

**GREGORY D. WILLIAMS
LAW FIRM**

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Gregory D. Williams
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FILED⁴

APR 08 2006

Missouri Public
Service Commission

March 30, 2006

Colleen M. Dale
Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Attn: Filing Desk

Re: In Re Audit of Environmental Utilities, LLC
Case No. WO-2006-0361

Dear Ms. Dale:

Please find enclosed for filing the original and 8 copies of the following pleadings:

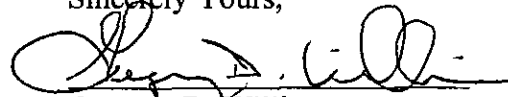
1. Response of Environmental Utilities, LLC to Order to Show Cause.

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

A copy has been mailed to counsel of record.

If you have any questions regarding this matter, please contact me at your earliest convenience.

Sincerely Yours,



Gregory D. Williams

cc: General Counsel's Office
Office of the Public Counsel

FILED⁴

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

APR 03 2006

In the Matter of the Release of Staff's Audit Report |
Regarding Environmental Utilities, LLC and |
Osage Water Company |

Missouri Public
Service Commission

Case No. WO-2006-0361

RESPONSE OF ENVIRONMENTAL UTILITIES, LLC
TO ORDER TO SHOW CAUSE

COMES NOW Environmental Utilities, LLC and for its Response to the Order to Show

Cause entered herein on March 21, 2006 states:

1. Audit Concerns a Matter Subject to Res Judicata. The Audit Report allegedly concerns the financial ability of Osage Water Company to pay its water bill for wholesale water supply received from Environmental Utilities, LLC during a period when Osage Water Company's revenues were garnished by a Judgment Creditor, and management of its systems was the subject of a written contract between Osage Water Company and Environmental Utilities, LLC. This Commission, and Osage Water Company, instituted a lawsuit against Environmental Utilities, LLC in the Circuit Court of Camden County, Missouri, alleging that there was no unpaid water bill due and owing to Environmental Utilities, LLC, which was docketed as Case No. 05CM-CC00018. A Judgment was entered in said case in favor of Environmental Utilities, LLC and against Osage Water Company upon the latter's written confession thereto on February 14, 2006. Said Judgment became final on March 16, 2006, and the time for appeal there from has now elapsed. Therefore, there is a judicial determination that in fact Osage Water Company was, and is, indebted to Environmental Utilities, LLC with respect to the

wholesale water supply bill concerning which Staff's Audit Report was allegedly written. The opinions and conclusions contained in said Audit Report are inconsistent with said judicial determination, and are erroneous as a matter of res judicata. A copy of said Judgment is attached hereto as Exhibit A. For this reason alone, said Audit Report should not be released to the public.

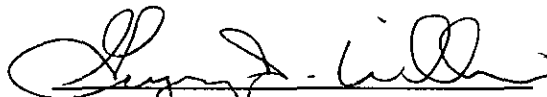
2. The Audit Report Contains confidential information. Contained within the Audit Report is a detailed accounting, including names of vendors and the amount of payment thereto, of Environmental Utilities, LLC. Said information is confidential and privileged business information, discoverable by this Commission only as a result of its authority to regulate public water utility service, and said information could not otherwise be obtained from Environmental Utilities, LLC, nor would it be subject to release to the public. Section 386.480 provides that such information is not to be made public.
3. No Hearing has Been Conducted Regarding the Audit Information. Staff's Motion herein seems to assume that this Commission may, without hearing, simply order the release of the Audit Report if it so desires. Applicable Missouri Law states otherwise. Section 386.420.2 provides that when an investigation is made, the Commission must conduct a hearing, and make a report in writing with respect thereto. The Audit Report was based upon an investigation by this Commission, through its Staff, but no hearing has been conducted with respect thereto. The Audit Report consists of nothing more than one-sided opinions and conclusions of some unidentified person or

