PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

ROB LEE,	)	
	)	
Complainant,	)	
vs.	)	Case No. WC-2009-0277
	)	
MISSOURI-AMERICAN WATER CO.,	)	
	)	
Respondent.	)	

RESPONDENT'S RESPONSE TO COMPLAINANT'S MOTION TO COMPEL AND REQUEST FOR ORAL ARGUMENT

COMES NOW Respondent, Missouri-American Water Company (hereinafter "MAWC"), by and through its counsel, HeplerBroom LLC, and for its Response to Complainant's Motion to Compel and Request for Oral Argument, states as follows:

1. Respondent has produced all discoverable information requested in his Data Requests in the civil action styled *Rob Lee v. Missouri-American Water Co.*, pending in Division 15 of St. Louis County Circuit Court, Cause No. 08SL-CC001242, either by way of documents produced or by deposition testimony in that proceeding. See Respondent's Objections to Complainant's Data Requests (attached as "Exhibit A").

2. The objections raised by Respondent in Exhibit A are well-founded.

3. As to Number 8, Respondent has provided Complainant with a further explanation as to why the information and documents requested are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. See Email (attached as "Exhibit B").

4. Respondent requests oral argument on this issue.

WHEREFORE, Respondent prays the Commission deny Complainant's Motion and for any other relief it deems just and proper.

HEPLERBROOM, LLC

By: */s/ Matthew H. Noce*

KURT A. HENTZ #33817
MATTHEW H. NOCE #57883
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Attorneys for Respondent

PROOF OF SERVICE

I hereby certify that I electronically filed on this 1st day of May, 2009, the foregoing with the Missouri Public Service Commission using the ESIF system which will send notification of such filing to the following:

- Missouri Public Service Commission General Counsel Office (GenCounsel@psc.mo.gov)
- Office of the Public Counsel Mills Lewis (opcservice@ded.mo.gov)
- Missouri Public Service Commission Ritchie Samuel (Samuel.Ritchie@psc.mo.gov)
- Rob Lee (energyhealingarts@gmail.com)

HEPLERBROOM, LLC

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RESPONDENT'S OBJECTIONS TO COMPLAINANT'S DATA REQUESTS

COMES NOW, Respondent, Missouri-American Water Company, by and through its counsel, and files its Objections to Complainant's Data Requests:

1. Repair records for last nineteen (19) years within a 1/4 mile radius of 11119 Carl, St.

RESPONSE: Respondent objects to said data request in that it is overly broad and unduly burdensome. Respondent further objects in that the records requested are wholly irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objection, and without waiving same, Respondent states it has previously produced to Complainant said records for the previous ten (10) year period in the civil action styled *Rob Lee v. Missouri-American Water Co.*, pending in Division 15 of St. Louis County Circuit Court, Cause No. 08SL-CC001242.

2. What testing methods used to locate leaking water mains.

RESPONSE: Respondent objects to said data request in that it is overly broad and vague. Subject to said objection, and without waiving same, Respondent states said information was provided to Complainant in the civil action styled *Rob Lee v. Missouri-American Water Co.*, pending in Division 15 of St. Louis County Circuit Court, Cause No. 08SL-CC001242 by way of written discovery and the deposition of Derek Linam.

EXHIBIT
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A

3. The degree of accuracy of each test.

RESPONSE: Respondent objects to said data request in that it is overly broad and vague. Subject to said objection, and without waiving same, Respondent states said information was provided to Complainant in the civil action styled *Rob Lee v. Missouri-American Water Co.*, pending in Division 15 of St. Louis County Circuit Court, Cause No. 08SL-CC001242 by way of written discovery and the deposition of Derek Linam.

4. How often are these tests performed.

RESPONSE: Respondent objects to said data request in that it is overly broad and vague. Subject to said objection, and without waiving same, Respondent states said information was provided to Complainant in the civil action styled *Rob Lee v. Missouri-American Water Co.*, pending in Division 15 of St. Louis County Circuit Court, Cause No. 08SL-CC001242 by way of written discovery and the deposition of Derek Linam.

