

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

The Staff of the)	
Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	Case No. WC-2006-0064
)	
Osage Water Company,)	
)	
Respondent.)	

STATUS REPORT AND NOTICE OF DISMISSAL OF COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission and for its *Status Report And Notice of Dismissal Of Complaint* and in response to the Commission's October 18, 2005 *Order Directing Staff To File Status Report*, states the following:

1. On August 5, 2005, the Staff filed its *Complaint And Motion For Expedited Treatment* (Complaint) against Osage Water Company. For the reasons stated in its Complaint, the Staff sought a Commission order directing its General Counsel to petition the Circuit Court of Cole County for an order attaching the assets of Osage Water Company (OWC) and placing OWC under the control and responsibility of a receiver. On the same date, the Commission scheduled an evidentiary hearing to take place on September 14 and 15, 2005.

2. On September 9, 2005, the Commission issued its *Order Canceling Hearing* as a result of a stay order issued by the Circuit Court of Camden County. This stay order directed the Commission to take no further action regarding Staff's complaint due to the pendency of the Commission's *Petition For Appointment Of Receiver* for OWC that was before the Circuit Court of Camden County in Case No. CV102-965CC and scheduled for argument on October 7, 2005.

On October 24, 2005, the Circuit Court of Camden County issued an Order appointing Gary Cover as receiver for OWC and directing the receiver to negotiate with Mike McDuffey, the owner of Lake of the Ozarks Water and Sewer, to operate and maintain OWC's water and sewer facilities. The Order further directs the receiver to liquidate the assets of OWC as soon as practicable. (A copy of the Order signed by Judge Hutcherson, Circuit Court of Camden County, is attached hereto as Exhibit A and incorporated by reference herein.)

3. Because the relief that is provided in the recent Order of the Circuit Court of Camden County grants the Staff the ultimate relief that it sought in its Complaint, any further pursuit of this Complaint by the Staff is mooted.

4. Commission rule 4 CSR 240-2.070 (6) permits on motion of a party after notice to dismiss a complaint for failure to state a claim on which relief may be granted. Because Judge Hutcherson's October 24, 2005 Order of the Circuit Court of Camden County appoints a receiver for OWC, there is no other relief that may be granted to the Staff by the Commission. Therefore, under Commission rule 4 CSR 240-2.116 (1) which permits a complainant to dismiss its complaint, the Staff dismisses its complaint for the reasons stated above.

WHEREFORE, the Staff asks the Commission to take notice of the October 24, 2005, Order of the Circuit Court of Camden County that appoints a receiver for Osage Water Company and dismisses its Complaint against Osage Water Company in accordance with Commission rule 4 CSR 240-2.116 (1).

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Robert S. Berlin

Robert S. Berlin
Associate General Counsel
Missouri Bar No. 51709

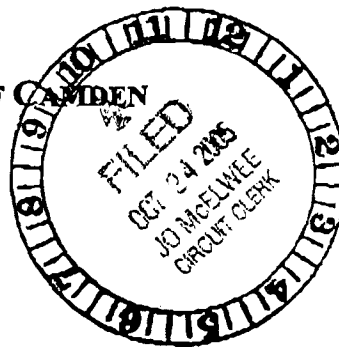
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 526-7779 (Telephone)
(573) 751-9285 (Fax)
email: bob.berlin@psc.mo.gov

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 26th day of October 2005.

/s/ Robert S. Berlin

IN THE CIRCUIT COURT FOR THE COUNTY OF CAMDEN
STATE OF MISSOURI



Public Service Commission of the State of)
Missouri,)

Plaintiff,)

v.)

Osage Water Company,)

Defendant.)

Case No. CV102-965CC

ORDER

On the 8th day of March, 2004, this cause came on for trial. Plaintiff Public Service Commission appeared by its attorneys, Keith R. Krueger and David A. Meyer. Intervenor Office of the Public Counsel appeared by its attorney, Ruth O'Neill. Paula Hernandez-Johnson, attorney for Defendant Osage Water Company failed to appear, and Defendant appeared without counsel, but William P. Mitchell, president of Defendant was present in court as the corporate representative of Defendant Osage Water Company.

Cause called. After the commencement of the trial, the Court received faxed copies of a Motion for Continuance and an Application / Petition to Disqualify Judge, submitted by Paula Hernandez-Johnson, counsel of record for Defendant Osage Water Company, which were overruled as untimely filed.

On March 9, 2004, after the conclusion of evidence, and during argument on the cause by counsel, the Court received a Notice of Bankruptcy Court Filing issued by the United States Bankruptcy Court for the Western District of Missouri in Case No. 04-20546, which indicated that Defendant Osage Water Company filed a Petition for Bankruptcy under Chapter 7 of the

Exhibit A

United States Bankruptcy Code on March 9, 2004, at 1:59 p.m. The Notice of Bankruptcy Court Filing further included the following statement:

The filing of a bankruptcy case automatically stays certain actions against the debtor and the debtor's property. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized.

