

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

PREHEARING CONFERENCE

March 20, 2002
Jefferson City, Missouri
Volume 1

In the Matter of the Annual)	
Report of Osage Water Company)	Case No.
For the Calendar Year Ending)	WE-2002-240
December 31, 1999.)	

FILED

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Public Service Commission*

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STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

March 20, 2002
Jefferson City, Missouri
Volume 1

In the Matter of the Annual)
Report of Osage Water Company) Case No.
For the Calendar Year Ending) WE-2002-240
December 31, 1999.)

VICKY RUTH, Presiding,
SENIOR REGULATORY LAW JUDGE.

REPORTED BY:

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P R O C E E D I N G S

JUDGE RUTH: Good morning. We're here for a prehearing conference in case WE-2002-240, In the Matter of the Annual Report of Osage Water Company for the Calendar Year Ending December 31, 1999.

My name is Vicky Ruth, and I'm the Regulatory Law Judge assigned to this case. And with me today also is Cecilia Young, a new research attorney, law clerk in our office. She will be observing and may have a question or two also. Today's date is March 20, 2002, and it is 10:05 a.m.

Let's begin by taking entries of appearance, please. Osage Water, we'll start with you.

MR. WILLIAMS: Gregory Williams, P.O. Box 431, Sunrise Beach, Missouri. Telephone Number 573-374-8764 for Osage Water Company.

JUDGE RUTH: Thank you.

And Staff?

MR. KRUEGER: Keith R. Krueger, for the Staff of Missouri Public Service Commission. My address is P.O. Box 360, Jefferson City, Missouri 65102.

JUDGE RUTH: Thank you.

1 And Public Counsel?

2 MS. O'NEILL: Yes. Ruth O'Neill, for the
3 Office of the Public Counsel and the Public. Our
4 address is P.O. Box 7800, Jefferson City, Missouri
5 65102.

6 JUDGE RUTH: Okay. Thank you.

7 This prehearing conference was originally
8 scheduled to give the Commissioners through me the
9 opportunity to ask a few questions. I would like
10 to make a note, however, that yesterday, March
11 19th, Hancock Construction Company filed an
12 application to intervene in this case and also to
13 consolidate it with WA-2002-65. The matter of the
14 application to intervene and motion to consolidate
15 has been put on the agenda for tomorrow.

16 I'm not going to officially shorten the
17 time for responses, but if the parties are
18 interested in giving responses, you will need to
19 file something today or first thing in the morning
20 in order for the Commissioners to have that before
21 they discuss it tomorrow and possibly even issue an
22 order. And if you want, I will give you the
23 opportunity to make comments regarding that on the
24 record, if you would prefer to do that instead of
25 file something.

1 But first, I want to go ahead and ask a
2 couple of questions. And I'll start with
3 Mr. Krueger. Why should the Commission accept the
4 Company's 1999 annual report, which Staff has
5 pointed out contains discrepancies or deficiencies,
6 and then order the Company to cure the defects
7 instead of forcing the Company to cure the defects
8 first and then filing the report?

9 MR. KRUEGER: Filing the report
10 immediately gets information into -- available to
11 the public. Information that the Company presents
12 is the state of its affairs. And if the Commission
13 is -- I mean, if the Staff is allowed to file the
14 letter that was mentioned, that would bring to the
15 public's attention the discrepancies that we have
16 noted.

17 The statute 393.140 seems to contemplate
18 this procedure. It says when any report is
19 defective or believed to be erroneous, the
20 Commission shall notify the person or corporation
21 making such report to amend the same within a time
22 prescribed by the Commission. So I think that
23 contemplates that the report would be filed, and
24 then the Company would be given an opportunity to
25 correct it.

1 JUDGE RUTH: Okay. The second question is
2 for the Company, Mr. Williams. I would like for
3 you to, if you can, explain -- there are
4 indications in the record that you feel either you
5 cannot correct certain deficiencies or
6 discrepancies or that you don't have that
7 information. Can you clarify that for the
8 Commissioners, please?

9 MR. WILLIAMS: Yes. The records that were
10 kept for the time period of 1999 through the middle
11 of 2001 were kept by Pat Mitchell, who is the chief
12 operating officer or was at that time for the
13 Company. As best I can determine, he kept those on
14 a cash basis rather than accrual basis. And
15 there's a substantial amount of information that is
16 supposed to be on the annual report form, which I
17 do not have the records for. Mr. Mitchell quit
18 doing anything for the Company on 4th of July
19 weekend in 2001, left all of the records in boxes
20 on my front doorstep. Included in those records
21 were partially completed annual report forms for
22 2000 and 1999.

