

neither relevant to the subject proceeding nor reasonably calculated to lead to the discovery of admissible evidence; b) the request is unduly burdensome and overbroad; c) the request seeks information about operations that are not regulated by the Missouri Public Service Commission; and, d) the responsive information is not in the possession, custody or control of MAWC.

A copy of MAWC's letter of objection is attached to this motion.

As regards the failure to specify a time period for the requested minutes, this is a "catch-22." AGP lacks any knowledge regarding when such discussions occurred, but has attempted to specify instances at which consolidated pricing (the term used by MAWC in this proceeding) was discussed. Similarly, a copy of any presentation that was made to the Board in those instances was requested, again focusing on when consolidated tariff pricing was discussed.

If what MAWC seeks through this objection is that AGP first require MAWC to identify dates on which the consolidated pricing proposal was discussed, then seek board minutes and presentations corresponding to those dates, that would consume at least two cycles of discovery before AGP could have access to the information -- information which is solely in the possession of MAWC.

This data request meets the low-level test of relevancy, contrary to MAWC's assertion. It is designed to obtain information that may itself not be relevant but lead to the disclosure of relevant evidence. Board minutes at which these

proposals were discussed are clearly relevant to the inquiry before the commission. Moreover, presentations that are made to the board concerning that proposal may also be either independently relevant or lead to the disclosure of relevant evidence. Demanding that AGP first identify the dates of such minutes, if upheld, would result in no disclosure taking place. That is, of course, what MAWC seeks, but such is neither a just nor fair result. MAWC has the burden in this case to establish the reasonableness of its proposal, a conclusion that is not a self-evident fact just because it is proposed made by a utility.

To the extent that MAWC objects to minutes of its parent, MAWC should not be permitted to shield its actions from public view through corporate machinations. MAWC could easily have moved discussions to a different corporate level so as to shield them from discovery. This portion of the data request should also be compelled.

B. Request No. 25.

In Data Request No. 25 AGP requested information as follows:

Please a) provide a copy of the minutes of the meetings of the board of directors of the company and of the board of directors of its parent corporation of each meeting at which water service deficiencies in the companies' Missouri service territories were discussed, and also b) provide a copy of each presentation to the Board that addresses or relates to such deficiencies.

A copy of data request No. 25 is attached.

In the same September 12, 2011 letter earlier referenced, MAWC stated essentially the same objection, viz:

MAWC objects to this data request because it is overly broad and burdensome in that it fails to specify a time period for the requested minutes. MAWC further objects to this data request to the extent it requests board materials for MAWC's parent, American Water Works Company, Inc., for the following reasons: a) the responsive information is neither relevant to the subject proceeding nor reasonably calculated to lead to the discovery of admissible evidence; b) the request is unduly burdensome and overbroad; c) the request seeks information about operations that are not regulated by the Missouri Public Service Commission; and, d) the responsive information is not in the possession, custody or control of MAWC.

These objections, like those to Data Request No. 24, appear to request that AGP first identify the dates for board minutes before they can be requested. This is tautological. AGP has no means of identifying such dates and this information, again, is solely in the possession of MAWC. AGP sought to specify any meetings at which water service deficiencies in the Missouri service territories (that are regulated by the commission) were discussed. MAWC is obligated to provide safe and adequate service under Missouri law and should be aware when water service deficiencies were discussed by its board. The objection is, essentially intended to frustrate inquiry rather than assist it.

Discovery enjoys a lower level of relevancy. AGP has no knowledge at this time whether such discussions even occurred and MAWC's objection does not reveal that such discussions

occurred. If there are none, MAWC can so state, but if there are, these discussions are relevant to the commission's supervising jurisdiction of water utilities that provide service in Missouri.

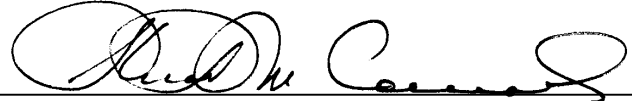
Again, as noted earlier, corporate structure should not be a barrier to discovery about the quality of service provided by a Missouri regulated utility. Corporate structure can easily be manipulated to shield relevant information -- or information that might reasonably lead to the disclosure of relevant information -- from public view and commission scrutiny.

At the end of its objections, MAWC appears to suggest that AGP could designate a "reasonable time period" and MAWC would respond within that context. It is, frankly, not up to MAWC to evaluate what is a "reasonable time period." Yet AGP has no information at all regarding when or if such discussions even occurred. Neither intervenors nor the commission should be required to depend on MAWC's "grace" to disclose information

about the adequacy of its service in Missouri territories, nor should MAWC be permitted to hide such discussions behind its corporate structure. The discovery should be compelled.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", is written over a horizontal line.


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ATTORNEYS FOR AG PROCESSING INC A
COOPERATIVE

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing pleading on the designated attorneys or representatives of each party in accord with Commission Orders and the service list maintained in this proceeding by the Secretary of the Commission on EFIS.

