

Exhibit No.:
Issue: Gross Receipts Tax
Witness: Jeanne M. Tinsley
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Missouri-American Water Co.
Case No.: WC-2014-0260
Date Testimony Prepared: January 30, 2015

**Before the Public Service Commission
of the State of Missouri**

Rebuttal Testimony

of

Jeanne M. Tinsley

on behalf of

Missouri-American Water Company

January 30, 2015

REBUTTAL TESTIMONY OF
JEANNE M. TINSLEY
ON BEHALF OF
MISSOURI-AMERICAN WATER COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. WC-2014-0260

1 **Q. PLEASE STATE YOUR NAME, EMPLOYER, AND BUSINESS ADDRESS.**

2 A. My name is Jeanne M. Tinsley. I am employed by American Water Works Service
3 Company ("Service Company") as Manager of Rates and Regulation for Iowa-American
4 Water Company ("Iowa-American") and Missouri-American Water Company
5 ("Missouri-American"). The Service Company is a subsidiary of American Water Works
6 Company, Inc. ("American Water") and provides support services to American Water
7 subsidiaries, including Missouri-American. My business address is 727 Craig Road, St.
8 Louis, MO, 63141.

9 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
10 **PROFESSIONAL EXPERIENCE.**

11 A. I graduated from Maryville University, St. Louis, with a Bachelor of Science degree in
12 accountancy and a Masters Degree in business administration. I attended the Utility Rate
13 Seminar sponsored by the National Association of Regulatory Utility Commissioners
14 ("NARUC") Water Committee in May of 2010. I began my professional employment in
15 1989, when I was hired by Maritz Travel Company as an Accounting Coordinator. I was
16 responsible for preparing financial statements and annual budgets for four regions. In
17 1993, I was hired by Mississippi River Transmission Corporation, a regulated interstate
18 natural gas pipeline company. I was responsible for monthly revenue projections, journal
19 entries, and profit and loss statements. In 1996, I became employed by Cardinal Carberry

1 Senior Living Center as the Accounting Manager, a nonprofit organization providing
2 retirement living, assisted living, and nursing care to the elderly and disabled. I was
3 responsible for the supervision and oversight of all accounting, finance, billing, budget,
4 and payroll functions. In September of 1997, I accepted the position of Budget and Rate
5 Analyst for the Metropolitan St. Louis Sewer District. I was promoted to Manager of
6 Financial Planning in January of 2000 and became responsible for the annual budget,
7 overhead cost allocations, tax rates, impact fees, and rate increase proposals. In October of
8 2008, I began my work for the Service Company as a Financial Analyst III – Financial
9 Planning and Analysis. I was promoted to my current position, Manager of Rates and
10 Regulation, in November of 2012. In this position, I am responsible for all rate and
11 regulatory issues for Missouri-American and Iowa-American operations in the states of
12 Missouri and Iowa.

13 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MISSOURI PUBLIC**
14 **SERVICE COMMISSION (“COMMISSION”)?**

15 A. Yes. On behalf of Missouri-American, I provided testimony in Commission Case No. WR-
16 2011-0337.

17 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS CASE?**

18 A. On behalf of Missouri-American, I am responding to the Direct Testimonies of Joyce A.
19 Kullman and Michael Hallauer filed herein on behalf of the City of Houston Lake,
20 Missouri (“Houston Lake”), and I provide support for Missouri-American’s position that it
21 has not violated any tariff and/or any law, rule, or regulation applicable to Houston Lake’s
22 allegations against Missouri-American and within the Commission’s jurisdiction.

1 **Q. DOES ANY MISSOURI-AMERICAN TARIFF ADDRESS THE SPECIFIC GROSS**
2 **RECEIPTS TAX TO BE COLLECTED FROM OR PAID BY CUSTOMERS IN**
3 **HOUSTON LAKE?**

4 A. No.

5 **Q. IS THERE A COMMISSION ORDER DIRECTING MISSOURI-AMERICAN TO**
6 **COLLECT ANY SPECIFIC GROSS RECEIPTS TAX FROM ITS CUSTOMERS IN**
7 **HOUSTON LAKE?**

8 A. I am not aware of any such order.

9 **Q. IS THERE ANY COMMISSION LAW, RULE, OR REGULATION DIRECTING**
10 **WHAT GROSS RECEIPTS TAX SHOULD BE COLLECTED FROM OR PAID BY**
11 **CUSTOMERS IN HOUSTON LAKE?**

12 A. I am not aware of any such Commission law, rule, or regulation.

13 **Q. WHAT ARE HOUSTON LAKE'S ALLEGATIONS AGAINST MISSOURI-**
14 **AMERICAN?**

15 A. With its Formal Complaint filed herein, Houston Lake makes two primary assertions: (1)
16 that from approximately 2001 until October of 2013, Missouri-American paid to Houston
17 Lake approximately one percent of the gross receipts received from its operations in
18 Houston Lake; and (2) that Missouri-American has "failed and refused to pay to City ten
19 percent (10%) of the gross receipts received from the operation of Respondent Missouri-
20 American Water's water system within the limits of the City of Houston Lake, Missouri, as
21 required by the ordinances."

