements were reasonable because they were consistent with the improvements of other regulated water and sewer utilities¹⁴² and they showed a complete plan for bringing the system into compliance and providing safe and adequate service. Staff's witness did not feel comfortable endorsing the Joint Bidders' plan because it was not presented as a complete application before the Commission.¹⁴³

Due to the Joint Bidders' not submitting comprehensive estimates and planned improvements and not including detailed cost estimates for their proposed interconnection between PWSD#5 and Cedar Glen Condominiums, the Commission was not persuaded by the testimony of Cedar Glen's witness. Further, unlike Osage Utility's estimates, the Joint Bidders' witness's estimates were based on only the repairs identified as needed by the MDNR and did not address other system upgrades or replacements that may be needed to proactively maintain the systems to avoid future more costly repairs. The Commission finds that Osage Utility's evidence was more credible with regard to what repairs may be needed than that put forth by the parties opposed to the transfer.

Additionally, because Osage Utility's operation of the water and sewer systems will be as a regulated public utility, Osage Utility will not be able to charge a rate that the Commission has not found is just and reasonable. In a rate case, Osage Utility will not be authorized to recover

¹⁴² Tr. pp. 258-259.

¹⁴³ Tr. pp. 252-253.

imprudent improvements and financing charges. Osage Utility also provided testimony that its financing will be obtained from different equity sources than the other Central States-affiliated acquisitions and Osage Utility has not applied for any outside financing for this transaction.¹⁴⁴ Thus, this financing cannot be compared directly to the other troubled systems purchased by the company. Any financing would also have to be approved by the Commission to be recovered in rates.

The Joint Bidders contend that any repairs and improvements it made would be financed with bonds at a lower rate than Osage Utility's financing. However, there was no evidence as to the financing plans that would cover needed repairs for the systems that would be owned by LAWVA and MWA. The parties opposed to the transfer to Osage Utility also had no estimates or proposals for repairs or improvements to the Cimarron Bay, Eagle Woods, and Chelsea Rose systems¹⁴⁵ and make no mention of the Golden Glade system.

The Joint Bidders also argue that the water customers at Cedar Glen Condominiums will benefit from the redundancy of a second well once the area becomes interconnected with PSWD#5's facilities. The Joint Bidders claim this will save customers the costs of the second well, again lowering rates over what Osage Utility will have to charge. Whether a second well is necessary was not conclusively proven. Further, even though PWSD#5's current service territory is near the Cedar Glen Condominiums, it lies on the opposite side of U.S. Highway 54. Thus, the evidence showed that it would likely be two years before this interconnection could be made given the need to acquire rights of way and permits to cross the highway.¹⁴⁶ These costs were not taken into account in the cost estimates provided by PWSD#5.

¹⁴⁴ Ex. 1, Cox Direct, p.10.

¹⁴⁵ Ex. 401, Direct Testimony of Neddie Goss, pp. 3-5.

¹⁴⁶ Tr. 340, 364, 365; and Ex. 7, Thomas Surrebuttal, pp. 16-17.

Osage Utility asks for a debit acquisition incentive, which the Joint Bidders argue will also increase rates to the detriment of customers. Because the Commission finds below that Osage Utility has not met the criteria for an acquisition premium, this argument is moot.

The Commission recognizes there might be other benefits of Joint Bidder ownership. One such benefit might be an opportunity for greater participation by the customers because the owners can serve on the governing boards of these public and not-for-profit entities. Another potential benefit the Joint Bidders identified is that they already have a presence in the Lake of the Ozarks area. In addition, the residents represented by Cedar Glen oppose Osage Utility's ownership and prefer the Joint Bidders to be the owners.