Dated: September 27, 2011

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad, an attorney for
within applicant

MISSOURI-AMERICAN WATER COMPANY

WR-2011-0337

**Data Request
of
Ag Processing Inc a Cooperative
to**

Missouri-American Water Company

September 2, 2011

<u>Item No.</u>	<u>Description</u>
24.	Please a) provide a copy of the minutes of the meetings of the board of directors of the company and of the board of directors of its parent corporation of each meeting at which consolidated tariff pricing was discussed, and also b) provide a copy of each presentation to the Board that addresses or relates to consolidate tariff pricing.

The attached or above information provided to the requesting party or parties in response to this data or information request is accurate and complete and contains no material misrepresentations or omissions, based upon present facts to the best of the knowledge, information or belief of the undersigned. The undersigned agrees to immediately inform the requesting party or parties if during the pendency of this case any matters are discovered which would materially affect the accuracy or completeness of the attached information and agrees to regard this as a continuing data request.

As used in this request the term "document" includes publications in any format, work papers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data recordings, transcriptions and printer, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to the party to whom this request is tendered and named above and includes its employees, contractors, agents or others employed by or acting in its behalf.

Signed: _____

Date: _____

MISSOURI-AMERICAN WATER COMPANY

WR-2011-0337

**Data Request
of
Ag Processing Inc a Cooperative
to**

Missouri-American Water Company

September 2, 2011

<u>Item No.</u>	<u>Description</u>
25.	Please a) provide a copy of the minutes of the meetings of the board of directors of the company and of the board of directors of its parent corporation of each meeting at which water service deficiencies in the companies' Missouri service territories were discussed, and also b) provide a copy of each presentation to the Board that addresses or relates to such deficiencies.

The attached or above information provided to the requesting party or parties in response to this data or information request is accurate and complete and contains no material misrepresentations or omissions, based upon present facts to the best of the knowledge, information or belief of the undersigned. The undersigned agrees to immediately inform the requesting party or parties if during the pendency of this case any matters are discovered which would materially affect the accuracy or completeness of the attached information and agrees to regard this as a continuing data request.

As used in this request the term "document" includes publications in any format, work papers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data recordings, transcriptions and printer, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to the party to whom this request is tendered and named above and includes its employees, contractors, agents or others employed by or acting in its behalf.

Signed: _____

Date: _____

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND

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September 12, 2011

VIA ELECTRONIC MAIL

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RE: Case No. WR-2011-0337
Missouri Public Service Commission

Dear Stuart:

We are in receipt of several Ag Processing Inc. (AGP) Data Requests related to the above-referenced case that were received on September 2/3, 2011.

This letter should be considered an objection on behalf of Missouri-American Water Company (MAWC) to all or a portion of the identified data requests, in accordance with Commission Rule 4 CSR 240-2.090(2), for the reasons described in the following paragraphs.

DR 24 – DR 24 seeks the following information:

Please a) provide a copy of the minutes of the meetings of the board of directors of the company and of the board of directors of its parent corporation of each meeting at which consolidated tariff pricing was discussed, and also b) provide a copy of each presentation to the Board that addresses or relates to consolidate[d] tariff pricing.

MAWC objects to this data request because it is overly broad and burdensome in that it fails to specify a time period for the requested minutes. MAWC further objects to this data request to the extent it requests board materials for MAWC's parent, American Water Works Company, Inc., for the following reasons: a) the responsive information is neither relevant to the subject proceeding nor reasonably calculated to lead to the discovery of admissible evidence; b) the request is unduly burdensome and overbroad; c) the request seeks information about

Mr. Stuart W. Conrad
Page 2 of 2
September 12, 2011

operations that are not regulated by the Missouri Public Service Commission; and, d) the responsive information is not in the possession, custody or control of MAWC.

Without waiving this objection, MAWC will provide a response concerning the minutes of MAWC's board of directors and presentations to that board, if a reasonable time period can be agreed to.

DR 25 – DR 25 seeks the following information:

Please a) provide a copy of the minutes of the meetings of the board of directors of the company and of the board of directors of its parent corporation of each meeting at which water service deficiencies in the companies' Missouri service territories were discussed, and also b) provide a copy of each presentation to the Board that addresses or relates to such deficiencies.

MAWC objects to this data request because it is overly broad and burdensome in that it fails to specify a time period for the requested minutes. MAWC further objects to this data request to the extent it requests board materials for MAWC's parent, American Water Works Company, Inc., for the following reasons: a) the responsive information is neither relevant to the subject proceeding nor reasonably calculated to lead to the discovery of admissible evidence; b) the request is unduly burdensome and overbroad; c) the request seeks information about operations that are not regulated by the Missouri Public Service Commission; and, d) the responsive information is not in the possession, custody or control of MAWC.

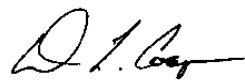
Without waiving this objection, MAWC will provide a response concerning the minutes of MAWC's board of directors and presentations to that board, if a reasonable time period can be agreed to.

Thank you for your attention to this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:



Dean L. Cooper

Cc: John Reichart