Pending resolution of the bankruptcy case, further proceedings in this cause were stayed.

The U.S. Bankruptcy Court issued its judgment dismissing Osage Water Company's bankruptcy case on April 29, 2004. The Bankruptcy Court's Judgment further enjoined Osage Water Company from filing a subsequent bankruptcy petition for 180 days.

On or before June 2, 2004, Gregory D. Williams entered his appearance as attorney for Osage Water Company.

On June 2, 2004, the Court heard argument on various legal issues and the Company advised the Court that it had nearly reached agreement to sell its assets to Missouri-American Water Company. The Court announced that it had determined that the appointment of a receiver was appropriate, but that it would delay the entry of such an order, while the proposal to sell the Company's assets was pending.

Upon the direction of the Court, the Commission subsequently filed 39 Status Reports regarding the progress of the proposed sale of the Company's assets to Missouri-American and of the application to the Commission for approval of such sale of assets.

On October 7, 2005, the Commission and the Company appeared through counsel for argument on the Commission's Petition for Appointment of Receiver. The Office of the Public Counsel, although notified of the hearing, appeared not.

This Court will now rule upon the Plaintiff's Petition.

The Court finds that, based upon the evidence received in this proceeding, Osage Water Company has failed to provide safe and adequate water service to its customers as required by Section 393.130.1 RSMo. (2000). Section 393.130.1 provides, in part, as follows:

Every gas corporation, every electrical corporation, every water corporation, and every sewer corporation shall furnish and provide such service and instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable.

The Court further finds that although Osage Water Company did execute a contract to sell its assets to Missouri-American Water Company and did seek the Commission's approval of this asset sale, the Commission found, in the opinion of this Court improperly and against public interest, that the proposed asset sale was detrimental to the public interest and dismissed Osage Water Company's application, and that the Company has not sought judicial review of the Commission's order.

By reason of the refusal of the Commission to approve the contract of sale the appointment of a receiver for Osage Water Company is necessary to promote the best interests of the customers of the Company, and to ensure that the customers of the Company receive safe and adequate water and sewer service. See Section 393.145.6, RSMo, as amended by Senate Bill 462 (Laws 2005). Section 393.145.5, RSMo, as amended by Senate Bill 462 (Laws 2005) authorizes the Court to grant the Commission's Petition to appoint a receiver for a water corporation or a sewer corporation. It provides that "[t]he court, after hearing, may grant the commission's petition for appointment of a receiver" and "[a] receiver appointed pursuant to this section shall be a responsible person, partnership, or corporation knowledgeable in the operation of utilities."

The Court further finds that Gary Cover of Clinton, Missouri possesses the foregoing statutory qualifications for service as a receiver. The Court therefore appoints Gary Cover as

receiver for Osage Water Company until further order of this Court. The appointed receiver shall have all of the powers, rights and authority vested in receivers pursuant to the provisions of Section 393.145.6, RSMo, as amended by Senate Bill 462 (Laws 2005). The appointed receiver shall post bond in the amount of \$50,000, with the premium therefore to be paid from the assets of the Company.

The Court further directs the receiver to negotiate with Mike McDuffey, the owner of Lake of the Ozarks Water and Sewer, for the provision of services to operate and maintain the Company's water and sewer facilities.

The Court further orders that Osage Water Company and its officers, agents and representatives, and specifically its past contractual agent and representative Environmental Utilities, LLC, employees and successors, and all other persons in active concert and participation with them, are directed to cooperate with Mr. Cover and with Mr. McDuffey to promptly transfer control of Osage Water Company to the appointed receiver; and to deliver to him all records and assets.

Section 393.145 also authorizes the Court to direct the receiver to liquidate the assets of the Company. Section 393.145.7, RSMo, as amended by Senate Bill 462 (Laws 2005) provides in full as follows:

Control of and responsibility for the utility shall remain in the receiver until the utility can, in the best interests of its customers, be returned to the owners. However, if the commission or another interested party petitions and the court determines, after hearing, that control of and responsibility for the utility should not, in the best interests of its customers, be returned to the owners, the court shall direct the receiver to transfer by sale or liquidate the assets of the utility in the manner provided by law.

The Court directs the receiver to liquidate the assets of the Company as soon as practicable on terms that protect the interest of the customers of the Company, and allow them to

continue to receive utility service from the assets that have been put in place to serve them. The Court further directs and requires the appointed receiver to exercise care when liquidating the assets of the Company to ensure that any assets that are not immediately sold may still be efficiently operated after other systems and assets are sold. Further the Court requires the Receiver to file with the Court a request to proceed with sale upon the event that a buyer is found on terms agreeable to the Receiver.

The Receiver shall file monthly status reports with the Court and provide e-mail copies to the Court and to Attorneys of record, and to the Company if it is not represented.

The Court further grants the oral motion of Gregory D. Williams to withdraw as counsel for Osage Water Company.

That the Order for periodic reports by the Commission and Company is terminated.

So ordered this 21st day of October, 2005.



John R. Hutcherson, Judge