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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 5th
day of November, 1997.

In the Matter of the Application of Osage)
Water Company for Permission, Approval and)
a Certificate of Convenience and Necessity)
Authorizing it to Construct, Own, Operate,) **Case No. WA-97-332**
Control, Manage and Maintain a Water System)
for the Public Located in the City of Osage)
Beach, Missouri.)

ORDER DENYING REHEARING

On October 2, 1997, the Commission issued its order dismissing
this matter, stating the following:

"A threshold issue exists as to whether a franchise or other proper consent is required as a matter of law. This issue must be determined before Osage may proceed with its application. The Commission's rules provide that such a franchise or consent is necessary as an initial filing requirement, not as a question to be decided at the Commission's evidentiary hearing. In addition, the statutes controlling the necessity for, and issuance of, municipal franchises are contained in those sections of the Revised Statutes of Missouri which govern the operation of cities, towns and villages (i.e., Chapters 71, et. seq. RSMo 1994). The Commission finds the interpretation and application of those statutes to be outside the scope of the Commission's authority contained in Sections 386 and 393, RSMo 1996.

Therefore, the Commission finds that the application must be dismissed, as the Applicant has failed to meet the filing requirements set out in Section 393.170, RSMo 1994, and 4 CSR 240-2.160(2) for reason that the Applicant has not shown that it has obtained the proper consent and/or franchise from the City of Osage Beach. Nor has Applicant shown that, as a matter of law, such consent or franchise is not required."

On October 14 the Applicant, Osage Water Company (Osage), filed a motion for rehearing. In its motion Osage restates at length its position regarding both the facts and the law in this case. Osage requests the Commission reconsider and reopen this case for evidentiary hearing and decision. On October 24 Intervenor Osage Beach Fire Protection District (Fire Protection District) filed suggestions supporting the Commission's order dismissing this matter.

The Commission finds that Osage's motion raises no relevant arguments which the Commission has not already considered in making its decision to dismiss this matter. The Commission finds no sufficient reason for reconsideration and denies Osage's motion.

IT IS THEREFORE ORDERED:

1. That the motion for rehearing, filed October 14, 1997, by Osage Water Company, is denied for reasons as set out above and this docket is closed.

2. That this case may be closed after the effective date.

3. That this order shall become effective on November 5, 1997.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Cecil I. Wright", written in a cursive style.

**Cecil I. Wright
Executive Secretary**

(S E A L)

Lumpe, Ch., Crumpton, Murray,
and Drainer, CC., concur.

Derque, Regulatory Law Judge