



Commissioners

SHEILA LUMPE  
Chair

M. DIANNE DRAINER  
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.state.mo.us>

September 21, 2000

BRIAN D. KINKADE  
Executive Director

GORDON L. PERSINGER  
Director, Research and Public Affairs

WESS A. HENDERSON  
Director, Utility Operations

ROBERT SCHALLENGER  
Director, Utility Services

DONNA M. KOLILIS  
Director, Administration

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

FILED<sup>2</sup>

SEP 21 2000 *W*

Missouri Public  
Service Commission

RE: Case No. WC-2001- 195

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **COMPLAINT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely, yours,

Cliff E. Snodgrass  
Senior Counsel  
(573) 751-3966  
(573) 751-9285 (Fax)

CES:sw  
Enclosure  
cc: Counsel of Record

**Service List for**  
**Case No. WC-2001-\_\_\_\_**  
**Revised: September 18, 2000**

**Office of the Public Counsel**  
**P.O. Box 7800**  
**Jefferson City, MO 65102**

**Osage Water Company**  
**Route 2, Box 3347**  
**Osage Beach, MO 65065**

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

FILED<sup>2</sup>

SEP 21 2000 *mt*

Missouri Public  
Service Commission

Staff of the Missouri Public Service Commission,  
Complainant,  
vs.  
Osage Water Company,  
Respondent.

Case No. WC-2001- 195

COMPLAINT

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), by and through the General Counsel, pursuant to § 386.390 RSMo 1994 and 4 CSR 240-2.070, and for its Complaint states as follows:

1. § 386.390(1) RSMo 1994 establishes, among other things, that parties may present a Complaint before the Missouri Public Service Commission (Commission) regarding any act or omission committed by any person, corporation or public utility. This statute also provides that the Complaint may be based upon any alleged violation of any provision of law or of any rule or decision of the Commission.

2. Commission Rule 4 CSR 240-2.070(1) provides, in part, that the Commission Staff has authority to file a Complaint through the General Counsel in connection with any violation of statute, rule, order or decision within the jurisdiction of the Commission.

3. The Commission has granted the Respondent a certificate of convenience to own and operate a water system in each of the following cases: Case Nos. WM-89-73, WA-92-141, WA-94-132, WA-97-110, WA-98-36, WA-98-236, and WA-99-437.

4. Osage Water Company (Osage or Respondent) is a corporation operating within the State of Missouri and has its principal business office located at Route 2, Box 3347, Osage Beach, Missouri 65065. Respondent is a "public utility" and a "water corporation" operating a "water system" primarily in Camden County, Missouri, and is subject to the jurisdiction of the Commission pursuant to Sections 386.250 (3)(5), and 386.020(42)(58)(59) RSMo Supp. 1999.

5. On Monday, July 24, 2000, at approximately 4:00 p.m., Osage disconnected and/or discontinued water service to a Lake of the Ozarks, "Harbor Bay" condominium building located within Osage's certificated area in Camden County, Missouri. The mailing address of the condominium at issue is HCR 77 Box 250, Sunrise Beach, Missouri 65079. This condominium has sixteen residential customers. The water entering this structure and serving customers was provided by the Respondent as a public utility and/or water corporation. Water to the condominium was restored or reconnected by the Respondent at approximately 1:00 p.m. on July 25, 2000.

6. Discontinuance of water service to customers located in this condominium was done without notice, and was based upon a dispute that Osage had with the developer of an adjacent and separate condominium also located in "Harbor Bay".

7. Staff was aware of the dispute between the Respondent and the developer and was made aware of the proposed discontinuation of service. Staff contacted Mr. Pat Mitchell, the Respondent's employee, and/or corporate officer by telephone and advised Mr. Mitchell not to discontinue service to the customers of the condominium at issue, before the discontinuance of service actually occurred.

8. § 386.570 RSMo 1994 provides, in part, that the failure of any corporation, person or public utility to comply with any law of the State of Missouri, or any order, decision, rule, direction, demand or requirement of the Commission is subject to a penalty for each offense. Penalties authorized by this enactment consist of not less than one hundred dollars or more than two thousand dollars for each offense. In addition, this statute also indicates that in construing and enforcing the provisions of Chapter 386, the omission or failure of any officer, agent or employee of any corporation or public utility, acting within the scope of his official duties of employment, shall in every case be deemed the act, omission or failure of such corporation, person or public utility.