However, the Commission finds that Osage Utility's ownership would definitively provide many benefits over the status quo, the greatest of which would be finally having stability for the Osage Water Company customers after more than 14 years of instability. The Commission also finds benefit in the transfer of ownership taking place at the end of this proceeding and not having to have another proceeding to approve a different transfer. Additionally, neither the Commission, nor Staff, have had the opportunity to truly vet the Joint Bidders' proposal given its incompleteness, while Osage Utility has a proven track record of bringing distressed systems into compliance and operating them in a safe and adequate manner. There is further benefit to the public in the Commission continuing to have oversight of the systems whereas PWSD#5, LAWWA, and MWA are outside the jurisdiction of the Commission.

After weighing each of these benefits and detriments, the Commission finds that Osage Utility has met its burden to show that a grant of authority to purchase the Osage Water Company assets and a grant of a CCN to operate the Osage Water Company system is not detrimental to the public interest if granted with the agreed conditions proposed by Staff. The evidence that

the ratepayers will be charged unreasonably higher rates if Osage Utility owns the systems is not persuasive. There are too many unknowns to assume that the alleged lower rates to be charged by the Joint Bidders will be so significant as to make the transfer to Osage Utility detrimental to the public. Further, any future rate increases for Osage Utility will only be authorized by the Commission if found to be just and reasonable.

b. Should the Commission approve an acquisition premium for the acquisition of the Osage Water Company under 20 CSR 4240-10.085?

Having decided that it should grant the application for a CCN with conditions, the next issue before the Commission is whether it should grant the request for a debit acquisition incentive. Osage Utility requests a debit acquisition incentive equal to the difference between the total purchase price and the net original cost for Osage Water Company. Osage Utility originally applied for both a rate of return premium and a debit acquisition premium, but has dropped its request for the rate of return premium.¹⁴⁷

An acquisition incentive is defined as “[a] rate of return premium, debt acquisition adjustment, or both designed to incentivize the acquisition of a nonviable utility[.]”¹⁴⁸ A debit acquisition adjustment is an adjustment “to a portion or all of an acquiring utility’s rate base to reflect a portion or all of the excess acquisition cost over depreciated original cost of the acquired system[.]”¹⁴⁹

The Commission’s rule on acquisition premiums sets out requirements for the information to be provided upon application and the criteria for the Commission to make its decision. Osage Utility has the burden to provide records related to the original cost of Osage Water Company.¹⁵⁰

¹⁴⁷ Ex. 5, Surrebuttal Testimony of Josiah Cox, p. 8.

¹⁴⁸ 20 CSR 4240-10.085(1)(A).

¹⁴⁹ 20 CSR 4240-10.085(1)(B).

¹⁵⁰ 20 SCR 4240-10.085(3)(A)2.

Osage Utility did not provide this information. Additionally, Public Counsel, Cedar Glen, and the Joint Bidders argue that Osage Utility has not shown that the purchase “is in the public interest”¹⁵¹ or that the purchase “would be unlikely to occur without the probability of obtaining an acquisition incentive.”¹⁵²

Under the acquisition incentive rule, Osage Utility has the burden to show that the “acquisition would be unlikely to occur without the probability of obtaining an acquisition incentive.”¹⁵³ The Commission finds that the only evidence that Central States/Osage Utility would be unlikely to proceed with the purchase without the incentive is the testimony of Josiah Cox that the company would have to rethink its position if the Commission does not approve the incentive.¹⁵⁴ Mr. Cox’s testimony on this point was not persuasive.

The evidence shows that the purchase by Osage Utility will likely take place regardless of the incentive. Central States began negotiations for the purchase of Osage Water Company well before the incentive rule was effective or even before the Commission began the formal rulemaking process. Additionally, purchasing distressed systems to rehabilitate and operate them as a viable entity is the basic business plan of Central States. Further, Central States made multiple bids for Osage Water Company, consistently matching the Joint Bidders’ bids. Each of these facts leads the Commission to the conclusion that Central States/Osage Utility was determined to purchase Osage Water Company absent any additional incentive.

This case is unique in that a sale of the system is likely to take place, even if Osage Utility does not consummate the transaction. The Joint Bidders are contractually obligated under the bankruptcy order to purchase the system if Osage Utility does not. The acquisition incentive rule

¹⁵¹ 20 CSR 4240-10.085(4)(H).

