

**STATE OF MISSOURI
MISSOURI PUBLIC SERVICE COMMISSION**

In the Matter of Missouri-American)	
Water Company's Tariff Sheets De-)	
signed to Implement General Rate)	
Increases for Water and Sewer Ser-)	WR-2000-281
vice provided to Customers in the)	SR-2000-282
Missouri Service Area of the Compa-)	(Consolidated)
ny)	

**RESPONSE TO ORDER OF JANUARY 22, 2004
BY ST. JOSEPH INDUSTRIAL INTERVENORS**

COMES NOW St. Joseph Industrial Intervenors (SJII) and the City of Riverside, Missouri (Riverside) and respond to the Commission's Order of January 22, 2004 as follows:

1. SJII and Riverside are grateful that the Commission has decided to move forward with addressing this case that was remanded to it by the court on February 28, 2002, only a short twenty-four months ago.

2. The delay makes the issue of the phase-in difficult to effectively resolve. There appears to be no "realistic" way of providing the overcharged customers in St. Joseph with any meaningful mitigation of the damage already caused their community by this unjustified, unwarranted and unreasonable decision. Businesses have already closed and will not return. Long-held jobs that provided sustenance for Missouri citizens and their families have been lost and cannot be restored. Missouri families have been disrupted and cannot be healed. The damage from this massive increase resulting from a massively flawed decision cannot be reversed or undone. The opportunity to partially

mitigate that damage, or at least spread it over a longer period, was lost because the company did not request it, or, at least, so wrote the hearing officer in language adopted by the Commission. To the extent, however, that the statement that a phase-in will not be ordered "because the company did not request it" suggests that some principle of law deprives the Commission of ability or power to issue a just and reasonable order containing a phase-in, whether agreed to by the utility or not, remains as a principle that should be resolved by providing an adequate statement of facts and authorities that support that proposition or principle.

3. This leaves the remaining issues of the complete absence of findings of fact supporting the Commission's conclusion that water customers served from large mains should be charged higher unit costs than residential users served from far more numerous smaller distribution mains and the absence of findings of fact to justify, support or explain the Commission's decision that because one district received an increase that no district could receive a decrease. As to these remaining issues we provide the following succinct comments:

a. Neither issue will be mooted by the Commission's report and order in WR-2003-0500. When such an order issues, parties will review and decide whether further review is warranted. If no further action is taken (or if judicial review is unsuccessful), those rates will become final and unappealable, bridging the gap in the rates as the last final and unappealable rates for this utility **presently** are those implemented in 1997;

b. It is still necessary for the Commission to comply with the Court's remand order;

c. Relief can realistically be granted with respect to these issues. If the Commission is unable (as we believe it will be) to make adequate findings of fact that will support either decision, it will then either need to change that decision with the resulting change in rates, or require the courts to again weigh the decision in their balances and find it wanting. Either event will result in a downward movement of the rates that resulted from WR-2000-281 and that apply to the interim period. Failing that, should the Commission simply abandon the effort, in the absence of a valid order establishing other rates, the 1997 rates would remain the final rates for the period which would obviously involve substantial refunds, with interest, due to most if not all districts (save possibly Brunswick) and to particular customer groups within those communities.

d. The Commission can move the remaining questions forward in the same manner that it could have done some 24 months ago by promptly (and simply) getting about the business of complying with the Court's remand order through preparing lawfully sufficient findings of fact in compliance with that order that articulate the basis for the decisions on the foregoing issues, cite authority for the propositions that are stated in the order regarding those issues, and rely upon evidence in the existing record to support and reference those findings. Moreover, the

Court remanded the matter **to the Commission** to perform its statutory function, not to the parties.

Respectfully submitted,

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ATTORNEYS FOR CITY OF RIVERSIDE,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by U.S. mail, postage prepaid addressed to the parties of record or by electronic means to the addresses as disclosed by the Commission's records in this proceeding.

Dated: February 4, 2004

/s/ Stuart W. Conrad

Stuart W. Conrad