

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

In the matter of the Application of Osage Utility)	
Operating Company, Inc. to Acquire Certain)	Case No. WA-2019-0185
Water and Sewer Assets and for a Certificate of)	and SA-2019-0186
Convenience and Necessity)	

**JOINT MOTION UNDER 386.500.3, RSMO, AND MOTION FOR EXPEDITED
TREATMENT**

COME NOW Public Water Supply District No. 5 of Camden County, Lake Area Waste Water Association, Inc., and Missouri Water Association, Inc. (collectively, "Joint Bidders"), Cedar Glen Condominium Owners Association, Inc. ("Cedar Glen"), and the Office of Public Counsel, by and through counsel and pursuant to Section 386.500.3, RSMo 2016,¹ respectfully request an order of the Commission staying or postponing, for the periods of time described herein, the operation of the Commission's report and order issued April 8, 2020 particularly staying and postponing the authority of Osage Utility Operating Company, Inc. ("OUOC") to close on the transfer of Osage Water Company's assets at issue in this case. In support, OPC, Cedar Glen and Joint Bidders submit the following:

1. Section 386.500, RSMo, provides interested parties an opportunity to file an Application for Rehearing of any orders or decisions of the Commission.
2. The effective date of the Commission's report and order in this matter is May 8, 2020. OPC, Cedar Glen, and Joint Bidders intend to file Application(s) for Rehearing on or before May 7, 2020 in order to preserve their right to appeal in the event their Application(s) are denied.
3. An interested party can file a Notice of Appeal under Section 386.510, RSMo, within thirty days after the application for a rehearing is denied, or, if the

¹ Statutory citations are to RSMo 2016 unless otherwise indicated.

application is granted, then within thirty days after the rendition of the decision on rehearing.

4. Upon motion or application of an interested party and pursuant to Section 386.520, RSMo, the Court of Appeals may stay or suspend the operation of an order or decision of the commission.

5. If OUOC is allowed to close on the transfer assets prior to the Commission's decision on the Application for Rehearing (or prior to any Court of Appeals decision on a Motion to Stay or Suspend the Operation of the Order), then much of the Commission's report and order authorizing the asset transfer could be declared moot and no longer subject to challenge.

6. If OUOC is allowed to close on the transfer of assets prior to the Commission's decision on the Application for Rehearing, and subsequently any issues related thereto are declared moot, then OPC, Cedar Glen and Joint Bidders (or other interested parties) will be: 1) deprived of any meaningful right to apply for rehearing as guaranteed by statute; and 2) deprived of any meaningful right to appeal as guaranteed by statute. See *State ex rel. Office of Pub. Counsel v. Pub. Serv. Comm'n of State*, 409 S.W.3d 522, 525 (Mo. App. W.D. 2013).

7. The Bankruptcy court's Order Approving the Sale of Substantially All the Debtors Assets conditions the transfer on approval of the Public Service Commission.

8. Section 386.500.3 provides:

An application for a rehearing shall not excuse any corporation or person or public utility from complying with or obeying any order or decision or any requirement of an order or decision of the commission, or operate in any manner to stay or postpone the enforcement thereof except as the commission may by order direct.

(emphasis added).

9. OPC, Cedar Glen and Joint Bidders respectfully request the Commission to enter the following relief pursuant to Section 386.500.3:

a. Order and Direct that the effective date of the Commission's report and order is extended while OPC's, Cedar Glen's and Joint Bidders' applications for rehearing filed on or before May 7, 2020 are pending; and

b. Order and Direct that if such applications are denied that the effective date of the report and order is extended:

i. until the time for filing a Notice of Appeal has expired in the event no notice of appeal is filed; or

ii. until any Motion for Stay or Suspension of the report and order filed under Section 386.520, RSMo, has been denied by the Court of Appeals; or

iii. until thirty days after the filing of a notice of appeal if no Motion for Stay or Suspension is filed.

10. Movants submit that in the interest of substantial justice and to avoid rendering null OPC's, Cedar Glen's, and Joint Bidder's constitutional and statutory rights to meaningful rehearing and appeal, the Commission should grant this motion.

11. Moreover, Movants will suffer great and irreparable injury unless this motion is granted thus justifying its expedited consideration.

12. Given the complexities of this case, this Motion was filed as soon as it could have been.

13. OPC, Cedar Glen, and Joint Bidders respectfully request the Commission act no later than May 6, 2020 on their Motion.

WHEREFORE, OPC, Cedar Glen and Joint Bidders respectfully request that the Commission enter the relief requested in Paragraph 9, and such other and further relief as the Court deems just and proper.

Respectfully submitted,

ELLINGER & ASSOCIATES, LLC

By: /s/ Stephanie S. Bell
Stephanie S. Bell, #61855
308 East High Street, Suite 300
Jefferson City, MO 65101
Telephone: 573-740-4100
Facsimile: 314-334-0450
Email: sbell@ellingerlaw.com

*Attorney for Cedar Glen Condominium
Owners Association, Inc.*

NEWMAN, COMLEY, RUTH P.C.

By: /s/ Mark W. Comley
Mark W. Comley, #61855
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102-0537
Telephone: 573-634-2266
Facsimile: 573-636-3306
Email: comleym@ncrpc.com

*Attorney for Cedar Glen Condominium
Owners Association, Inc.*

THE LAW OFFICE OF AARON
ELLSWORTH

By: /s/ J. Aaron Ellsworth
J. Aaron Ellsworth, #60265
2404 Bagnell Dam Blvd.
P.O. Box 250
Lake Ozark, MO 65049
Telephone: 573-693-9050
Facsimile: 573-552-4620
Email: ellsworth@lolawoffice.com

Attorney for Joint Bidders

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Caleb Hall
Caleb Hall, #68112
Senior Counsel
200 Madison Street, Suite 650
Jefferson City, MO 65102
P: (573) 751-4857
F: (573) 751-5562
Caleb.hall@ded.mo.gov

*Attorney for the Office of the Public
Counsel*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon all of the parties of record or their counsel, pursuant to the Service List maintained by the Data Center of the Missouri Public Service Commission on May 5, 2020.

/s/ Stephanie S. Bell
Stephanie S. Bell