

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

In the Matter of Missouri-American	)	<b><u>Case No. WR-2007-0216</u></b>
Water Company's Request for Authority	)	Tariff File Nos. YW-2007-0407, YW-2007-
to Implement a General Rate Increase	)	0409, YW-2007-0410, YW-2007-0411,
for Water Service Provided in Missouri	)	YW-2007-0412, and YW-2007-0413
Service Areas	)	

**PRE-HEARING BRIEF OF INTERVENOR CITY OF JOPLIN**

**COMES NOW** Intervenor City of Joplin, by and through counsel, and for its pre-hearing brief, as ordered by this Commission's Scheduling Order, states as follows:

The City of Joplin, Missouri, a political subdivision in Jasper County, Missouri, which has intervened in the current matter to represent the interests of itself and its citizens in the pending Missouri American Water Company (MAWC) Rate Case before this Commission. The City of Joplin has participated in each of the MAWC rate cases filed over the last number of years.

In the 2000 Rate Case of MAWC, the City of Joplin intervened seeking district-specific pricing. Ultimately this Commission partially accepted and partially rejected district-specific pricing in a Report and Order which was then overturned with respect to the provisions relating to Joplin by the Missouri Court of Appeals. The City of Joplin filed a Motion to Consolidate the 2000 case into the above-captioned case before this Commission on March 29, 2007. That Motion to Consolidate was overruled by this Commission on May 15, 2007. The City of Joplin has filed a Motion for Rehearing And/Or Reconsideration of that denial of the Motion to Consolidate on May 16, 2007, said Motion never having been ruled upon by this Commission.

The City of Joplin has submitted rebuttal testimony of Leslie Jones, its Finance Director, regarding certain specific issues relating to the costs of service in the Joplin District of Missouri

American Water. Each of these cost-of-service issues ultimately impacts the rates paid by the City of Joplin and its residents and customers across the City of Joplin. The issues presented by the City of Joplin relate to the proper basis for allocating MAWC's corporate administrative and general expenses; the proper normalization of chemicals for treating water, particularly in the Joplin District; the payroll tax payment as annualized for the Joplin District; and certain depreciation issues. These issues have substantive impact not only upon the City of Joplin and its residents, but upon all customers of MAWC. It is for these reasons that the City of Joplin urges this Commission in its Report and Order to insure proper allocation of such expenses and proper normalization and annualization of such expenses to protect rate payers across Joplin and across Missouri.

#### **Allocation of Corporate of Administrative and General Expenses**

The allocation of corporate and general expenses is not a matter of concern to MAWC, provided that such corporate and administrative general expenses are included in cost of service and therefore included in the calculation of rates. Instead, the proper allocation of corporate and administrative general expenses relates more to individual district's cost of service and the resultant rates that accrue from that cost of service. The position of the Staff and Office of Public Counsel is that corporate administrative and general expenses should be allocated, in the great majority, by use of an allocation factor based upon payroll in each District. That allocation has no legal or rational support, is arbitrary and capricious, and as such should not be affirmed by this Commission.

The proper allocation of the corporate administrative and general expenses is by linear feet of pipe within each District. For example, the largest corporate administrative and general expense allocated is the call center expense. Call center expense has no connection to payroll expense, yet the Staff and Office of Public Counsel wish to allocate that expense solely based upon payroll

expense. The call center volume is instead based upon the infrastructure contained in each District. Simply put, a District with more feet of pipe is going to generate more calls to a call center and, in fact, more customers attached to those increased feet of pipe.

When looking at the staffing levels and issues involved in the call center, it becomes clear that if, by way of example, the City of Joplin were no longer to be a participant in the MAWC system, that the staffing levels and costs at the call center would not be impacted in any manner whatsoever. Clearly, if Joplin were not to be in MAWC's service area, you would not see a corresponding six plus percent reduction in the costs allocated from the service center to MAWC. Conversely, if St. Louis County, the largest District within MAWC, were not to be in the MAWC system, a large change in the call center would occur due if for no other reason than the sheer volume of linear feet and miles of pipe that require service would be enormously reduced within Missouri. Yet to ignore this dramatic difference results in discriminatory rates against Joplin and other smaller Districts.

The Missouri Supreme Court has held that the purpose in providing public utility regulations to secure quality in service and in rates for all who need or desire such services and who are similarly situated. *May Department Stores Co. v. Union Electric Light and Power Co.*, 107 S.W.2d 41, 57 (Mo. 1937). In making sure that there is quality in rates, the costs allocated to Districts must be taken into account. *See, e.g. State ex rel Office of Public Counsel v. Public Service Commission*, 858 S.W.2d 806, 812 (Mo. App. W.D. 1993). To determine whether rates are reasonable and comply with the Supreme Court's position, there must be competent and substantial evidence to support a decision. *Deaconness Manor Association v. Public Service Commission*, 994 S.W.2d 602,

611 (Mo. App. W.D. 1999).<sup>1</sup> In the current matter, the allocation of corporate administrative and general expenses to Joplin, in a greater percentage than based upon its actual impact upon the MAWC and American Water system, is unfair, unreasonable and unjust and should not be countenanced by this Commission. As the Western District noted, it is not the methodology or theory but the impact of a rate order of the Public Service Commission which counts in determining whether rates are just, reasonable, lawful and nondiscriminating. *State ex rel. Associated Natural Gas Company v. Public Service Comm'n of Mo.*, 706 S.W.2d 870, 879 (Mo. App. W.D. 1985). In looking at the corporate allocation factor before this Commission, the effects of that allocation are egregious to say the least.

