

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

In the Matter of the Release of Staff's)
Audit Report Regarding Environmental) Case No. _____
Utilities, L.L.C., and Osage Water Company)

**MOTION TO OPEN DOCKET AND REQUIRE
ENVIRONMENTAL UTILITIES, L.L.C., TO SHOW CAUSE
WHY STAFF'S AUDIT REPORT SHOULD NOT BE MADE PUBLIC**

COMES NOW the Staff of the Missouri Public Service Commission, by and through the Commission's General Counsel, and for its Motion states as follows:

Introduction

1. The Staff of the Missouri Public Service Commission ("Staff") brings this action under Section 386.480, RSMo, seeking an order of the Commission authorizing the public release of Staff's Audit Report of its limited audit of Environmental Utilities, L.L.C. ("EU"), and Osage Water Company ("OWC").

The Parties

2. EU is a Missouri limited liability company in good standing, organized on July 17, 2001, by Gregory D. Williams and Debra J. Williams. EU's Registered Agent is Gregory D. Williams and his address is Highway 5 at Lake Road 5-33, Sunrise Beach, Missouri 65079.

3. EU is a duly certificated provider of water services to the public in Camden County, Missouri, and is thus a "water corporation" and a "public utility" within the intendments of Section 386.020, RSMo, and subject to the jurisdiction of the Missouri Public Service Commission pursuant to Chapters 386 and 393, RSMo.

4. Among EU's customers is OWC, a duly certificated provider of water and sewer services in Camden County, Missouri. OWC purchases water from EU pursuant to a wholesale

water contract and uses that water to serve its customers in the Eagle Woods Subdivision in Camden County, Missouri. OWC has no other source of water with which to supply its customers in Eagle Woods.

5. OWC is a Missouri general business corporation in good standing. Its registered agent is William P. Mitchell and its registered office is at 328 Frontage Road, Osage Beach, MO 65065. Since October 21, 2005, OWC has been operated by a receiver appointed by the Circuit Court of Camden County, Missouri, at the motion of this Commission pursuant to Section 393.145, RSMo. OWC serves some 402 water service customers and 346 sewer service customers in seven separate service areas in the vicinity of the Lake of the Ozarks.

6. In addition to EU's relationship to OWC by virtue of the wholesale water contract referred to above, EU also formerly operated OWC under an Operation and Maintenance Agreement ("O&M Agreement") dated September 1, 2002, which agreement authorized EU to "collect all revenues due and owing to Osage Water Company" and to "pay therefrom all expenses incurred in the operation of the water and sewer utility systems now owned by Osage Water Company" and to "reimburse therefrom the expenses incurred by Environmental Utilities, LLC" EU terminated the O&M Agreement with OWC, effective September 30, 2005.

7. The Staff of the Missouri Public Service Commission traditionally appears as a party in Commission proceedings and is represented by the Commission's General Counsel, an employee of the Commission authorized by statute to "represent and appear for the Commission in all actions and proceedings involving this or any other law [involving the Commission.]" Section 386.071, RSMo.

The Audit

Staff conducted a limited audit of EU and OWC commencing on December 29, 2006, because EU had, on December 12, 2005, notified OWC that it was disconnecting its water service effective December 27, 2005, for non-payment of \$5,009.67 for water service provided to OWC by EU. Staff's audit goal was to determine, first, whether OWC was able to pay for the water service provided by EU and, second, whether EU had good cause to serve the disconnection notice referred to above on OWC.

8. Staff's audit found, first, that OWC was indeed able to pay for the water service provided to OWC by EU and, second, that EU did not have good cause to serve the disconnection notice referred to above on OWC because it was EU that had failed to pay the water service bills during the interval that EU operated OWC under the O&M Agreement referred to above.

The Dispute

9. There is great and continuing general interest in the vicinity of the Lake of the Ozarks in all matters concerning OWC and EU, including the Audit Report of Staff's limited audit of EU and OWC, such that the public interest requires that Staff's Audit Report be made public. Staff's Audit Report is of particular interest to the residents of Eagle Woods who, despite paying their monthly water service bills to EU as OWC's agent, were threatened in December 2005 with the disconnection of their water service by EU for nonpayment.

10. On March 10, 2006, Keith R. Krueger of the Commission's Staff notified Gregory D. Williams, EU's Registered Agent, by telefacsimile that the Staff's Report of its limited audit of EU and OWC referred to above would be made public by the Commission unless

EU submitted a written objection by March 15, 2006. A true and correct copy of the notice is attached hereto as Exhibit A and is incorporated herein by reference as though fully set out.

11. On March 13, 2006, EU through its Registered Agent, Gregory D. Williams, notified Keith R. Krueger of the Commission's Staff that EU objected to the public release of any of its business information obtained by the Staff during its limited audit referred to above and incorporated into Staff's Audit Report. A true and correct copy of the communication received by Mr. Krueger from Mr. Williams is attached hereto as Exhibit B and is incorporated herein by reference as though fully set out.

12. OWC does not object to the public release of Staff's Audit Report.

13. Section 386.480, RSMo, authorizes this Commission to publicly release Staff's Audit Report, including information obtained from EU. Section 386.480 states:

No information furnished to the commission by a corporation, person or public utility, except such matters as are specifically required to be open to public inspection by the provisions of this chapter, or chapter 610, RSMo, shall be open to public inspection or made public **except on order of the commission**, or by the commission or a commissioner in the course of a hearing or proceeding. The public counsel shall have full and complete access to public service commission files and records. Any officer or employee of the commission or the public counsel or any employee of the public counsel who, in violation of the provisions of this section, divulges any such information shall be guilty of a misdemeanor.

