

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 INCLUDE
TESTIMONY AND EVIDENCE FROM RATE INCREASE HEARING
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 Include Testimony and Evidence From Rate Increase Hearing and Request for Oral Argument:

1. The testimony Complainant has asked the Court to enter into the record constitutes inadmissible hearsay as it is an out of court statement offered for the truth of the matter asserted.
2. Complainant has shown no reason why he is unable to testify live at the hearing as to the issues he raised at the Rate Increase Hearing or resubmit the evidence offered at the Rate Increase Hearing.
3. Furthermore, Missouri’s Rules of Evidence were not in effect at the Rate Increase Hearing. As such, Complainant was not required to lay a proper foundation as to his testimony or with regards to the evidence he submitted, nor did counsel for Respondent have the ability to object as to Complainant’s testimony or the evidence he submitted.
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

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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)
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