

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

In the Matter of the Application of )  
Environmental Utilities, LLC, for )  
Permission, Approval, and a Certificate of )  
Convenience and Necessity Authorizing it )  
to Construct, Install, Own, Operate, )  
Control, Manage and Maintain a Water )  
System for the Public Located in )  
Unincorporated Portions of Camden )  
County, Missouri (Golden Glade )  
Subdivision) )

Case No. WA-2002-65

**STAFF'S RESPONSE IN OPPOSITION TO HANCOCK CONSTRUCTION  
COMPANY'S MOTION FOR RECONSIDERATION  
AND MOTION FOR A RECEIVER**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and in support of its Response to Hancock Construction Company's Motion for Reconsideration and Motion for a Receiver, states:

**PROCEDURAL HISTORY:**

1. On June 27, 2002 the Missouri Public Service Commission ("Commission") issued its Report and Order in this case, granting a certificate of convenience and necessity for Environmental Utilities, LLC ("EU") to provide water service to the Golden Glade subdivision. As a condition to granting the certificate, the Commission required EU to establish arrangements, which meet the approval of the Commission, to provide wholesale water to Osage Water Company ("OWC") for the use of OWC's customers in the Eagle Woods subdivision.
2. On August 30, 2002, EU filed its first Water Tariff.
3. Pursuant to the Commission's order of June 27, 2002, EU filed its Water Supply Agreement on September 11, 2002.

4. On September 12, 2002, the Commission issued its Order Directing Filing, directing the Staff to file its recommendation by September 20, 2002, regarding whether EU's Water Supply Agreement satisfies the requirements for issuance of a certificate of convenience and necessity, as established in the Commission's Report and Order of June 27, 2002.

5. On September 18, 2002, Intervenor, Hancock Construction Company, filed its Response to the Notice of Environmental Utilities, LLC.'s Water Supply Agreement, Motion for Reconsideration and Motion for a Receiver.

6. On September 20, 2002, Staff filed its recommendation regarding EU's Water Supply Agreement. In its recommendation, Staff also included its conclusions regarding the EU's Water Tariff.

#### STAFF'S RESPONSE TO HANCOCK'S MOTION FOR RECONSIDERATION

7. In its Motion for Reconsideration, the Hancock Construction Company does not clearly articulate what it is asking the Commission to reconsider. Pursuant to 4 CSR 240-2.160(2), motions for reconsideration of procedural and interlocutory orders must be filed within ten (10) days of the date the order is issued, unless otherwise ordered by the Commission. Pursuant to 4 CSR 240-2.160(1) and Section 386.500(2) RSMo 2000, applications for rehearing must be made before the effective date of the order or decision. The Commission's Report and Order, conditionally granting EU's certificate of convenience and necessity in this case became effective July 7, 2002. Clearly, if considered a motion for rehearing on the issue of whether EU's certificate should be granted, Hancock Construction Company's motion is untimely. If the Hancock Construction Company is asking the Commission to reconsider its Order Directing Filing, issued September 12, 2002, it is not clear what relief the Hancock Construction Company

is seeking. A motion for the Commission to reconsider any other order in this case would be untimely.

8. In its motions, Hancock Construction Company alleges various “events” including “fiduciary breaches,” “felonious authorizations,” and “co-conspiracies” involving the principals of OWC and EU. Hancock Construction Company also sets forth what it calls “evidence” and “new evidence” and asserts that the Commission and the Staff did not consider the “evidence” set forth in its motions and have not enforced previous orders. However, as noted above, if Hancock Construction Company is seeking reconsideration of any order in which the Commission might have considered this evidence, its Motion for Reconsideration is not timely.

9. Therefore, Staff asks the Commission to deny Hancock Construction Company’s Motion for Reconsideration

#### STAFF’S RESPONSE TO HANCOCK’S MOTION FOR A RECEIVER

10. In its Response to the Notice of Environmental Utilities, LLC.’s Water Supply Agreement, Motion for Reconsideration and Motion for a Receiver, the Hancock Construction Company asks the Commission “to appoint an OWC receiver to prevent irrevocable harm to creditors and OWC ratepayers.” While a receivership action may be an appropriate action regarding OWC, the Staff believes this new issue should not be injected at this late stage in the proceedings of the present case, namely an application by EU for a certificate of convenience and necessity.

**WHEREFORE,** the Staff respectfully requests that the Commission deny Hancock Construction Company's Motion for Reconsideration and Motion for a Receiver.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

**/s/ Victoria L. Kizito**

---

Victoria L. Kizito  
Associate General Counsel  
Missouri Bar No. 46244

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-6726 (Telephone)  
(573) 751-9285 (Fax)  
[victoriakizito@psc.mail.state.mo.us](mailto:victoriakizito@psc.mail.state.mo.us)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 30<sup>th</sup> day of September 2002.

**/s/ Victoria L. Kizito**

---