23 We utilized the information we did have to
24 prepare the report to file with the Commission. It
25 reflects everything as best that we can tell that

1 we have in the records. I would also, if I may,
2 mark as an exhibit, a letter from the certified
3 public accountant, who has done an initial review
4 of the records that were available and provided a
5 list of additional information that would be
6 required to properly complete the books and records
7 of the company for those time periods. And
8 indicates an estimated cost of 2,000 to \$2,500 per
9 fiscal year involved.

10 And the Commission should be cognizant
11 from the proceedings in a pending rate case before
12 the Commission that the Company has been operating
13 at a deficit for the past quarter.

14 JUDGE RUTH: I want to note for the record
15 that you have given me a copy of the document, I'm
16 marking Exhibit 1. It's a letter dated March 16,
17 2002 from Larry -- is it Hiebert?

18 MR. WILLIAMS: Hiebert is the
19 pronunciation.

20 JUDGE RUTH: Hiebert. Thank you. Did you
21 provide a copy for Staff?

22 MR. WILLIAMS: The Staff and the Office of
23 Public Counsel have received a copy, yes.

24 JUDGE RUTH: Thank you. And I'll share
25 this one with the court reporter after the

1 hearing. But that one is noted. Do any of the
2 parties have an objection to that document being
3 received into the record?

4 MR. KRUEGER: I don't.

5 MS. O'NEILL: I don't have any objection
6 for the purposes that Mr. Williams just stated.

7 JUDGE RUTH: Then it will be received.

8 (EXHIBIT NO. 1 WAS RECEIVED INTO THE
9 RECORD.)

10 MR. WILLIAMS: I would state for the
11 record further, that the Company is not opposed,
12 assuming that this process can be completed with a
13 CPA of filing an amended report later. But at this
14 point in time, we have given the Commission the
15 information that we have that's required in the
16 annual report and recognize that it is not complete
17 nor is it satisfactory for our purposes for the
18 Commission.

19 JUDGE RUTH: I think you have answered my
20 next question, which was if the Commission were to
21 file the annual report as suggested by Staff with
22 the letter on the front, indicating that there are
23 discrepancies, does the Company anticipate that you
24 will be able to correct any or all of those
25 discrepancies or deficits? You've mentioned hiring

1 a CPA so --

2 MR. WILLIAMS: In my opinion, that would
3 be required in order to correct those
4 discrepancies. It is beyond the ability of anyone
5 that's employed by the Company to put together the
6 information that would be necessary to answer the
7 Staff's questions. It would require an outside
8 expert CPA to do that. Funding is at this point in
9 time somewhat difficult.

10 JUDGE RUTH: Since the previous employee
11 quit on 4th of July weekend 2001, why has the
12 Company not hired a CPA? It is now March 2002.

13 MR. WILLIAMS: That was -- and, Judge
14 Ruth, I'm sure you're not necessarily familiar with
15 everything that's been ordered for the Company, but
16 the Company was ordered by the Commission in
17 connection with its last rate case to make certain
18 improvements in customer service, which it has been
19 diligently attempting to do, and which has
20 exhausted all of the Company's revenue stream.

21 Also the Company was then ordered to
22 refund to customers approximately \$15,000 during
23 the past quarter in connection with some tariff
24 filing issues and that has also been done. But
25 having done those two things, there is no

1 additional revenues to expend on certified public
2 accountants at this point in time.

3 JUDGE RUTH: Thank you.

4 Those are the only questions that I have.
5 Then I want to give the parties an opportunity to
6 make any response that you wish. If you want to
7 respond to the application to intervene and
8 consolidate, you may respond orally now or you may
9 file something. Technically you have 10 days to
10 file, but if the Commission takes this matter up
11 tomorrow, that effectively shortens your time
12 somewhat. And due to the nature of the request
13 with the Hancock requesting a consolidation before
14 the hearing and the related case starts Monday, I
15 expect the Commission to probably do something
16 tomorrow.

17 So I will let Osage Water Company make any
18 statement, if you wish, at this time.

19 MR. WILLIAMS: Thank you, Judge. First, I
20 would have to state that I have not seen the
21 application to intervene or consolidate.