¹⁵² 20 CSR 4240-10.085(4)(I).

¹⁵³ 20 CSR 4240-10.085(4)(I).

¹⁵⁴ Ex. 1, Direct Testimony of Josiah Cox, pp. 24-26; and Ex. 5, Surrebuttal Testimony of Josiah Cox, pp. 2-8.

does not specifically contemplate this scenario. The focus of the rule is to provide incentives for the purchase of troubled water and sewer systems where those systems might not otherwise attract a qualified owner. In this case, it has taken 14 years, but currently other entities are ready and willing to purchase these troubled systems if Osage Utility fails to do so.

The Commission determines that Osage Utility has not met its burden to show that the sale of the system “would be unlikely to occur without the probability of obtaining an acquisition incentive.”¹⁵⁵ Osage Utility has also not met its burden of providing the necessary information about Osage Water Company’s original costs. Some of this information can be deduced from information provided by Staff, but Osage Utility has the burden to provide all the information. Without the requirements of the rule being met, the Commission cannot find that the request is in the public interest.

IV. Decision

In making this decision, the Commission has considered the positions and arguments of all of the parties. After applying the facts to the law to reach its conclusions, the Commission determines that the substantial and competent evidence in the record supports the conclusion that Osage Utility has met, by a preponderance of the evidence, its burden of proof. The Commission finds that Osage Utility has demonstrated that it possesses adequate technical, managerial, and financial capacity to own, operate, manage, and maintain the Osage Water Company water and sewer systems. Osage Utility has also proven that the grant of a CCN to serve the Osage Water Company service areas and the transfer of Osage Water Company’s assets to Osage Utility is not detrimental to the public interest, providing that the conditions in

¹⁵⁵ 20 CSR 4240-10.085(4)(I).

the Staff recommendation are met. The Commission further determines that Osage Utility has not met the criteria of 20 CSR 4240-10.085 for the approval of an acquisition incentive.

Therefore, the Commission will grant Osage Utility a CCN to provide water and sewer service in the service territories previously served by Osage Water Company subject to the conditions recommended by Staff. In addition, the Commission will deny Osage Utility's request for an acquisition incentive. The Commission will authorize Osage Utility to adopt Osage Water Company's tariffs and their rates as an interim measure until it files a rate case within the next 24 months. Upon completion of the transactions transferring the Osage Water Company assets to Osage Utility, the Commission will cancel the CCN of Osage Water Company. Additionally, as recommended by Staff, the Commission will delete the portions of Osage Water Company's service authority for the areas that are not served by Osage Water Company.

The Commission also grants the unopposed motion to dismiss the portions of the application related to a request for a CCN and transfer of the Reflections water and sewer system assets. Further, the Commission finds that good cause exists and waives the 60-day notice requirement of 20 CSR 4240-4.017(1) for purposes of this case.

THE COMMISSION ORDERS THAT:

1. The Motion to Dismiss or, in the Alternative, Motion to Modify Osage Utility Operating Company, Inc.'s Amended Application is granted, in part.
2. The portion of the application requesting authority to purchase the assets and serve the customers of the water and sewer systems owned by Reflections Condominium Owners Association, Inc., Great Southern Bank, and the Reflections Subdivision Master Association, Inc., is dismissed.
3. Commission Rule 20 CSR 4240-4.017(1) is waived for purposes of this application.

4. Osage Water Company and Osage Utility Operating Company, Inc. are authorized to enter into, execute, and perform in accordance with the terms described in the Agreement for Sale of Utility System, attached as Appendix B-C of the to the Application and Motion for Waiver, and incorporated by reference in paragraph 10 of the Amended Application and Motion for Waiver and to take any and all other actions which may be reasonably necessary and incidental to the performance of the acquisition.

