

# THE LAW OFFICE OF GREGORY D. WILLIAMS

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January 31, 2005

**FILED**<sup>3</sup>

FEB 4 2005

Missouri Public  
Service Commission

Hon. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65201

ATTN: Filing Desk

Re: In Re the Joint Application of Missouri American Water Company, Osage Water  
Company, and Environmental Utilities, LLC  
WO-2005-0086

Dear Judge Roberts:

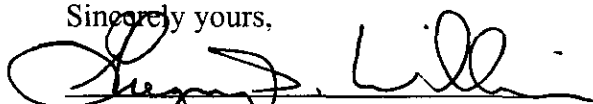
Please find enclosed for filing in the above referenced matter the original and 8 copies of the following:

1. Motion for Contempt Citation.

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 regarding this matter, please do not hesitate to contact me.

Sincerely yours,

  
Gregory D. Williams

cc: Osage Water Company  
Counsel of Record

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

**FILED<sup>3</sup>**

**FEB 4 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 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

**MOTION FOR CONTEMPT CITATION**

COMES NOW Osage Water Company and for its Response to the Notice of Ex Parte Contact dated January 25, 2005 moves the Commission for its Order citing Sue Westenhaver for criminal contempt pursuant to Section 536.095, and in support thereof states:

1. On January 24, 2005 Sue Westenhaver intentionally and deliberately engaged in ex parte communication with respect to matters before the Commission in this case by delivery of written correspondence to Commissioner Murray, which correspondence was clearly intended to influence a member of this Commission with respect to matters at issue in this case, and to urge immediate action with respect to matters at issue herein.
2. Said letter was written and delivered for the purpose of disrupting and influencing the decision making process of this Commission in a contested case.
3. Commission Regulations 4 CSR 240-4.020 (4) and (5) provide:
  - (4) It is improper for any person interested in a case before the commission to attempt to sway the judgment of the commission by undertaking, directly or

indirectly, outside the hearing process to bring pressure or influence to bear upon the commission, its staff or the presiding officer assigned to the proceeding.

(5) Requests for expeditious treatment of matters pending with the commission are improper except when filed with the secretary and copies served upon all other parties.

4. Section 536.095 provides that in an contested case before an agency where a person acts or refuses to act in a manner that a contempt of court would have been committed if the case were a civil action before a circuit court, the agency may apply to a judge of the circuit court of the county where such person resides or may be found for an order to show cause why such person should not be punished as for contempt.
5. Indirect criminal contempt arises from matters not transpiring in court but which goes to degrade or make impotent the authority of the court or to impede or embarrass the administration of justice.
6. In directing correspondence to a member of this Commission ex parte which urges action by Commissioner Murray with respect to this case which is not consistent with the rules of evidence, the Administrative Procedures Act (Chapter 536) or the regulations of this Commission, Mrs. Westenhaver has degraded the authority of this Commission to conduct its proceedings in a fair and impartial manner, and has impeded and embarrassed the administration of justice such that the Applicants herein have no alternative but to respond to the allegations of her letter.
7. The conduct of Sue Westenhaver in engaging in ex parte communication with a member of this Commission for the purpose and with the intent to influence such member to act in a manner not consistent with the official duties of said member is conduct which requires a criminal contempt citation to protect the integrity of the

Commission's decision making process, and to deter Mrs. Westenhaver and others similarly situation from like conduct in the future.

WHEREFORE, Osage Water Company prays for an Order of this Commission finding Sue Westenhaver in indirect criminal contempt of this Commission, and directing its general counsel to apply to the Circuit Court of Camden County, Missouri for an Order to show cause why she should not be punished for such contempt.



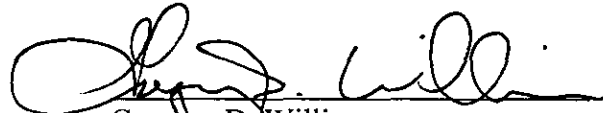
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### **CERTIFICATE OF SERVICE**

I hereby certify that on the 1 day of February 2005 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:

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 65102; 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