22 **Q. DO YOU AGREE WITH THE FIRST ALLEGATION?**

1 A. Not completely. Missouri-American utilized the one percent figure for its gross receipts tax
2 collections from its customers in Houston Lake since at least January 1, 2000. As of
3 August 1, 2013, Missouri-American began collecting a ten percent gross receipts tax from
4 its customers in Houston Lake, as directed by Houston Lake. Also, it should be clarified
5 that Missouri-American utilized the one percent figure for both its collections from its
6 customers in Houston Lake and its payments to Houston Lake. This is a "pass through"
7 charge. At no time did Missouri-American collect any gross receipts tax payments from its
8 customers in Houston Lake which were not paid over to Houston Lake.

9 **Q. WHY DO YOU SAY THAT MISSOURI-AMERICAN UTILIZED THE ONE**
10 **PERCENT FIGURE SINCE *AT LEAST* JANUARY 1, 2000?**

11 A. The electronic billing records show that Missouri-American was collecting a 1% gross
12 receipts tax from its customers in Houston Lake as of January 1, 2000. Due to electronic
13 and paper billing issues, Missouri-American is not aware of the gross receipts tax
14 percentage being utilized prior to that date.

15 **Q. WHY DID MISSOURI-AMERICAN UTILIZE THE GROSS RECEIPTS TAX**
16 **PERCENTAGE OF ONE PERCENT FROM AT LEAST JANUARY 1, 2000, UNTIL**
17 **JULY 31, 2013, FOR ITS CUSTOMERS IN HOUSTON LAKE?**

18 A. Unfortunately, I do not know. Missouri-American has been unable to determine why it
19 began utilizing one percent.

20 **Q. DO YOU AGREE WITH HOUSTON LAKE'S SECOND ALLEGATION - THAT**
21 **MISSOURI-AMERICAN HAS "FAILED AND REFUSED" TO PAY THE 10%**
22 **GROSS RECEIPTS RECEIVED FROM ITS OPERATIONS WITHIN HOUSTON**
23 **LAKE?**

1 A. No, I do not agree with that allegation. First, Missouri-American never *refused* to collect a
2 10% gross receipts tax from the residents of Houston Lake served by Missouri-American.
3 When Houston Lake notified Missouri-American of an error regarding the gross receipts
4 tax, Missouri-American investigated the issue and then began collecting a 10% gross
5 receipts tax from the residents of Houston Lake served by Missouri-American. Second,
6 Missouri-American never *received* a 10% gross receipts tax from its operations in Houston
7 Lake without, in turn, remitting the amounts so collected to Houston Lake. As stated
8 above, at no time did Missouri-American collect any gross receipts tax payments from its
9 customers in Houston Lake without paying those same amounts to Houston Lake.

10 **Q. WHEN DID MISSOURI-AMERICAN FIRST RECEIVE NOTICE OF HOUSTON**
11 **LAKE CITY ORDINANCE 157 AND HOUSTON LAKE'S DESIRE TO IMPOSE A**
12 **10% GROSS RECEIPTS TAX?**

13 A. It is my understanding and belief that this ordinance from 1985, referenced in paragraph 7
14 of the Formal Complaint filed by Houston Lake, was first seen by an employee of
15 Missouri-American, American Water, and/or the Service Company in April of 2013, when
16 the Houston Lake Mayor, Michael Hallauer, contacted Missouri-American about the issue.

17 **Q. DID MISSOURI-AMERICAN RECEIVE ANY GROSS RECEIPTS TAX**
18 **ORDINANCES FROM HOUSTON LAKE PRIOR TO APRIL OF 2013?**

19 A. Yes. On February 1, 1999, Houston Lake sent its 1957 ordinance to Missouri-American by
20 facsimile. This 1957 ordinance provides for a five percent gross receipts tax.

21 **Q. DID MISSOURI-AMERICAN RECEIVE A BILL OR OTHER NOTIFICATION**
22 **FROM HOUSTON LAKE STATING THAT MISSOURI-AMERICAN WAS PAST**
23 **DUE WITH ITS GROSS RECEIPTS TAX PAYMENTS?**

1 A. No. Until April of 2013 when the Houston Lake Mayor raised the issue with Missouri-
2 American, Missouri-American was unaware of any claim by Houston Lake that Missouri-
3 American had been collecting, and, in turn, remitting, the incorrect gross receipts tax
4 amount.