persons employed by this Commission. It has not been subject to the discovery process, which might reveal errors or inaccuracies therein, nor have the author or authors thereof faced cross-examination with respect to the scope and manner of their investigation, their bias and prejudices, and the bases, if any, for their opinions and conclusions contained in the Audit Report. In the absence of such a full and fair hearing on the record, where all interested parties have an opportunity to be heard, this Commission should not, and lacks statutory authority, to “make a report in writing” with respect to its investigation, or to “state the conclusions of the commission, together with its decision, order or requirement in the premises.” Section 386.420.2. There would appear to be no rational basis for conducting such a hearing in light of the Judicial Determination regarding the obligation of Osage Water Company to Environmental Utilities, LLC, as there is nothing now for the Commission to determine with respect thereto, if there ever was.

4. Staff's Report is Erroneous, Opinionated, and Libelous. The Staff's Audit Report, and in particular the conclusions contained therein, is erroneous, contains opinions not supported by fact, and makes allegations on impropriety which are false and libelous. Publication of said report by this Commission, particularly without identifying the author or authors thereof, will constitute actionable libel against this Commission for its wrongful and harmful actions towards Environmental Utilities, LLC. In particular, although the record of receipts and expenses of Environmental Utilities, LLC with respect to its contract operations of Osage Water Company clearly reflect that receipts for

the months of May through September 2005 were inadequate to pay the expenses during said period, and said receipts had materially declined as a result of garnishment of revenues from the Cedar Glen service area, Staff concludes, without factual support, that there were adequate funds available to pay for wholesale water service during said period, even though Environmental Utilities, LLC was forced to lay off its clerical staff and its management was unpaid during said period. Staff further suggests that in some manner legal action could have been taken to avoid the judgment or to contest the garnishment, while simultaneously asserting that legal fees should not be paid. Staff fails to explain how or why Environmental Utilities, LLC should be taking legal action on behalf of Osage Water Company, or what meritorious defense there might have been to a lawsuit based upon a contractual obligation executed by William P. Mitchell, the sole officer and director of Osage Water Company.

WHEREFORE, for the foregoing reasons, Environmental Utilities, LLC prays for an Order of this Commission dismissing this Case, and for its costs and attorney's fees herein incurred.



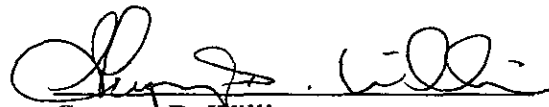
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gregwms@charterinternet.com

Attorney for Environmental Utilities, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 30 day of March, 2006 a true copy of the foregoing was served on all parties of record by depositing the same in first class mail, postage prepaid, and addressed as follows:

General Counsel's Office, P.O. Box 360, Jefferson City, MO 65102; Lewis R. Mills, Jr., P.O. Box 2230, Jefferson City, MO 65102.


Gregory D. Williams

IN THE CIRCUIT COURT OF CAMDEN COUNTY, MISSOURI

MISSOURI PUBLIC SERVICE
COMMISSION and OSAGE WATER
COMPANY,

Plaintiffs,

vs.

Case No. 05CM-CC00018

ENVIRONMENTAL UTILITIES, LLC,

Defendant.

FILED
FEB 14 2006
JO. L. HARRIS
CLERK OF COURT

COPY

JUDGMENT

Now on this 14th day of February 2006 the Court takes up the above captioned matter on the Defendant's Motion for Judgment on the Pleadings. Having reviewed the pleadings herein, the Court finds that Plaintiff Osage Water Company has confessed to judgment in favor of Defendant Environmental Utilities, LLC, and that Environmental Utilities, LLC is entitled to Judgment against Plaintiff Osage Water Company for the sum of \$5,065.54. The Court further finds that Plaintiffs have this date filed their voluntary dismissal of their claims herein.

WHEREFORE, Judgment is hereby granted in favor Defendant Environmental Utilities, LCC and against Plaintiff Osage Water Company for the sum of \$5,065.54, for which let execution issue at the request of Defendant Environmental Utilities, LLC. The claims of Plaintiffs as set forth in their Petition herein are dismissed. Costs herein are taxed to the Plaintiffs.


Circuit Judge