The Joplin District of MAWC showed a book profit of approximately \$4.4 million for the test year. However, the allocation of corporate expense resulted in an immediate reduction of the book profit of the Joplin District by over \$2.4 million (more than 50% of the entire profit of the District). Moreover, when the other issues are combined with annualization, normalization and depreciation, the net effect is to take a \$4.4 million profit and turn it into nearly no profit whatsoever. By eliminating that inherent profitability through the guise of using payroll to allocate corporate expense and therefore shouldering Joplin with a greater burden that it should be responsible for carrying, the rates of the Joplin rate payers dramatically increase.

The Company's initial rate filing showed a 24.8% rate increase for rate payers in the City of Joplin. The proposal from the staff would ultimately result in a 60% rate increase for rate payers in

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<sup>1</sup> There appears to be a settlement by all parties but the City of Joplin. However, this Commission is not bound to accept that settlement, especially as it is manifestly unfair, unreasonable, unjust and discriminates against Joplin. See, *State ex rel. U.S. Water/Lexington v. Missouri Ppublic Service Commission*, 795 S.W.2d 593, 597 (Mo. App. W.D. 1990).

the City of Joplin.<sup>2</sup> The greatest impact of that change is the allocation of corporate expenses. On the other hand, rate payers in the St. Louis District who would have seen a 24.8% rate increase are now seeing a 13% rate increase under the Staff and Office of Public Counsel's position.

There is no evidence to show that the Joplin District has suddenly become unprofitable, has suddenly incurred dramatically new costs, or that for any other reason it should suffer a 60% rate increase when it is a profitable District. The effect of accepting the Staff and Office of the Public Counsel's position with respect to corporate allocation of administrative and general expenses is to unlawfully make Joplin rate payers pay higher rates than that if the costs that should be properly attributed to them were so attributed.

That result mandates that this Commission not accept the Staff's position with respect to the allocation of corporate administrative and general expenses. To note Joplin is not seeking that the corporate administrative and general expenses be reduced or not recovered by the Company; merely that the allocation of those expenses be more properly used through a linear foot allocation factor and not through the payroll factor advocated by the Staff. The ultimate effect of the Staff's position is to protect the interests of St. Louis rate payers and discriminate against the interests of Joplin rate payers and the other smaller Districts across the State of Missouri. That preferential action by the Staff is discriminatory and should not be sustained by this Commission.

#### **Payroll Tax, Depreciation and Chemical Usage Normalization/Annualization**

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<sup>2</sup> A rate increase of over 60% is being proposed to Joplin rate payers in the proposed settlement, while St. Louis rate payers see a below-average 13% rate increase.

The Staff's arguments of normalization of payroll tax, depreciation and chemical usage for water treatment from the test year are unreasonable and should not be accepted by this Commission with respect to the Joplin District.

The payroll tax normalization/annualization should follow the payroll normalization. Simply put, if payroll increases since payroll taxes are a direct percentage thereof, the amount of payroll tax normalization/annualization should increase correspondingly. However, Staff has over-allocated payroll tax in its normalization by a factor many, many times in excess of the total normalization of payroll. If Staff's argument is that it is a timing difference because of which month of the test year, then they should also deduct in the first month of the test year the payments that may have been made would correspond. They have not; instead the payroll taxes have been dramatically overstated, which ultimately affects the rate charged against the City of Joplin and its residents. Depreciation is also excessive based upon the age and value of the assets in the Joplin District.

Finally, the chemical use during the test year was normalized and annualized to have a great increase in the amount of cost for a "normal" year. However, the test year was an extremely heavy water usage year. In fact, the Staff's accountants have reduced the revenue from Joplin through the process of normalization, to reflect that it was a dry year and much more water was used through the test year than in a normal year. The Staff then turns around and dramatically increases the amount of money on chemicals for treatment even though in a year with higher water usage, more chemicals would be used to treat that water. If any adjustment is made to the chemical usage costs in Joplin, it should be a reduction of the cost of chemicals, directly tied to the reduction in water revenues, and not an increase as proposed by Staff.

Again the role of the Commission is to insure that the rates approved are just, reasonable and nondiscriminatory. The proposed normalization and annualization of payroll tax, depreciation, and chemical usage will result ultimately in unfair, unreasonable and discriminatory rates against Joplin rate payers. For that reason this Commission should reduce the normalization on each area to hold it constant with the test year.

**WHEREFORE**, Intervenor City of Joplin prays that this Commission reallocate the corporate expenses and adjust the annualization and normalization as referenced in this pre-hearing brief and in the rebuttal testimony of Leslie Jones, and set rates for the City of Joplin and its rate payers that are not unfair, unjust, unreasonable and discriminatory as proposed by the Staff and for such other relief as this Commission deems appropriate.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing Pre-Hearing Brief of Intervenor City of Joplin were sent to each of the following persons by electronic mail this 2<sup>nd</sup> day of August, 2007:

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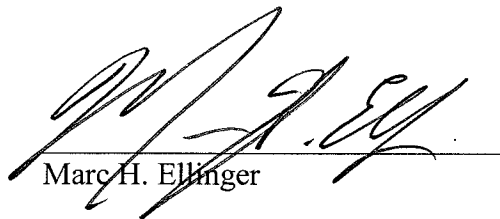
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