

PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

**RESPONDENT’S MOTION TO CLARIFY THE
ORDER REGARDING PRE-HEARING PROCEDURE
AND REQUEST FOR ORAL ARGUMENT**

COMES NOW, Missouri-American Water Company (hereinafter “MAWC”), by and through its counsel, HeplerBroom LLC, and for its Motion to Clarify the Order Regarding Pre-Hearing Procedure and Request for Oral Argument, states as follows:

1. At the Pre-Hearing Conference, Judge Jordan specifically discussed MAWC’s Affirmative Defense Numbers 1, 3 and 4 and stated that he was treating those defenses as Motions to Dismiss and denied each on the basis that no evidence had been submitted to support such defenses.

2. MAWC’s Affirmative Defense Number 2 was not addressed by the Judge, and, therefore, MAWC was under the impression that the Judge’s ruling did not affect said Affirmative Defense.

3. MAWC’s Affirmative Defense Number 2 states as follows:

“Complainant fails to state a claim against Respondent in that the water allegedly ‘running out of the ground and driveway in front of 11334 Larimore Ave.’ originated from a source not owned by or under the control of Respondent.”

4. MAWC intends to submit evidence to support its Affirmative Defense Number 2 with regards to each of the alleged leaks identified the Complaints filed in this action.

5. As such, Respondent asks that the Commission direct it as to whether Respondent needs to specifically plead similar Affirmative Defenses as to each of the alleged leaks in the Complainant's Complaints.

6. Respondent requests oral argument on this issue.

WHEREFORE, Respondent prays the Commission issue an Order clarifying is Order Regarding Pre-Hearing Procedure as to Respondent's Affirmative Defense Number 2 and any other relief it deems just and proper.

HEPLERBROOM, LLC

By: /s/ Matthew H. Noce

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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)

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