9. § 386.600 RSMo 1994 provides that the General Counsel of the Commission has authority to bring an action to recover penalties or to enforce the powers of the Commission in Circuit Court.

### Count I

7 10. Disconnection of water service to Missouri customers without notice is a violation of Commission Rule 4 CSR 240-13.050 (5) which provides, among other things, that a utility shall not discontinue residential service unless written notice by first class mail is sent to the customer at least ten (10) days prior to the date of the proposed discontinuance. Alternatively, this Rule also states that a utility may discontinue service to a customer within ninety-six (96) hours, if notice of the disconnection is delivered by hand to the customer affected. During the dispute with the developer, Osage did not provide either a notice by mail, or a hand-delivered notice to the customers of the previously identified condominium, prior to a discontinuance of their water service. Osage also failed to allow either ten days or ninety-six hours to elapse prior to discontinuance or disconnection of these sixteen residential customers on July 24, 2000.

### Count II

11. Osage's discontinuance of service without notice to its customers is a violation of its current tariff on file with the Commission. Respondent's "Discontinuance of Water Service By Company" provisions are found in its tariff at P.S.C. MO No. 1, 1<sup>st</sup> Revised Sheet 17, Rule 7(b), a copy of which is attached to this Complaint, labeled as Appendix A, and incorporated herein by reference. This tariff indicates that discontinuance of service may occur after notice by first class mail is sent to the customer at least ten (10) days prior to the date of the proposed discontinuance, or, if written notice of discontinuance of service is hand-delivered to the customer, discontinuance may occur ninety-six hours thereafter. The Respondent failed to provide either notice of discontinuance of service by mail or by hand delivery, and it also failed to allow either ninety- six hours or ten days to elapse before it discontinued service to customers as a result of its dispute with the developer that occurred on July 24, 2000.

### **Count III**

12. Osage's discontinuance of water service to its customers on July 24<sup>th</sup>, 2000, in connection with the condominium at issue, was a violation of Commission Rule 4 CSR 240-13.050(1)(A-H). Basically, this Rule lists the reasons for which service to customers may be discontinued by a regulated utility. None of the customers of the condominium described in this Complaint, had engaged in any of the conduct specified in the said Rule. Therefore, discontinuance of water service to these customers was in contravention of 4 CSR 240-13.050(1)(A-H). In essence, these residential customers were blameless and without fault of any kind. Discontinuance of their service was unjustified and unlawful.

### **Count IV**

13. § 393.130 RSMo 1994 requires every water corporation to furnish such service as shall be safe and adequate service. Osage violated this statutory obligation to its customers because it failed to provide "adequate" water service to its customers during the time frame previously discussed herein. Osage provided no water whatsoever during the period of discontinuation, which again, was based upon a dispute unrelated to the customers that were deprived of this essential water service.

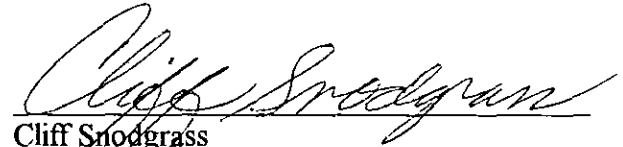
**WHEREFORE**, Staff, by and through the Office of General Counsel of the Commission, requests the Commission to:

- A. Find that Osage has violated Commission Rule 4 CSR-240-13.050 (5) by failing to provide the required notice to its customers before discontinuance of water service occurred on July 24, 2000.
- B. Find that Osage violated the provisions of its own tariff by failing to provide the required notice to its customers before discontinuance of water service occurred on July 24, 2000.
- C. Find that Osage violated Commission Rule 4 CSR-240-13.050(1)(A-H) because none of the affected customers had engaged in any of the conduct that allowed discontinuance of water service by a water utility.
- D. Find that Osage violated its statutory obligation under § 393.130 RSMo 1994 to provide adequate water service on July 24, 2000, because it provided no service whatsoever to its customers during the period of discontinuation of service previously specified in this Complaint.
- E. Authorize the General Counsel to seek penalties authorized under §386.570 RSMo 1994 in the appropriate Circuit Court of the State of Missouri.
- F. Issue such other findings and or Orders that the Commission deems just and appropriate.



Respectfully submitted,

DANA K. JOYCE  
General Counsel



Cliff Snodgrass  
Senior Counsel  
Missouri Bar No. 52302

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-3966 (Telephone)  
(573) 751-9285 (Fax)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all parties of record as shown on the attached service list this September 21st, 2000.

