

STATE OF MISSOURI  
MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of The Application of	)	WT-2004-0192
Missouri-American Water Company for	)	Tariff Nos.
Approval of an Agreement with Pre-	)	YW-2004-0555
mium Pork, L. L. C., for the Retail	)	YW-2004-0556
Sale and Delivery of Water	)	

**APPLICATION TO INTERVENE  
OF AG PROCESSING INC A COOPERATIVE  
AND MOTION FOR EXPEDITED CONSIDERATION**

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This application ***requests intervention*** in this proceeding for AG PROCESSING INC A COOPERATIVE ("AGP"). It also ***requests expedited consideration*** of AGP's Application to Intervene.

**APPLICATION TO INTERVENE**

Pursuant to 4 C.S.R. 240-2.075 AGP applies to intervene and to become a party in this proceeding. In support, AGP states:

1. AGP is an agricultural cooperative and is a large manufacturer and processor of soybean meal, soy-related food products, and other grain products throughout the central and upper Midwest, including the State of Missouri. AGP is the largest cooperative soybean processing company in the world.

2. AGP operates a major processing facility in St. Joseph, Missouri where it is a major industrial water supply customer of Missouri-American Water Company ("Missouri-American") in the St. Joseph district.

3. AGP's interest in proceedings affecting the rates, terms and conditions of water services from Missouri-American

have been previously recognized by the Missouri Public Service Commission in authorizing AGP's intervention in numerous prior Missouri-American rate design and rate-related proceedings including Missouri-American's pending WR-2003-0500 rate case. AGP has actively participated in such cases.

4. Correspondence or communications regarding this application, including service of all notices and orders of this Commission, should be addressed to:

Stuart W. Conrad, Esq.  
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and to:

Mr. Gary Chesnut  
Director of Purchasing  
Ag Processing Inc a Cooperative  
12700 West Dodge Rd.  
Omaha, NE 68154

5. On October 17, 2003 Missouri-American applied for Commission approval of a retail sales contract to provide water to Premium Pork, LLC. The Application sought expedited approval of the related tariff. Missouri-American also separately sought issuance of a standard protective order, which was granted in a Commission Order dated October 21, 2003. The Commission's October 21 Order directed that notice of the Application be given to all parties in the pending Missouri-American rate case and required that interventions be filed by noon on October 27, 2003.

This Application to Intervene is timely filed pursuant to that directive.

6. AGP is vitally interested in issues that are or may be raised by or developed as a result of the investigation of Missouri-American's Application including without limitation, (1) the revenues which will or may be realized from this special contract; (2) the amount of expense that may be incurred by Missouri-American to provide the special contract service; and (3) the extent to which any other customers, primarily other industrial customers in the St. Joseph district will be required to subsidize the service provided under the special contract rate.

7. Among other things, AGP notes with concern that the Application states that the proposed special contract rate is necessary for the project to proceed because the General Incentive Provisions of the Economic Development Rider Tariff currently approved by this Commission **are not sufficient.**<sup>1/</sup>

Those Incentive Provisions, only recently approved by the Commission (also on an expedited basis) at the request of Missouri-American, provide for substantial initial "discounts"<sup>2/</sup> for "new" businesses (and certain expansions of existing businesses) that may not fully recover the claimed costs of service, at least

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<sup>1/</sup> Application, p. 5, ¶ 7B (emphasis added).

<sup>2/</sup> The term "discount" is loaded. It should be limited only to describe a charge that is below cost of service. A reduction from an exorbitant rate level to a lower but still above-cost rate level is not a true "discount."

according to Missouri-American's claims in the pending rate case. Based on those Incentive Provisions, proof was to be provided not only that such subsidies would not occur, but that there would be a quantification of the benefit to Missouri-American's other customers as a result of approving such a contract. The Application states that this information is provided in Exhibit F but Exhibit F was not filed with the Application and is not presently available to AGP for analysis and review. If these "discounts" are not below Missouri-American's cost-of-service, it is difficult for AGP to reconcile Missouri-American's position in this Application with that in its pending rate case that these same industrial rates should be increased. Indeed, materials attached to the Application suggest that St. Joseph's industrial rates are **already** not competitive.

8. AGP also notes with concern the statement in the Application that

[the] revenue generated by the Agreement will **ultimately** help offset **certain of MAWC's costs** and will **to that extent** benefit MAWC's customers in terms of the rates they would otherwise pay.<sup>3/</sup>

Missouri-American's artful wording obscures the extent of any such "offset" and certainly conceals the extent of any below-cost subsidy that is being proposed. Such a statement is a source of deepened concern when:

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<sup>3/</sup> Application, p. 6, ¶ 7D (emphasis added).

