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February 28, 2005

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

FILED[2]
MAR 0 3 2005
Missouri Public Service Commission

ATTN: Filing Desk

Re: Case WO-2005-0086

Dear Judge Roberts:

Please find enclosed for filing in the above referenced matter the original and 8 copies of the following:

1. Response of Osage Water Company to Staff's Ratemaking Analysis

An additional copy of each pleading is also enclosed to be stamped "filed" and returned to me in the enclosed envelop.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely yours,

Gregory D. Williams

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

FILED[2]

MAR 0 3 2005

Missouri Public Service Commission

In the Matter of the Joint Application of Missouri-American Water Company and Both Osage Water Company and Environmental Utilities, L.L.C. for Authority for Missouri-American Water Company to Acquire the Water and Sewer Assets of both Entities, and for the Transfer to Missouri-American Water Company of Certificates of Convenience and Necessity to Continue Operation of Such Assets as Water and Sewer Corporations Regulated by the Missouri Public Service Commission	)	**Case No. WO-2005-0086**

RESPONSE OF OSAGE WATER COMPANY TO STAFF'S RATEMAKING ANALYSIS

COMES NOW Osage Water Company and pursuant to the Commission's Order herein of February 28, 2005 provides the following Response to the Staff's filing herein regarding its ratemaking analysis:

1. <u>OWC & Env. Util. Utilized Actual Revenues and Expenditures:</u> In the Small Company Rate Increase Request filed herein by Osage Water Company and Environmental Utilities, actual revenues billed and actual costs incurred were utilized, except for the elimination of payments between OWC and Env. Util. and for legal expenses incurred by both Companies.

2. <u>Staff's Analysis Does not Utilize Actual Revenues or Expenditures.</u> In its analysis, the Staff has generated a hypothetical revenue stream based upon its projections as to what revenues OWC and/or Env. Util. might have received had certain conditions and assumptions existed or occurred. It is somewhat misleading that Staff's hypothetical revenue stream is almost equal to the actual revenue stream received, in that the actual receipts include the "water legal fee revenues" and "sewer legal fee revenues" and sales tax collected from customers, all of which are excluded from Staff's hypothetical revenue stream. Staff then eliminated sales tax as an expenditure and provided

for no return on the legal fees which Staff agrees are allowable in rate base. In other words, Staff's hypothetical revenue stream is $11,339 higher than the actual revenues received by OWC and Environmental Utilities. ($4,152 in "sewer legal fee revenues", $4,524 in "water legal fee revenues" and $2,663 in sales tax collected).

3. OWC Metered all customers it is able to meter. OWC was directed as part of the 1999 rate case to install meters for all of its customers at the time, and it did so, and Staff verified that it did so. There currently are unmetered customers in the Eagle Woods Service Area solely because the developer of that project (Westenhaver) has refused to comply with the requirements of OWC's tariff. As this Commission recently noted, there is an ongoing dispute between OWC and Westenhaver regarding this and other matters pertaining to compliance with OWC's tariff. It is not appropriate to impute revenues to OWC which it is not receiving because of a developer refusal to comply with tariff requirements.

4. There is no agreement for $1/Month per customer for recovery of legal fees. Staff proposed such an agreement in the last (1999) rate case for Osage Water Company, which OWC expressly did not accept or agree was appropriate. No such agreement has ever been proposed with respect to Environmental Utilities. The costs and expenses of obtaining certificates are clearly allowable in rate base, and should be earning a fair rate of return along with all other capital expenditures.

5. Staff has failed to provide for a return on capital associated with the Hancock Debenture. Staff has allowed a $1,000 per month payment to Hancock Construction, Inc. as an "expense" under "cost of service" rather than including the capital cost of $240,000 in rate base and allowing recovery of depreciation thereon and a return on rate base associated therewith. No lawful basis for this treatment of OWC's investment in plant in service exists. Staff proposed such a treatment in the 1999 rate case, and OWC expressly did not accept that treatment or agree that it was appropriate.

