

RESPONSE TO ENVIRONMENTAL  
UTILITIES' REQUEST FOR ADMISSIONS

Case No. WO-2005-0086

APPENDIX A

Staff's Responses to the Requests

## **REQUEST FOR ADMISSION #1**

That the proposed sale of the assets of Environmental Utilities, LLC to Missouri-American Water Company as set forth in the Application and the Exhibits attached thereto is not detrimental to the interests of the members of the public who receive service from said assets.

### **STAFF RESPONSE**

Although this request may be objectionable because it involves a question of law or legal conclusion rather than an admission of a fact or facts, the Staff is providing the following response to the request for the purposes of this case only. Additionally, the Staff reserves the right to object to this type of request at any time in the future.

The Staff believes the proposed sale of the subject assets will meet the standard stated in this request – assuming that: (1) the assets will be recorded on the books of MAWC for ratemaking purposes at a value calculated consistent with the Staff's calculation of the "post sale ratemaking rate base", as discussed in the Staff Memorandum that was submitted as a part of the Staff Recommendation filed in this case on 11/15/04, as updated to reflect the current net book (depreciated) value of the assets; (2) the conditions for approval of the Joint Application contained in the Staff Recommendation filed in this case on 11/15/04 are applied by the Commission; and (3) the physical condition of the assets is such that expenditures are not needed to bring the assets to proper working order.

## **REQUEST FOR ADMISSION #2**

That the proposed sale of the assets of Osage Water Company to Missouri-American Water Company as set forth in the Application and the Exhibits attached thereto is not detrimental to the interests of the members of the public who receive service from said assets.

### **STAFF RESPONSE**

Although this request may be objectionable because it involves a question of law or legal conclusion rather than an admission of a fact or facts, the Staff is providing the following response to the request for the purposes of this case only. Additionally, the Staff reserves the right to object to this type of request at any time in the future.

The Staff believes the proposed sale of the subject assets will meet the standard stated in this request – assuming that: (1) the assets will be recorded on the books of MAWC for ratemaking purposes at a value calculated consistent with the Staff's calculation of the "post sale ratemaking rate base", as discussed in the Staff Memorandum that was submitted as a part of the Staff Recommendation filed in this case on 11/15/04, as updated to reflect the current net book (depreciated) value of the assets; (2) the conditions for approval of the Joint Application contained in the Staff Recommendation filed in this case on 11/15/04 are applied by the Commission; and (3) the physical condition of the assets is such that expenditures are not needed to bring the assets to proper working order.

### **REQUEST FOR ADMISSION #3**

That the proposed purchase by Missouri-American Water Company of the water and sewer systems owned by Hurricane Deck Holding Company as set forth in the Application and the Exhibits attached thereto is not detrimental to the interests of the members of the public who receive service from said assets.

### **STAFF RESPONSE**

Although this request may be objectionable because it involves a question of law or legal conclusion rather than an admission of a fact or facts, the Staff is providing the following response to the request for the purposes of this case only. Additionally, the Staff reserves the right to object to this type of request at any time in the future.

The Staff believes the proposed sale of the subject assets will meet the standard stated in this request – assuming that: (1) the assets will be recorded on the books of MAWC for ratemaking purposes at a value calculated consistent with the Staff's calculation of the "post sale ratemaking rate base", as discussed in the Staff Memorandum that was submitted as a part of the Staff Recommendation filed in this case on 11/15/04, as updated to reflect the current net book (depreciated) value of the assets; (2) the conditions for approval of the Joint Application contained in the Staff Recommendation filed in this case on 11/15/04 are applied by the Commission; and (3) the physical condition of the assets is such that expenditures are not needed to bring the assets to proper working order.

### **REQUEST FOR ADMISSION #4**

That the proposed purchase by Missouri-American Water Company of the sewer systems owned by Gregory D. Williams and Debra J. Williams as set forth in the Application and the Exhibits attached thereto is not detrimental to the interests of the members of the public who receive service from said assets.

### **STAFF RESPONSE**

Although this request may be objectionable because it involves a question of law or legal conclusion rather than an admission of a fact or facts, the Staff is providing the following response to the request for the purposes of this case only. Additionally, the Staff reserves the right to object to this type of request at any time in the future.

