

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

FILED³

DEC 30 2004

**Missouri Public
Service Commission**

In the matter of:

**The joint application of)
Missouri-American Water Company)
and both Osage Water Company and)
Environmental Utilities, LLC)**

Case No. WO-2005-0086

**ANSWER OF DEPARTMENT OF NATURAL RESOURCES
AND CLEAN WATER COMMISSION TO APPLICANT
ENVIRONMENTAL UTILITIES' REQUEST FOR ADMISSIONS**

1. **REQUEST FOR ADMISSION:** That the proposed sale of assets of Environmental Utilities, LLC, to Missouri American Water Company as set forth in the Application and the Exhibits attached thereto is not detrimental to the interests of the members of the public who receive service from said assets.

OBJECTION: The request asks for an admission of the legal conclusion that is ultimately to be determined by the Public Service Commission and, by implication, requests admissions that the application and attached exhibits, to the extent that they set forth facts, are complete, correct, true and sufficient to establish that legal conclusion without further factual inquiry. The Department and the Clean Water Commission lack sufficient information to either admit or deny the completeness, correctness, truth and sufficiency of the application and attached exhibits to establish that the proposed transfer of assets is not detrimental to the interests of the members of the public who receive service from said assets.

2. **REQUEST FOR ADMISSION:** That the proposed sale of assets of Osage Water Company to Missouri American Water Company as set forth in the Application and the Exhibits attached thereto is not detrimental to the interests of the members of the public who receive service from said assets.

OBJECTION: The request asks for an admission of the legal conclusion that is ultimately to be determined by the Public Service Commission and, by implication, requests admissions that the application and attached exhibits, to the extent that they set forth facts, are complete, correct, true and sufficient to establish that legal conclusion without further factual inquiry. The Department and the Clean Water Commission lack sufficient information to either admit or deny the completeness, correctness, truth and sufficiency of the application and attached exhibits to establish that the proposed transfer of assets is not detrimental to the interests of the members of the public who receive service from said assets.

3. REQUEST FOR ADMISSION: That the proposed purchase by Missouri American Water Company of the water and sewer systems owned by Hurricane Deck Holding Company as set forth in the Application and the Exhibits attached thereto is not detrimental to the interests of the members of the public who receive service from said assets.

OBJECTION: The request asks for an admission of the legal conclusion that is ultimately to be determined by the Public Service Commission and, by implication, requests admissions that the application and attached exhibits, to the extent that they set forth facts, are complete, correct, true and sufficient to establish that legal conclusion without further factual inquiry. The Department and the Clean Water Commission lack sufficient information to either admit or deny the completeness, correctness, truth and sufficiency of the application and attached exhibits to establish that the proposed transfer of assets is not detrimental to the interests of the members of the public who receive service from said assets.

4. REQUEST FOR ADMISSION: That the proposed purchase by Missouri American Water Company of the water and sewer systems owned by Gregory D. Williams and Debra J. Williams as set forth in the Application and the Exhibits attached thereto is not detrimental to the interests of the members of the public who receive service from said assets.

OBJECTION: The request asks for an admission of the legal conclusion that is ultimately to be determined by the Public Service Commission and, by implication, requests admissions that the application and attached exhibits, to the extent that they set forth facts, are complete, correct, true and sufficient to establish that legal conclusion without further factual inquiry. The Department and the Clean Water Commission lack sufficient information to either admit or deny the completeness, correctness, truth and sufficiency of the application and attached exhibits to establish that the proposed transfer of assets is not detrimental to the interests of the members of the public who receive service from said assets.

5. REQUEST FOR ADMISSION: That the proposed sale of assets as set forth in the Application and the Exhibits attached thereto is not detrimental to the public.

OBJECTION: The request asks for an admission of the legal conclusion that is ultimately to be determined by the Public Service Commission and, by implication, requests admissions that the application and attached exhibits, to the extent that they set forth facts, are complete, correct, true and sufficient to establish that legal conclusion without further factual inquiry. The Department and the Clean Water Commission lack sufficient information to either admit or deny the completeness, correctness, truth and sufficiency of the application and attached exhibits to establish that the proposed transfer of assets is not detrimental to the public.

6. REQUEST FOR ADMISSION: That the Missouri Public Service Commission does not have the legal authority to determine the interests of persons making claim to the

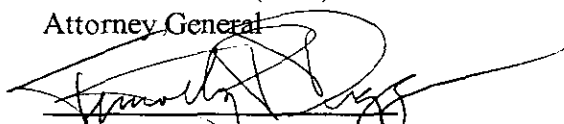
proceeds of the sale of the assets of Osage Water Company. See State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz, 596 S.W. 2d 466 (Mo. App. E.D. 1980).

OBJECTION: This request does not require an answer because it seeks an admission of an abstract proposition or a conclusion of law. See Linde v. Kilbourne, 543 S.W.2d 543, 547 (Mo. App. W.D. 1976).

7. REQUEST FOR ADMISSION: That the allowable rate base value of the assets to be purchased by Missouri American Water Company as set forth in the Application and the Exhibits attached thereto is not less than the aggregate of the proposed sale prices for said Assets.

OBJECTION: The request asks for an admission of the legal conclusion that is ultimately to be determined by the Public Service Commission and, by implication, requests admissions that the application and attached exhibits, to the extent that they set forth facts, are complete, correct, true and sufficient to establish that legal conclusion without further factual inquiry. The Department and the Clean Water Commission lack sufficient information to either admit or deny the completeness, correctness, truth and sufficiency of the application and attached exhibits to establish that the allowable base rate value of the assets is not less than the aggregate of the proposed sale prices for said assets.

Respectfully submitted,
JEREMIAH W. (JAY) NIXON
Attorney General



TIMOTHY P. DUGGAN, MBE #27827
Assistant Attorney General
8th Floor, Broadway Building
P. O. Box 899
Jefferson City, Missouri 65102
Phone: (573) 751-9802
TELEFAX No. (573) 751-8464

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of foregoing to be delivered by
United States mail, postage prepaid, this 29th day of December, 2004, to

The Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102

Dean L. Cooper, c/o Missouri American Water Co.
Richard C. Ciottone
Brydon, Swearengen & England P.C.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102

Gregory D. Williams, c/o Osage Water Co.
P.O. Box 431
Sunrise Beach, MO 65079

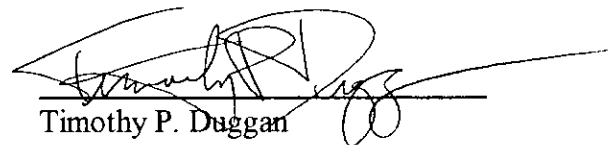
Mark Comley, c/o Cedar Glen Condominium Owners Ass'n, Inc.
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102

Terry Allen c/o Hancock Construction
314 Monroe St.
P.O. Box 1702
Jefferson City, MO 65102

Secretary of the Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Dana K. Joyce
Cliff Snodgrass
P.O. Box 360
200 Madison St., Suite 800
Jefferson City, MO 65102

John B. Coffman P.O. Box 7800
200 Madison St., Suite 640
Jefferson City, MO 65102


Timothy P. Duggan