

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In The Matter Of The)
Application Of Ozark Mountain)
Water Company For A Certificate)
Of Convenience And Necessity)
To Become A Public Utility For)
The Purpose Of Serving Water)

Case No. WA-78,170



In The Matter Of The)
Application Of Lakeside)
Investment Company To Hold)
More Than 10% Of The Common)
Stock Issued By Ozark Mountain)
Water Company,)

Case No. WF-78,171

In The Matter Of The)
Application Of Turkey)
Mountain Estates, Inc., To Hold)
More Than 10% Of The Common)
Stock Issued By Ozark)
Mountain Water Company,)

Case No. WF-78,172

MOTION TO QUASH SUBPOENA

Come now Turkey Mountain Estates, Inc., Lakeside Investment Company, Tomahawk Developers, Inc., and Central Crossing Developers, Inc., described as "Developers" in that certain subpoena duces tecum issued pursuant to request of certain intervenors in the within case, and object to the requirement that their Certified Public Accountant, to-wit: Roger H. Taylor, shall produce copies of Federal Income Tax returns pertaining to the development of water plant used to construct the water systems which are the subject of the within hearing. The grounds for motion are:

(a) Said federal income tax returns are confidential documents personal to the aforesaid taxpayers and are entitled under Federal Law to be protected from examination by third parties or the general public and to retain and maintain their confidentiality.

(b) These movants have been advised that the out-of-pocket cost of producing the information is substantial, perhaps \$400 which ultimately these developers, or Ozark Mountain Water Company, will be required to pay, unless the Commission otherwise orders.

(c) The information sought to be elicited pursuant to said subpoena is completely irrelevant and immaterial to the issues of this case in that they purport to seek information as to the costs of development of water properties now under examination in the within cause. Such information and data are completely

immaterial for the following reasons:

-i- The Developers, to-wit: the undersigned companies, propose to contribute without cost all properties used by them in installing and laying the existing water facilities; and

-ii- Said Developers also propose to accrue no depreciation expense in connection with the installation heretofore made of water properties.

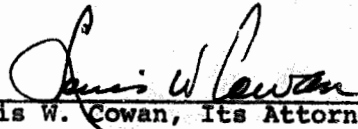
As a consequence of (a) and (b) above, the existing plant now used or available for the distribution of water in the area for which a certificate of convenience and necessity is sought will not be included in the utility rate base, nor will the utility for regulatory or for rate making purposes claim any depreciation expense for said property heretofore installed.

The Developers further state to the Commission that they have no objection to the Commission or its staff examining said income tax returns in the Company's or its accountant's offices; provided the confidentiality of nonrelevant matters is preserved, and that they will cooperate with the Commission and its staff in this regard.

WHEREFORE, Turkey Mountain Estates, Inc., Lakeside Investment Company, Tomahawk Developers, Inc., and Central Crossing Developers, Inc., move the Commission to enter its Order holding that the above referenced material, as reflected by the subpoena for Federal Income Tax returns, is immaterial, irrelevant, and of no probative value in this cause; that the undersigned petitioners are entitled to have their income tax returns protected from public scrutiny; and that the aforesaid subpoena is quashed.

TURKEY MOUNTAIN ESTATES, INC.,
LAKESIDE INVESTMENT COMPANY,
TOMAHAWK DEVELOPERS, INC., and
CENTRAL CROSSING DEVELOPERS, INC.,

By:


Louis W. Cowan, Its Attorney

LILLEY, COWAN, LOVE & DORAN
Attorneys at Law
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CERTIFICATE OF SERVICE

I certify that I have served a true and correct copy of the foregoing Motion To Quash Subpoena upon Mr. Charles J. Fain, Attorney at Law, 333 Madison Street, Jefferson City, Missouri 65101, Attorney For Intervenor, Turkey Mountain Estates Home Owners Association Nos. 1 and 2, and Mr. Gary Duffy, Counsel, Missouri Public Service Commission, Jefferson City, Missouri 65101, by depositing copies thereof into the United States Mail, postage prepaid, addressed to their respective addresses, this 8th day of January, 1979.

Lewis W. Lawton