5. Upon closing on each of the Osage Water Company water and sewer systems, Osage Utility Operating Company, Inc., is granted a certificate of convenience and necessity to provide water and sewer service in the service territories previously served by Osage Water Company. The grant of authority does not include the six areas (Osage Beach South, Osage Beach North, Sunrise Beach South, Sunrise Beach North, Shawnee Bend, and Parkview Bay) in which Osage Water Company has not been providing service.

6. Upon closing on each of the water and sewer systems, Osage Utility Operating Company, Inc. shall provide service by applying, on an interim basis, the existing rates, rules and regulations as outlined in Osage Water Company's water tariff and sewer tariffs, until the effective date of adoption notice tariff sheets.

7. Osage Utility Operating Company, Inc. shall file Tariff Adoption Notice tariff sheets for the corresponding water and sewer tariffs of the regulated Osage Water Company systems within ten days after closing on the assets.

8. Upon completion of the transactions transferring the Osage Water Company assets to Osage Utility Operating Company, Inc. the Commission will cancel the Osage Water Company's certificates of convenience and necessity and tariffs.

9. Osage Utility Operating Company, Inc. shall create and keep financial books and records for plant-in-service, revenues, and operating expenses (including invoices) in accordance with the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts.

10. Going forward, Osage Utility Operating Company, Inc. shall keep and make available for audit and review all invoices and documents pertaining to the capital costs of constructing and installing the water and sewer utility assets.

11. The depreciation rates for water and sewer utility plant accounts shall be as described and shown in Staff's Memorandum at Schedule ND-d2, Attachment A, page 39 of Exhibit 101, Direct Testimony of Natelle Dietrich.

12. Osage Utility Operating Company, Inc. shall distribute to all customers an informational brochure detailing the rights and responsibilities of the utility and its customers regarding its water service, consistent with the requirements of Commission Rule 20 CSR 4240-13, within thirty days after the effective date of this order.

13. Within ninety days of the effective date of this order, Osage Utility Operating Company, Inc. shall complete repairs to resolve the bypassing of treatment at any wastewater treatment system.

14. Osage Utility Operating Company, Inc. shall resolve all issues regarding noncompliance with Missouri Department of Natural Resources regulations for all water and sewer systems.

15. Osage Utility Operating Company, Inc. shall provide adequate training for the correct application of rates and rules to all customer service representatives, including those

employed by contractors, prior to the customers receiving their first bill from Osage Utility Operating Company, Inc.

16. Osage Utility Operating Company, Inc. shall provide to the Customer Experience Department Staff of the Commission a sample of ten billing statements of bills issued to Osage Water Company customers within thirty days of such billing.

17. Osage Utility Operating Company, Inc. shall file notice in this case once Staff's recommendations regarding customer communications and billing, listed above, have been completed.

18. Osage Utility Operating Company, Inc. shall file a rate case with the Commission no later than twenty-four months after the effective date of this order.

19. The request for an acquisition incentive under Commission rule 20 CSR 4240-10.085 is denied.

20. Osage Utility Operating Company shall notify the Commission of closing on the assets within five days after such closing.

21. Osage Water Company shall cease providing water and sewer service immediately after closing on the assets of each water and sewer system.

22. The Commission's Data Center shall provide a copy of this order to the County Clerk of Camden County, Missouri.

23. If the closing on the water system assets and/or resolution of the real estate issues has not occurred by June 30, 2020, Osage Utility Operating Company, Inc. shall file a status report no later than July 15, 2020, and every 30 days thereafter, until closing takes place, or until Osage Utility Operating Company, Inc. determines that the transfer of the assets will not occur.

24. The Commission makes no finding that would preclude the Commission from considering the ratemaking treatment to be afforded any matters pertaining to Osage Utility Operating Company, Inc., in any later proceeding.

25. This order shall become effective on May 8, 2020.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style.

Morris L. Woodruff
Secretary

Kenney, Rupp, Coleman, and
Holsman CC., concur, as amended.
Silvey, Chm., dissents, as amended.

Dippell, Senior Regulatory Law Judge