Emphasis added.

WHEREFORE, Staff prays that the Commission will open a contested case docket and issue an Order to EU requiring that it show cause within some reasonable time, if any it has, why Staff's Audit Report should not be made public and, if EU timely responds, to convene a hearing and hold other appropriate proceedings, resulting in an Order under Section 386.480, RSMo, that Staff's Audit Report be made public; and grant such other and further relief as the Commission deems just in the circumstances.

Respectfully Submitted,

/s/ KEVIN A. THOMPSON

Kevin A. Thompson
General Counsel
Missouri Bar No. 36288

Attorney for the Staff of the
Missouri Public Service Commission

P.O. Box 360
Jefferson City, MO 65102
573-751-6514 (telephone)
573-526-6969 (facsimile)
kevin.thompson@psc.mo.gov

Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing was mailed, postage prepaid, by First Class United States Mail, as set out below, on this 17th day of March, 2006.

Gregory D. Williams, Esq.
Gregory D. Williams Law Firm
P.O. Box 431
Sunrise Beach, Missouri 65079

/s/ KEVIN A. THOMPSON

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facsimile transmittal

To: Gregory D. Williams

Fax: 573-374-4432

From: Keith R. Krueger

Date: 3/10/2006

Re: Audit of Environmental Utilities

Pages: 23 (including this cover sheet)

CC:

☐ Urgent

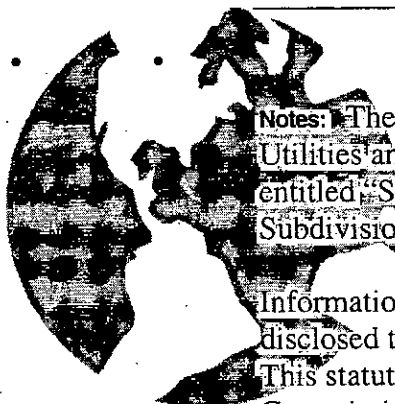
☐ For Review

☐ Please Comment

☐ Please Reply

☐ Please Recycle

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Notes: The Staff of the Commission conducted a partial audit of Environmental Utilities and Osage Water Company in January 2006, and prepared a report entitled "Staff's Findings Concerning Provision of Service to Eagle Woods Subdivision." A copy of the Staff's report is enclosed for your review.

Information furnished to the Commission by regulated utilities is not generally disclosed to the public, pursuant to the provisions of Section 386.480, RSMo. This statute does, however, permit disclosure of such information on order of the Commission.

The Commission would like to know whether you have any objection to the public release of this Staff report. If you do object to the release of this information, please so inform me by no later than 12:00 noon, next Wednesday March 15, 2006. You may also wish to state the basis for your objections.

Please call me if you have any questions about this matter. Thank you.

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Exhibit A

GREGORY D. WILLIAMS

LAW FIRM

www.williamsandrenken.com

Gregory D. Williams
Andrew W. Renken
Dana L. Martin

March 13, 2006

Mr. Keith Krueger
Deputy General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Re: Your Fax of March 10, 2006
Release of Confidential Business Records of Environmental Utilities, LLC

Dear Mr. Krueger:

In response to your faxed inquiry of March 10, 2006, please be advised that Environmental Utilities, LLC will not agree to, and hereby objects, to the release of any information furnished by it to the Public Service Commission, and in particular to its confidential business records as set out in the Staff Report attached to your faxed request.

Your request seems to assume that the Commission may, without notice or hearing, issue an Order authorizing release of this information. I believe it is reasonably clear under Section 386.420.2, that the Commission, not the Staff, is to make a report in writing with respect to any investigation which it conducts, and that it is to provide a hearing and an opportunity to be heard with respect to such investigation prior to issuing any such order.

I note that the Staff Report you have attached appears to contain the opinions and conclusions of some unknown and unidentified person or persons. No hearing has been conducted which would allow the development of a balanced record concerning the issues set forth in that report.

For these reasons, it would be inappropriate, and in excess of the statutory authority of the Commission, for the Commission to issue an Order authorizing release of the information contained in the Staff report attached to your request.

Finally, I note that the Staff report does not reflect the Confession of Judgment executed by the receiver for Osage Water Company, wherein Osage Water Company admitted

P.O. Box 431
Sunrise Beach, MO 65079

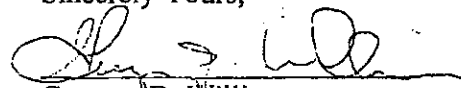
Telephone: 573/374-8761
Fax: 573/374-4432

liability for the water bills at issue and agreed to pay the same, nor does it reflect the Judgment in favor of Environmental Utilities entered on that Confession by the Circuit Court of Camden County. These documents in essence controvert the conclusions and opinions set forth in the Staff report, and render the issues set forth therein moot.

Accordingly, Environmental Utilities objects to any release of the information contained in the Staff report as the same is confidential, proprietary, incomplete, and erroneous.

I trust the foregoing is reasonably clear, but should you require clarification, please contact me, in writing.

Sincerely Yours,



Gregory D. Williams