

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 14th day of
July, 2005.

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)
Utility 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

ORDER DENYING MOTION FOR REHEARING

Issue Date: July 14, 2005

Effective Date: July 14, 2005

On June 9, 2005, the Commission issued an order dismissing the joint application filed by Missouri-American Water Company, Osage Water Company, and Environmental Utilities, L.L.C. The applicants sought the Commission's approval of Missouri-American's plan to purchase all of the assets of Environmental Utilities and some, but not all, of the assets of Osage Water. On June 17, Osage Water and Environmental Utilities filed a timely motion for rehearing.

Section 386.500.1, RSMo 2000, provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." In the judgment of the Commission, Osage Water and Environmental Utilities have failed to establish sufficient reason to grant their application for rehearing, and that motion will be

denied. The Commission will, however, further address two allegations made in the motion for rehearing.

First, the motion seizes upon one sentence in the Commission's order to argue that the Commission applied the wrong legal standard in dismissing the application. In its order, the Commission stated:

[a]ny transaction that would sell off only a portion of Osage Water's sewer systems would leave that distressed company to attempt to operate a remnant of its system with dire implications for the service that it would be able to provide to its remaining customers. Such a result cannot be in the public interest.

Osage Water and Environmental Utilities argue that the last sentence of the quoted portion of the order indicates that the Commission was applying a standard that would require the applicants to demonstrate that their proposed transaction would be a positive benefit to the public interest; rather than the correct standard, which requires that the transaction not be a detriment to the public interest.

In the context in which the sentence appears in the order, it is apparent that the Commission has found that the proposed partial sale of Osage Water's sewer assets would be detrimental to the public interest, particularly the interest of its remaining customers. That is the lawful standard, and that is the standard that the Commission used.

Second, Osage Water and Environmental Utilities argue that the Commission did not hear and consider sufficient evidence in this case. They contend that if a hearing were held the evidence would show that Osage Water's remaining sewer customers would continue to receive the same service after the sale of Osage Water's other assets that they receive now. According to Osage Water and Environmental Utilities, that means that the partial sale of assets could not be detrimental to the interest of those customers. However, the

mountain of evidence presented to this Commission in other cases, in particular WC-2003-0134 and ST-2003-0562, establishes that the service that Osage Water's current customers are now receiving is so substandard that the Commission has found it necessary to file an action in circuit court to have a receiver appointed to take charge of that company. The Commission took notice of the record in those cases in making its decision to reject the application in this case, and those records are additional justification for the Commission's decision.

The motion for rehearing is without merit and will be denied.

IT IS THEREFORE ORDERED:

1. That the Motion for Rehearing filed by Osage Water Company and Environmental Utilities, L.L.C., is denied.
2. That this order shall become effective on July 14, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur
Woodruff, Senior Regulatory Law Judge