

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

In the Matter of Missouri-American Water)
Company's Filing of Revised Sewer Tariff Sheets)
to Implement a Capacity Charge for Missouri-) Case No. ST-2007-0443
American's Warren County and Jefferson County)
Sewer Districts.)

In the Matter of the General Rate Increase)
for Water and Sewer Service Provided) Case No. WR-2007-0216
by Missouri-American Water Company.)

**MAWC'S OPPOSITION TO PUBLIC COUNSEL'S
MOTION TO SUSPEND AND CONSOLIDATE TARIFFS**

Comes now Missouri-American Water Company (MAWC or Company), and, in opposition to the Office of the Public Counsel's (Public Counsel) Motion to Suspend Tariffs and Consolidate Into Existing Rate Case, states as follows to the Missouri Public Service Commission (Commission):

BACKGROUND

1. On April 2, 2007, MAWC filed proposed tariff sheets applicable to its Warren County and Jefferson County sewer districts (JS-2007-0713 and JS-2007-0714). The purpose of these tariff sheets was to implement a Capacity Charge for each of these two sewer districts where investment has been, and is being, made to upgrade the sewer systems. MAWC has extended the proposed effective date for these tariffs twice. The tariffs are currently proposed to become effective on June 1, 2007.

2. The proposed Capacity Charge would be a one-time, non-recurring charge in addition to any connection fees and payable at the time a new customer connects to the sewer

system. It is designed to recover a portion of the capital costs that the Company has incurred in expanding its treatment facilities in the subject districts. To the extent that the capacity charge were paid by new customers, the payments would be treated as contributions in aid of construction and serve to reduce the rate base upon which the Company would earn a return in future rate cases.

3. MAWC previously filed tariff sheets to initiate a general rate case on December 15, 2006 (Case No. WR-2007-0216). The procedural schedule for Case No. WR-2007-0216 was established by the Commission's Order Adopting Procedural Schedule, which was issued on February 22, 2007. Parties are scheduled to file direct testimony on June 5, 2007 (revenue requirement) and June 12, 2007 (rate design).

PUBLIC COUNSEL'S MOTION

4. Public Counsel suggests that the proposed capacity charge tariffs be suspended and made a part of MAWC's general rate case through consolidation. Public Counsel alleges that consolidation will allow for consideration of "all relevant factors" and "avoid the possibility of a single issue rate-making action." The Commission may order joint hearing of matters at issue "when pending actions involve related questions of law or fact." 4 CSR 240-2.110(3).

SUGGESTIONS IN OPPOSITION TO MOTION

5. The specter of single issue rate-making is raised many more times than it is actually relevant and determinative. "The rationale behind the single-issue ratemaking prohibition is to prevent the Commission from allowing a utility to "raise rates to cover increased costs in one area without realizing there were counterbalancing savings in another area.'" *State ex rel. Sprint Spectrum L.P. v. Public Service Commission*, 112 S.W.3d 20, 28 (Mo.App.W.D.

2003) quoting *State ex rel. Midwest Gas Users' Assoc. v. Pub. Serv. Comm'n of Mo.*, 976 S.W.2d 470, 480 (Mo.App. W.D. 1998).

6. The sewer tariff provisions being proposed in Warren County and Jefferson County can have no impact on the revenue requirement to be established in Case No. WR-2007-0216, since the tariff cannot become effective until after the May 2007 true-up date in the current rate case. Further, as explained previously, the amounts to be collected are not associated with operating costs. They represent contributions associated with capital investment. They are not associated in any measure with the recovery of operating costs or expenses.

7. On a going forward basis, if the tariffs become effective and such capacity charges are paid, they will ultimately serve to reduce rate base and, all else being equal, thereby reduce future rates. However, until then, they have no impact on the amount of capital investment that has been made by MAWC in these districts nor on the rates to be established in Case No. WR-2007-0216.

8. Accordingly, the Commission can satisfy its obligation to consider all relevant factors without consolidating the capacity charge tariff with MAWC's general rate case. Public Counsel's reliance on the prohibition against single issue rate-making is misplaced.

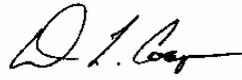
9. Additionally, as stated above, MAWC's general rate case has been underway since December of 2006. MAWC has previously filed direct testimony and the other parties are preparing to file their direct testimony. Rebuttal and surrebuttal testimony will follow shortly thereafter, with a hearing on August 6, 2007. It will be difficult to address the capacity charge tariffs within this procedural schedule and would require the Commission to establish a separate, expedited schedule in order to hear the capacity charge tariff by August 6, 2007.

10. Further, the Home Builders Association of Greater St, Louis, Inc. (Home Builders) has filed its Objection and Request for Suspension of Tariff Filings in regard to the capacity charge tariff sheets. The Home Builders are not a party to MAWC's rate case and should not be made to participate in a general rate case in order to merely address the capacity charge tariff sheets.

11. For these reasons, judicial economy will not be served by the proposed consolidation. If the tariffs are suspended, they should remain separate from Case No. WR-2007-0216. Moreover, because of the limited nature of the issues to be considered by the Commission, the Commission should suspend the tariffs for something less than the maximum ten month period. Section 393.150, RSMo, authorizes the Commission to suspend the effective date of a proposed tariff of a water company for 120 days to provide for a hearing. Only if a "hearing cannot be concluded within the period of suspension," is the Commission then authorized to suspend the tariffs for a further period "not exceeding six months." *Id.* MAWC believes that the issues associated with these tariffs could be heard by providing for a 120 day suspension period.

WHEREFORE, MAWC respectfully requests the Commission deny the Public Counsel's Motion to Consolidate.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 29th day of May, 2007, to:

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