

Exhibit
B



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

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

SS A. HENDERSON
Executive Director

DANA K. JOYCE
Director, Administration

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

April 7, 2006

Mr. Marc Ellinger, Esq.
Blitz, Bardgett & Deutsch, L.C.
308 East High Street
Jefferson City, Missouri 65101

RE: Aqua Missouri, Inc. (Lake Carmel Subdivision)

Dear Mr. Ellinger:

It is my understanding that two individual lot owners, named Amanda Barnhart and Rick Rolsing, have sought to make application for sewer service in the Lake Carmel Subdivision service area of your client, Aqua Missouri, Inc., and have been refused. I thought I understood you to have told me that service would be provided to all individual lot owners that requested it. Evidently, that has not happened.

As a water corporation, a sewer corporation and a public utility pursuant to Section 386.020, RSMo., Aqua Missouri is obligated to provide service to anyone that requests it. *Overman v. Southwestern Bell Tel. Co.*, 675 S.W.2d 419, 424 (Mo. App., W.D. 1984). Additionally, I have already advised you that it is my view that, under its tariff, Aqua Missouri must permit any member of the public to make application for service upon request. Indeed, the tariff appears to require that connections be made within 48 hours of the application: "An application for new connection must be filed in writing forty-eight (48) hours in advance stating the location, name of the applicant, name of the property owner, and the time at which connection is to be made." *Aqua Missouri, Inc., P.S.C. Mo. No. 2, Revised Sheet SRR 22, Canceling Original Sheet SRR 22*. Of course, whether or not service is granted to an applicant depends upon the applicant's satisfaction of any conditions contained in the company's tariff. For example, the company can require a contract where "unusual" costs will be involved. *Id.* However, my information does not suggest that either Mr. Rolsing or Ms. Barnhart has refused to meet any necessary conditions that the tariff allows the company to require.

There also remains outstanding the issue of Becker Construction Company, the current developer of the Lake Carmel Subdivision. It is my understanding that Mr. Becker has also been refused the opportunity to complete an application. Again, it is my view that, as with anyone

Mr. Marc Ellinger, Esq.
Aqua Missouri, Inc. (Lake Carmel Subdivision)
April 7, 2006
Page 2

else seeking service, the tariff requires that the company allow the developer to make application. For that matter, the company's obligations under the law as a public utility do not permit it to refuse to serve Mr. Becker. I realize that Mr. Becker has thus far refused to enter into a contract with the company as called for by the tariff at Original Sheet No. SRR43. However, he has recently provided, at his expense, two engineering studies, both of which have failed to gain approval from the Missouri Department of Natural Resources (DNR). It is not clear to me that the tariff requires Mr. Becker to provide engineering studies. See, for example, Paragraph 7 of the Contractor Form Agreement (Exhibit B) at Original Sheets SE 8 and SE 9. I believe it is the company's obligation to design the necessary plant expansion, obtain the required permits, and perform the construction. Mr. Becker's obligation, so far as the tariff reveals, is to deposit with you the estimated cost of the expansion necessary to meet his needs.

However, whether or not Mr. Rolsing, Ms. Barnhart or Mr. Becker are provided sewer service, it appears to me that Aqua Missouri must undertake an expansion of the Lake Carmel system. In a recent telephone conversation, you provided daily flow measurements to me far in excess of the Lake Carmel treatment facility's permit limit. These figures suggest that an expansion is already overdue, even without additional connections. As you know, the Commission has "plenary power to coerce a public utility corporation into a safe and adequate service." *State ex rel. Missouri Southern R. Co. v. Public Service Commission*, 259 Mo. 704, ___, 168 S.W. 1156, 1163 (banc 1914). This includes the explicit statutory authority to "order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such . . . sewer system, . . . and have power to order reasonable improvements and extensions of the works, . . . pipes, lines, conduits, ducts and other reasonable devices, apparatus and property of . . . sewer corporations." Section 393.140(2), RSMo. Because this work is necessary regardless of the expansion of capacity sought by Mr. Becker, I do not think that he should have to bear the entire cost.

I urge you to advise your client that the time has come to reach an agreement with Mr. Becker as to an equitable division of the costs likely to be incurred in this expansion.

As I stated above, I believe that the company must take the lead in designing the expansion – it is, after all, your system. Frankly, I think it would be fair, as well, to allow Mr. Becker a credit for the engineering work that he has already paid for.

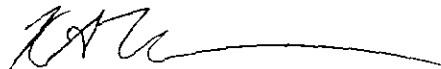
Whether you reach an accord with Mr. Becker or not, the Lake Carmel system must be upgraded. Your own flow data and the pervasive indications that new customers are being turned away, prove that point to my satisfaction. You are aware, I know that lots in the Lake Carmel Subdivision are practically worthless in the absence of sewer service. Thus, very real harm is being suffered by members of the public. The current impasse has gone on far too long already and cannot continue.

Mr. Marc Ellinger, Esq.
Aqua Missouri, Inc. (Lake Carmel Subdivision)
April 7, 2006
Page 3

I need your response outlining the steps Aqua Missouri will take to rectify this situation not later than April 14, 2006. Otherwise, on the following Monday, I will file a complaint before the Commission, requesting that, pursuant to Section 393.140(2), RSMo., it requires Aqua Missouri to make such "reasonable improvements and extensions" as "will best promote the public interest." Under such an order, I would expect the company to bear the entire cost of the improvements.

I look forward to hearing from you.

Very truly yours,



Kevin A. Thompson
General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
573-751-6514 (Voice)
573-526-6969 (Fax)
kevin.thompson@psc.mo.gov

cc: Public Service Commissioners
✓ Mr. Keith Wenzel, Esq.