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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 22nd
day of May, 1997.

In the matter of the Application of)
Ozark Shores Water Company for permission,)
approval and a certificate of public con-)
venience and necessity authorizing Ozark)
Shores Water Company to construct, install,)
own, operate, control, manage and maintain)
a water system for the public in Camden and)
Miller Counties in Missouri.)

Case No. WA-96-190

ORDER GRANTING MOTIONS TO DISMISS

On December 11, 1995, Ozark Shores Water Company (OZS) filed an Application with the Commission requesting a certificate of public convenience and necessity for the provision of water service to the public in two locations within the corporate city limits of Osage Beach, Missouri. Those areas are known as "North Osage Beach" and "Turkey Bend." On July 26, 1996, the Commission suspended the procedural schedule in this matter pending a final resolution of litigation involving this matter pending in the state courts, and the acquisition by OZS of a franchise or consent of the City of Osage Beach to operate a utility within the city limits.

On April 7, 1997, Osage Water Company (OWC), an intervenor in this proceeding, filed a Motion to Dismiss this matter based on the allegation that OZS has failed to obtain the necessary permission or franchise and has not resolved the pending litigation. OWC alleges it has suffered and will continue to suffer a material adverse impact as a result of the pendency of this proceeding in that the area involved in the application for certificate overlaps the certificated area of OWC. This has created confusion and competition for water customers.

On April 17, OZS filed a response to the OWC Motion. OZS disagrees with various facts and conclusions drawn by OWC. OZS requests that the procedural schedule be reinstated and that the Commission allow this case to go forward.

Finally, on May 2 the Staff of the Commission (Staff) filed a Motion to Dismiss. The Staff maintains that approval or permission by the affected municipality is a prerequisite for granting of a certificate by the Commission. Since that has not yet occurred, the Staff is requesting the Commission dismiss this matter and allow OZS to refile its case if and when it obtains the necessary franchise from the City of Osage Beach.

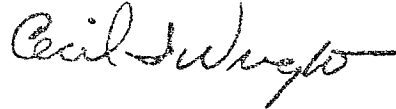
The Commission agrees that it may not, according to its own rules, grant the requested certificate unless OZS has first obtained the required permission from the City of Osage Beach. In addition, in accordance with 4 CSR 240-2.060(2)(h), evidence of approval of the affected governmental bodies is a requirement upon filing of the original Application. OZS has failed to obtain this permission or franchise in spite of several delays in this proceeding totaling a time span of approximately 16 months. The Commission does not think it advisable to allow this matter to remain pending any longer, as to do so might result in prejudice to other parties. OZS has had ample opportunity to obtain the required permission, even though the Commission's rules specify the permission be obtained upon filing of the Application. The Commission is willing to allow OZS to refile this matter after it actually obtains the necessary authority from the City.

The Motions to Dismiss are granted.

IT IS THEREFORE ORDERED:

1. That the Motions to Dismiss of Osage Water Company and the Staff of the Commission are granted without prejudice.
2. That Ozark Shores Water Company may refile its application once it obtains a franchise or consent of the City of Osage Beach.
3. That this order shall become effective on June 2, 1997.

BY THE COMMISSION



Cecil I. Wright
Executive Secretary

(S E A L)

Zobrist, Chm., Drainer,
and Murray, CC., Concur.
Crumpton, C., Absent.

ALJ: Derque