5. The number of feet of water pipe maintained by MAWC in this 1/4 mile area.

RESPONSE: Respondent objects to said data request in that it is wholly irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

6. The number of feet of these pipes that have been tested with the ultrasonic type of test.

RESPONSE: Respondent objects to said data request in that it is overly broad and unduly burdensome due to Complainant's failure to limit his request to a specific time period. Respondent further objects in that the records requested are wholly irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

7. All test records that can substantiate MAWC findings that the water leaking from the ground in my neighborhood is not coming from these pipes.

RESPONSE: Respondent objects to said request in that it is overly broad and vague.

8. The number of gallons unaccounted for in this water system.

RESPONSE: Respondent objects to said data request in that it is overly broad and unduly burdensome due to Complainant's failure to limit his request to a specific time period. Respondent further objects in that the records requested are wholly irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

HEPLERBROOM, LLC

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Attorneys for Respondent

PROOF OF SERVICE

I hereby certify that I electronically filed on this 6h day of April, 2009, the foregoing with the Missouri Public Service Commission using the ESIF system which will send notification of such filing to the following:

- Missouri Public Service Commission General Counsel Office (GenCounsel@psc.mo.gov)
- Office of the Public Counsel Mills Lewis (opcservice@ded.mo.gov)
- Missouri Public Service Commission Ritchie Samuel (Samuel.Ritchie@psc.mo.gov)
- Rob Lee (energyhealingarts@gmail.com)

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Attorneys for Respondent

Matthew H. Noce

From: Matthew H. Noce
Sent: Thursday, April 30, 2009 2:09 PM
To: 'Rob'
Cc: Ritchie, Samuel; Kurt A. Hentz; Penny J. Meyer
Subject: RE: Proposed Dates for Evidentiary Hearing WC-2009-0277

Mr. Lee,

It was my understanding at the pre-conference hearing that you asked that MAWC produce records of MAWC's last "water loss survey." MAWC does not conduct "water loss surveys" currently in its St. Louis operations. As I indicated at the hearing, MAWC does keep records of its annual "Non-revenue Water" for its entire system, but does not have the capability to break those results down by regions. As such, that information requested is not relevant to your Complaints and is not reasonably calculated to lead to the discovery of admissible evidence as indicated in our previous objections to your data requests.

Matt Noce

From: Rob [mailto:energyhealingarts@gmail.com]
Sent: Monday, April 27, 2009 6:25 PM
To: Matthew H. Noce
Cc: Ritchie, Samuel
Subject: Re: Proposed Dates for Evidentiary Hearing WC-2009-0277

Matt and Sam,

I would like to ask if you both would agree to send the motions to each other by email instead of US Mail.

Please let me know

Rob

Matthew H. Noce wrote:

> Mr. Ritchie,
>
> I will be out of town on June 24 and 25, but the other dates work for my clients and me. Thanks,
>
> Matt Noce

From: Ritchie, Samuel [mailto:Samuel.Ritchie@psc.mo.gov]
Sent: Wednesday, April 22, 2009 5:03 PM
To: 'energyhealingarts@gmail.com'; Matthew H. Noce
Subject: Proposed Dates for Evidentiary Hearing WC-2009-0277

Dear Mr. Lee and Mr. Noce,
After reviewing the adjudication calendar, I propose the following dates for the evidentiary hearing in

WC-2009-0277. My preference would be June 10 & 11 but any of these dates are fine for staff and myself. Please make sure to 'reply all' on any discussion:
June 9 & 10
June 10 & 11
June 24 & 25
Mr. Lee, pursuant to the most recent order by the Commission (Item No. 33 filed on April 20, 2009), it will be your responsibility to file the motion setting the date we agree upon.
Sam Ritchie
Legal Counsel
Missouri Public Service Commission
(573) 751-4140
samuel.ritchie@psc.mo.gov

Matthew H. Noce

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