The Staff believes the proposed sale of the subject assets will meet the standard stated in this request – assuming that: (1) the assets will be recorded on the books of MAWC for ratemaking purposes at a value calculated consistent with the Staff's calculation of the "post sale ratemaking rate base", as discussed in the Staff Memorandum that was submitted as a part of the Staff Recommendation filed in this case on 11/15/04, as updated to reflect the current net book (depreciated) value of the assets; (2) the conditions for approval of the Joint Application contained in the Staff Recommendation filed in this case on 11/15/04 are applied by the Commission; and (3) the physical condition of the assets is such that expenditures are not needed to bring the assets to proper working order.

### **REQUEST FOR ADMISSION #5**

That the proposed sale of the assets as set forth in the Application and the Exhibits attached thereto is not detrimental to the public.

### **STAFF RESPONSE**

Although this request may be objectionable because it involves a question of law or legal conclusion rather than an admission of a fact or facts, the Staff is providing the following response to the request for the purposes of this case only. Additionally, the Staff reserves the right to object to this type of request at any time in the future.

The Staff believes the proposed sale of the subject assets will meet the standard stated in this request – assuming that: (1) the assets will be recorded on the books of MAWC for ratemaking purposes at a value calculated consistent with the Staff's calculation of the "post sale ratemaking rate base", as discussed in the Staff Memorandum that was submitted as a part of the Staff Recommendation filed in this case on 11/15/04, as updated to reflect the current net book (depreciated) value of the assets; (2) the conditions for approval of the Joint Application contained in the Staff Recommendation filed in this case on 11/15/04 are applied by the Commission; and (3) the physical condition of the assets is such that expenditures are not needed to bring the assets to proper working order.

### **REQUEST FOR ADMISSION #6**

That the Missouri Public Service Commission does not have the legal authority to determine the interests of persons making claim to the proceeds of the sale of the assets of Osage Water Company. *See State ex rel. FEE FEE TRUNK SEWER, INC. vs. Litz*, 596 S.W.2d 466 (Mo. App. E.D. 1980).

### **STAFF RESPONSE**

The Staff objects to this request because it seeks an admission concerning an issue or conclusion of law, both of which are improper subjects for requests to admit. A copy of Staff Counsel's letter to Environmental Utilities setting forth the details of this objection is attached hereto.

### **REQUEST FOR ADMISSION #7**

That the allowable rate base value of the assets to be purchased by Missouri-American Water Company as set forth in the Application and the Exhibits attached thereto is not less than the aggregate of the proposed sale prices for said assets.

### **STAFF RESPONSE**

The Staff agrees that the aggregate value of the proposed sale prices that are set out in the various contracts related to the Joint Application is equal to the "post sale ratemaking rate base" book value calculated by the Staff, as is reflected in certain of the attachments to the Staff Memorandum that was submitted as a part of the Staff Recommendation filed in this case on 11/15/04. However, the Staff notes that the book values that make up the above-referenced total "post sale ratemaking rate base" are subject to the adjustments and conditions stated in the referenced Staff Memorandum and related attachments; and further notes that the calculated book values of the subject assets are based on the assumption that the physical condition of the assets is such that expenditures are not needed to bring the assets to proper working order.



**Commissioners**

**STEVE GAW**  
Chair

**CONNIE MURRAY**

**ROBERT M. CLAYTON III**

**JEFF DAVIS**

**LINWARD "LIN" APPLING**

***Missouri Public Service Commission***

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December 23, 2004

Gregory D. Williams  
Attorney at Law  
Highway 5 at 5-33  
P.O. Box 431  
Sunrise Beach, Mo. 65079

Re: In Re the Joint Application of Missouri American Water Company, Osage Water Company, and Environmental Utilities, LLC, WO-2005-0086----Applicant  
Environmental Utilities, Request for Admissions from the Staff of the Missouri Public Service Commission dated December 16, 2004

Dear Mr. Williams,

As Counsel for the Staff of the Missouri Public Service Commission in WO-2005-0086, I am objecting to Request for Admission No. 6. This request seeks an admission concerning an issue of law or a conclusion of law, neither of which is the proper subject of a Request for Admission. *Meade Co. v. Forward Construction Co.*, 526 S.W.2d 21, 30 (Mo. App. E.D. 1975) and *Linde v. Kilbourne*, 543 S.W.2d 543, 547 (Mo. App. W.D. 1976).

If you have any further questions about this matter, please feel free to contact me.

Yours very truly,

**/s/ Cliff Snodgrass**  
Senior Counsel

CS/cks