

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Osage Water Company, Inc.'s	)	<b><u>File No. WR-2009-0149, et al</u></b>
Request for a Rate Increase	)	Tariff Nos. YW-2009-0830 and
	)	YS-2009-0827

## ORDER ADDING ISSUES, DELAYING HEARING, AND FURTHER SUSPENDING TARIFF

Issue Date: July 29, 2009

Effective Date: July 29, 2009

This case concerns Osage Water Company's request for a rate increase under the Commission's small utility rate case procedure. In compliance with the Commission's regulation,<sup>1</sup> the Commission's Staff conducted an investigation of the utility's request, and on May 21, 2009, Staff and Osage Water filed a disposition agreement that would grant the utility's request for a rate increase. As it is allowed to do by the Commission's regulation,<sup>2</sup> the Office of the Public Counsel requested an evidentiary hearing regarding the rate increase. That hearing is scheduled for August 6 and 7.

Commission rule 4 CSR 240-3.050(20) requires Public Counsel to provide a specified list of issues to be addressed when it requests an evidentiary hearing regarding a small utility rate increase. Public Counsel's request for hearing, filed on June 26, complied with that requirement by limiting the issue it wished to address to the inclusion in the utility's revenue requirement of interest payments on certain outstanding civil court judgments obtained by creditors against Osage Water. Staff filed a response to Public Counsel's request for hearing on July 6. In that response, Staff did not propose any additional issues

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<sup>1</sup> Commission rule 4 CSR 240-3.050 establishes the small utility rate case procedure.

<sup>2</sup> 4 CSR 240-3.050(19).

for the hearing. Instead, Staff stated that the hearing should be limited to the issue specified by Public Counsel and contended that “all other resolutions” contained in the disposition agreement between Staff and Osage Water should be treated as unopposed and unanimous agreements pursuant to Commission rule 4 CSR 240-2.115(2)(C) and (E). Public Counsel, as well as Staff, agreed to that limitation at the Prehearing Conference held on July 13.<sup>3</sup>

However, on July 16, Staff and Osage Water filed a motion asking the Commission to hear the additional issue of rate case expense. The motion explains that the disposition agreement between Staff and Osage Water does not include costs associated with conducting a formal rate case hearing because the agreement was based on the assumption that the utility’s rate increase request would be resolved informally, without an evidentiary hearing. The motion contends that adding the rate case expense issue will not “prejudice or unduly delay these proceedings.”

In its July 23 response to Staff and Osage Water’s motion, Public Counsel contends that adding the rate case expense issue at this time would both prejudice and unduly delay these proceedings. According to Public Counsel, Staff and Osage Water have failed to demonstrate any reason why they could not have proposed to include the rate case expense issue in a timely fashion, when there was more time for all parties to prepare for the hearing. Furthermore, Public Counsel contends that rate case expense is, in fact, already included in the disposition agreement’s calculation of Osage Water’s rates through what Public Counsel contends is an inflated allowance for receiver fees. If the Commission allows Staff and Osage Water to bring in the rate case expense issue, then Public Counsel contends the Commission must also hear evidence on the receiver fee issue. Finally,

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<sup>3</sup> Transcript, Vol. 2, Pages 7 and 8.

Public Counsel contends that if the Commission allows additional issues to be raised at this late date, it will need additional time to prepare and asks that the evidentiary hearing be delayed.

The Commission is interested in hearing evidence on all contested issues. Since the question of rate case expense is a matter of dispute between the parties, the Commission will allow Staff and Osage Water to present evidence on that issue. As Public Counsel indicates, allowing the parties to present evidence on rate case expense also raises the related issue of receiver fees. To allow sufficient time for the parties to prepare to address those additional issues, the Commission will delay the hearing and will direct the parties to propose a revised procedural schedule. As Osage Water's rate increase tariffs are currently suspended only until August 10, the Commission will further suspend those tariffs.

**THE COMMISSION ORDERS THAT:**

1. Staff and Osage Water Company's Motion to Amend Response and Add the Necessary and Specific Issue of Rate Case Expense to Evidentiary Proceeding is granted.
2. The Office of the Public Counsel's request to add the issue of receiver fees is granted.
3. The procedural schedule for this case is suspended.
4. The hearing scheduled for August 6 and 7, 2009, is postponed.
5. The parties shall file a revised proposed procedural schedule no later than August 3, 2009.
6. The tariff sheets issued on May 26, 2009, by Osage Water Company and assigned Tariff No. YW-2009-0830, previously suspended until August 10, 2009, are further

suspended until September 23, 2009, or until otherwise ordered by this Commission. The tariff sheets suspended are:

**P.S.C. Mo. No 1**

4<sup>th</sup> Revised Sheet No. 5, Canceling 3<sup>rd</sup> Revised Sheet No. 5  
3<sup>rd</sup> Revised Sheet No. 6, Canceling 2<sup>nd</sup> Revised Sheet No. 6

7. The tariff sheets issued on May 26, 2009, by Osage Water Company and assigned Tariff No. YS-2009-0827, previously suspended to August 10, 2009, are further suspended until September 23, 2009, or until otherwise ordered by this Commission. The tariff sheets suspended are:

**P.S.C. Mo. No 1**

2<sup>nd</sup> Revised Sheet No. 10, Canceling 1<sup>st</sup> Revised Sheet No. 10  
1<sup>st</sup> Revised Sheet No. 11, Canceling Original Sheet No. 11

8. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

(S E A L)

Morris L. Woodruff, Deputy Chief Regulatory Law  
Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 29th day of July, 2009.