22 JUDGE RUTH: Were you aware that there
23 was?

24 MR. WILLIAMS: I was not aware until I saw
25 your docket listing out here that such an

1 application had been filed. If I understand what
2 I'm hearing correctly from what you have stated,
3 the application requests that this proceeding has
4 to do with an annual report for Osage Water Company
5 be consolidated with a pending certificate
6 application for a different company.

7 Now, having not seen it, it's difficult to
8 state exactly what they are requesting or why, but
9 the Company, Osage Water Company, certainly would
10 have no reason for this proceeding to be
11 consolidated with the Environmental Utilities
12 proceeding. And speaking for Environmental
13 Utilities, which I also represent, I would be
14 absolutely opposed to it on general principles of
15 timeliness and confusion of issues that there do
16 not appear to be any related issues between the
17 annual report for Osage Water Company, as I have
18 explained to the Commission today, and the
19 application of Environmental Utilities for a
20 certificate. For those reasons we'd be opposed.

21 JUDGE RUTH: You mentioned that you have
22 not yet received your own copy of the document.
23 And I received mine late yesterday afternoon, so I
24 would expect it was filed in the afternoon. If you
25 request a recess so that you may go see the

1 document and read it, I will grant that, but I'm
2 not going to require you to go read that and
3 respond further. I'm just offering.

4 MR. WILLIAMS: And I do appreciate the
5 offer. I'm sure that reading it would not change
6 my position.

7 JUDGE RUTH: Thank you.

8 Mr. Krueger?

9 MR. KRUEGER: Your Honor, I didn't see
10 this pleading until this morning about 8:30, so I
11 haven't had time to fully react to it. I don't
12 know what Staff's position would be at this time on
13 the motion to intervene. As far as the motion to
14 consolidate, we are opposed to it, because the
15 Environmental Utilities' application case has
16 already been one day of hearing about two months
17 ago, I believe. And the remainder of the hearing
18 is supposed to be held on Monday, and it would be
19 our desire to get this case processed as quickly as
20 possible.

21 I don't think that -- and if this was
22 consolidated, then the annual report case would
23 seemingly have to be decided at the same time. I
24 don't think that we should be required to prepare
25 for a hearing on those issues by Monday. And at

1 the same time, I think the Environmental Utilities'
2 application case should not be delayed any
3 further. We want to get that disposed of.

4 JUDGE RUTH: Okay. Thank you.

5 And Ms. O'Neill?

6 MS. O'NEILL: Yes. As far as the
7 application to intervene, we're not going take a
8 position on whether or not intervention should be
9 granted. I think that it could go either way. And
10 for the reasons that Mr. Krueger stated, the fact
11 that we are in the middle of the evidentiary
12 hearing in the application case, Public Counsel
13 would oppose the motion to consolidate. I would
14 note for the record that if there's information
15 that's public information that's available to be
16 introduced into evidence by a party, they can do
17 that. There are ways to introduce evidence into
18 cases that don't require consolidation of cases.
19 And I don't know whether that is something that has
20 anything to do with this application or not.

21 But because we're in the middle of the
22 evidentiary hearing, I just don't know that that's
23 appropriate. Regarding the Staff's recommendation
24 in the case, we believe that if -- you know, we
25 agree with Staff's recommendation that if this is

1 allowed to be filed with an order directing the
2 Company to correct it and file an amended report,
3 that the letter also be attached.

4 Also it looks like the information that is
5 set forth in Exhibit 1, that Mr. Williams has got
6 some guidelines now of what he needs to get
7 together for this CPA. And it looks like -- this
8 is a small company. It's a closely held company
9 and these are things that they should be able to
10 find. And if not, that's going to be a management
11 issue with the other shareholder of Osage Water
12 Company, which is Mr. Mitchell. And I don't know
13 the status of that relationship right now, but at
14 least that's -- I'm glad that Mr. Williams has some
15 guidelines now of some things that he specifically
16 needs to gather to get back to his accountant so he
17 can get on with this, and I'm hoping that that will
18 help him.

19 JUDGE RUTH: Okay. Do the parties have
20 any other matters that need to be addressed at this
21 time? Okay. That will conclude today's
22 prehearing. We're off the record and thank you
23 very much.

24 WHEREUPON, the on-the-record portion of
25 the prehearing conference was concluded.