- the St. Joseph business community and its **existing** businesses are already laboring under the heavy economic burden of a new and unreasonably-costly water plant and can simply not afford to have additional costs shifted to them,
- while significant excess capacity in the district has already been identified and is being borne by all existing St. Joseph customers, and
- when the Staff of the Commission -- after an audit -- has indicated that **existing** rate levels in the St. Joseph district and for Missouri-American as a whole are already grossly excessive by over \$1.1 million and \$20 million respectively.

Establishing uniquely favorable financial arrangements may entice new business to locate in the community. However, if this result can only be achieved by dramatic rate reductions for specific customers that must be "made up" by increased rates for existing customers, then the existing rate levels have obviously been allowed to rise to uneconomic and noncompetitive levels and that error should be corrected forthwith. Such individualized steps do nothing to reduce the burden on **existing** industrial concerns and certainly should not be permitted to shift **additional** costs to **existing** industrial customers. Indeed, some of these existing customers are already in various stages of closing their St.

Joseph facilities in favor of lower-cost production or manufacturing facilities elsewhere. And, if the proposed special contract is not at a below-cost rate, it is again difficult to reconcile Missouri-American's position in this Application with its asserted positions regarding St. Joseph's industrial rates in Missouri-American's pending rate case.

9. AGP will be bound or adversely affected by any Commission order in this matter and the Application raises concerns that AGP's rates may be increased as a direct result of any Commission order in this proceeding. Because of the structure of the rate schedules under which Missouri-American sells water to AGP, and because of AGP's size and consistency of water usage for production purposes, AGP is in the special position of representing its own interest that is direct, immediate, different from that of the general public, and that cannot adequately be represented by any other party. Therefore, it will aid the Commission and serve and protect the public interest that AGP be permitted to intervene in this proceeding to protect that interest.

10. For purposes of 4 C.S.R. 240-2.075(2), AGP states that it opposes the discriminatory and excessive pricing of any public utility service. However, at this time AGP is unable to take a position regarding the specific relief sought in this case absent access to and analysis of the documents that have yet to be filed or have been filed only under seal and are currently not available for such access or analysis.

**MOTION FOR EXPEDITED CONSIDERATION**

11. Missouri-American has requested that its proposed tariff be handled on an expedited basis.<sup>4/</sup> However, Missouri-American's Application was incomplete and did not include either copies of the special contract nor of what is asserted to be a schedule that "quantifies the offset/benefit to existing ratepayers".<sup>5/</sup> As noted earlier, these are **factual** areas of great concern to AGP as an **existing** Missouri-American ratepayer in the St. Joseph district. AGP cannot formulate a position on Missouri-American's Application until these materials, and possibly others pertinent to the proposed charges and costs associated with this special contract, have been provided and studied.

12. Although Public Counsel and Staff have immediate access to these claimed-to-be confidential documents upon their filing, AGP does not. Only when AGP's Application to Intervene is granted does AGP have the limited access to these materials even for cursory review that is permitted by the terms of the protective order. It is not believed that either Staff or Public Counsel claims to represent the interest of AGP in this proceeding.

13. Because Missouri-American seeks expedited consideration of its Application, it should have no objection to AGP's

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<sup>4/</sup> AGP will separately address Missouri-American's Motion for Expedited Treatment.

<sup>5/</sup> Application, p. 6, ¶ 7D,

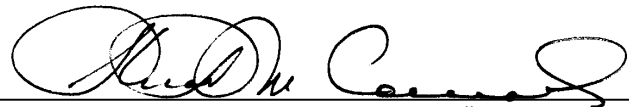
interest as an intervenor nor to the expedited consideration of AGP's Application to Intervene, since expedited consideration will speed Commission processing of Missouri-American's Application.

14. Expeditious handling of AGP's Application to Intervene will result in more substantial justice to the parties, will aid the Commission in the development of a record to support any decision in this case and in other ways benefit the public interest.

WHEREFORE, AGP prays: (a) that it be permitted to intervene and be a party to this case with all rights to have notice of and participate in any proceedings and hearings to present evidence, to cross-examine witnesses, file briefs and present any argument; (b) that its Application to Intervene be acted on expeditiously for the reasons stated herein; and (c) that it be granted all other relief to which it is or should be lawfully entitled as a party.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

A handwritten signature in dark ink, appearing to read "Stuart W. Conrad", is written over a horizontal line.

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ATTORNEYS FOR AG PROCESSING INC A  
COOPERATIVE



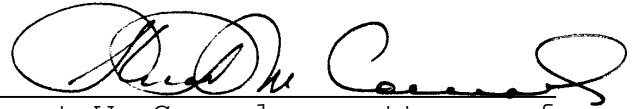
**CERTIFICATE OF SERVICE**

I certify that I have served a copy of the foregoing Application to Intervene on each of the following persons either by postage-paid U.S. mail, by e-mail or by facsimile transmission.

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Dated: October 24, 2003

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad, an attorney for  
within applicant