5 **Q. WHEN DID MISSOURI-AMERICAN BECOME AWARE OF HOUSTON LAKE**
6 **CODE SECTION 605.040?**

7 A. It is my understanding and belief that Missouri-American first became aware of 605.040
8 during the course of this complaint proceeding. It is mentioned in data requests served on
9 Missouri-American and in the direct testimony of Mayor Hallauer.

10 **Q. MAYOR HALLAUER STATES THAT MISSOURI-AMERICAN HAS FAILED TO**
11 **PROVIDE NOTICES REQUIRED BY CITY CODE SECTION 605.040. WHEN DID**
12 **YOU FIRST BECOME AWARE OF THIS ALLEGATION?**

13 A. It is my understanding and belief that Missouri-American first became aware of this
14 allegation when Mayor Hallauer's direct testimony was filed herein. Missouri-American
15 first became aware of Houston Lake's desire to obtain more detail regarding gross receipts
16 tax collections and payments on May 2, 2013, when Mayor Hallauer sent the following
17 message to Missouri-American:

18 One thought for future reference, the statement that is sent with our quarterly
19 check only shows the amount of the check. The statement needs to show
20 more detail such as gross sales that the fee applies to and the % rate. The
21 check goes to our collector and is deposited without a way to cross reference.
22 Just an idea to make things easier and transparent.

1 **Q. MR. HALLAUER'S TESTIMONY DISCUSSES RSMO. §393.275. WHAT IS YOUR**
2 **UNDERSTANDING OF THIS STATUTE?**

3 A. It is my understanding that RSMo. §393.275 requires a municipality to reduce its gross
4 receipts tax rate on a utility or pass a new ordinance to continue the existing rate, whenever
5 that utility is granted a rate increase exceeding seven percent.

6 **Q. SINCE 1985, HAS MISSOURI-AMERICAN BEEN AUTHORIZED TO INCREASE**
7 **RATES FOR THE HOUSTON LAKE SERVICE AREA IN AN AMOUNT**
8 **GREATER THAN SEVEN PERCENT?**

9 A. Yes. Missouri-American has identified five occasions since 1985 that it has been granted
10 rate increases in excess of seven percent for this service area (11/2000, 10/2007, 11/2008,
11 7/2010, and 4/2012).

12 **Q. HAS HOUSTON LAKE COMPLIED WITH RSMO. §393.275?**

13 A. It appears Houston Lake has not complied with §393.275 with regard to any of the five
14 occasions since 1985 when Missouri-American was granted a rate increase in excess of
15 seven percent for this service area. In his direct testimony, Mayor Hallauer states that
16 Houston Lake has not enacted any ordinance since October of 1985 which would impact
17 the gross receipts tax on the sale of water within Houston Lake and that Houston Lake
18 Ordinance 157 was the last ordinance passed that would impact the gross receipts tax on
19 the sale of water within Houston Lake.

20 **Q. DOES MISSOURI-AMERICAN PROVIDE NOTICE OF ITS RATE CASE**
21 **FILINGS AND ANY RESULTING RATE INCREASES?**

1 A. Yes. Missouri-American's tariffs are a matter of public record, and notice of each rate
2 increase is provided to the public, to all impacted ratepayers, and to all parties to each case.
3 Notice is also provided by the Commission.

4 **Q. IS HOUSTON LAKE A MISSOURI-AMERICAN CUSTOMER?**

5 A. Yes, Houston Lake receives water service from Missouri-American. There are also
6 Houston Lake employees and officials who receive water service from Missouri-American.

7 **Q. IS THE CHARGE FOR A MUNICIPALITY'S GROSS RECEIPTS TAX SET OUT**
8 **SEPARATELY ON MISSOURI-AMERICAN'S BILLS FOR WATER SERVICE?**

9 A. Yes, the charge is separately set forth on each bill.

10 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

11 A. Yes, at this time.

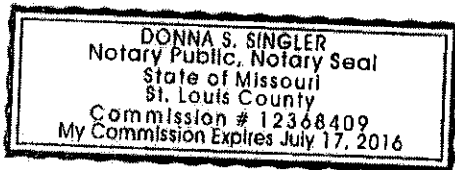
AFFIDAVIT

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

I, Jeanne Tinsley, state that I am the Manager, Rates and Regulation for Missouri-American Water Company, that I have read the above and foregoing document; that the statements contained therein are true and correct to the best of my information, knowledge and belief; and, that I am authorized to make this statement on behalf of Missouri-American Water Company.

Jeanne Tinsley

Subscribed and sworn to before me this 30th day of January, 2015.



(Seal)

Donna S Singler
Notary Public