6. Staff has failed to include actual expenditures for the personnel required to properly operate the company in its cost of service analysis. OWC and Env. Util. reported the actual 2004 costs incurred for personnel necessary to carry out field operations, billing, book keeping, and general management in its Small Company Rate Increase Request. Without explanation or justification, Staff has suggested much lower expenditures in its cost of service analysis. Poor response to

customer inquiries and complaints, along with inadequate staffing to maintain records required by MDNR and the PSC were at the top of the list of issues raised in the 1999 rate case local public hearings. The current staffing levels utilized by Env. Util. are the minimum appropriate to handle the operations and record keeping required for proper regulatory compliance for 4 sewage treatment plants, 8 public drinking water supplies, and 745 service connections.

7. Staff has ignored actual expenditures for virtually every category of expense included in cost of service. Other than a notation of "annualized for test year" Staff has failed to provide any explanation as to its basis for inclusion of something other than actual costs incurred in its "cost of service" analysis. OWC and Env. Util. reported to the Commission their actual combined expenditures in their Small Company Rate Increase Request. Staff utilized some other numbers instead of actual expenditures, the basis for which cannot be determined from their report.

8. Staff failed to include all costs associated with Rate Base in its Depreciation analysis. MAWC provided a depreciation expense calculation of $36,052 based upon their anticipated investment of $1,000,815 in the combined assets of OWC and Env. Util., and that depreciation expense was included by OWC and Env. Util. in the Small Company Rate Increase Request. Staff utilized a depreciation calculation based upon $557,200 in rate base. No explanation is given by Staff for not recovering depreciation on all of the investment in rate base.

9. Staff failed to include a fair rate of return on rate base. Staff in its ratemaking analysis provided for a $25,000 return on rate base of $1,000,815, or approximately 2.5%. Staff indicates it calculated this return on only $581,390 rather than $1,000,815, without explanation as to the discrepancy. This is not a fair or reasonable rate of return for investment in a small utility company, and would only encourage investors to continue attempt to withdraw equity from the utility so that it could be redirected to other investments with a higher prospective yield, as has been the situation since the conclusion of the 1999 rate case.

CONCLUSION

Staff's rate analysis is not based upon either actual revenues received or actual expenses incurred. Rather, it is just a bunch of made up numbers without factual basis which add up to a bunch of made up totals without factual basis. Staff's rate analysis clearly establishes that if you ignore actual revenues and expenditures that it is possible to create a series of estimated revenues and costs which add up to a number which would indicate that a rate increase is not necessary.

However, Staff's rate analysis fails to provide any evidentiary basis for finding that a rate increase is not needed. The actual revenues received by OWC and Environmental Utilities are not sufficient to provide for recovery of the actual expenses reasonably incurred for the provision of water and sewer utility service to customers, for recovery of investment through reasonable depreciation, and to provide a fair return on investment. An average increase in water and sewer rates of 46.64% as set out in the Small Company Rate Increase Request filed with the Commission is required in order to satisfy the requirements of the United States and Missouri Constitutions that private property not be utilized for the public benefit without payment of just compensation therefore, in advance.

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CERTIFICATE OF SERVICE

I, Gregory D. Williams, do hereby certify that a true copy of the foregoing was on this 12 day of March, 2005, mailed, postage prepaid, to the following:

Dana K. Joyce, P.O. Box 360, Jefferson City, MO 65102; Office of Public Counsel, P.O. Box 7800, Jefferson City, MO 65102; Mark Comley, P.O. Box 537, Jefferson City, MO 6 5102; Timothy Duggan, P.O. Box 899, Jefferson City, MO 65102; Terry Allen, P.O. Box 1702, Jefferson City, MO 65102; Dean Cooper, 312 East Capitol Ave., Jefferson City, MO 65102.

Gregory D. Williams