

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

In the Matter of Missouri- American Water	)	Case No. ST-2007-0443
Company's Filing of Revised Sewer Tariff Sheets to	)	
Implement a Capacity Charge for Missouri-	)	Tariff File Nos:
American's Warren County and Jefferson County	)	JS 2007-713
Sewer Districts.	)	JS 2007-714

**MOTION TO CONFIRM PARTY STATUS OR, IN THE ALTERNATIVE,  
FOR LEAVE TO INTERVENE**

COMES NOW Home Builders Association of St. Louis and Eastern Missouri, Inc. (hereinafter "HBA"), by and through its undersigned counsel, and moves this Commission for an order confirming that HBA is a party to Case No. ST-2007-0443 by virtue of its First Amended Objection and Request for Suspension of Tariff Filings. In the alternative, HBA moves this Commission for leave to intervene in Case No. ST-2007-0443 pursuant to 4 CSR 240-2.075. In support, HBA states as follows:

1. Home Builders Association of St. Louis and Eastern Missouri, Inc., is a not-for profit Missouri Corporation with over 1,300 members comprised of builders, developers, and others associated with the development and shelter industry in the St. Louis metropolitan area, including St. Louis City, and the counties of St. Louis, St. Charles, Jefferson, Franklin, Warren, Lincoln and Washington. HBA's members are directly impacted by the rates, charges, terms and conditions of sewer services provided by MAWC. A list of HBA's builder members is attached hereto as Exhibit 1. A list of HBA's associate members is attached hereto as Exhibit 2.

2. On or about April 2, 2007, MAWC filed tariff sheets with the Public Service Commission seeking approval to implement Capacity Charges in the Cedar Hill District (Jefferson County) and Incline Village, *et al.* District (Warren County). MAWC

seeks approval to assess a capacity charge, in part, in the amount of \$5,500 per single family residence, payable at the time of “application for service.” The proposed Capacity Charge is intended to be in addition to the Connection Charge already assessed in each District, respectively.

3. According to the filings with the Public Service Commission, the Capacity Charge is a charge “employed to assign to future customers the capital cost responsibility of backbone facilities, such as treatment facilities, lift stations and major trunk sewers providing capacity that is available for and caused by future customers.”

4. The Office of Public Counsel and HBA both objected to the Tariffs. The Office of Public Counsel filed its objection on May 21, 2007 [Doc. #1]. HBA’s original objection was filed on May 25, 2007 [Doc. #3]. The Public Counsel and HBA both requested that this Commission suspend the Tariffs pending a hearing.

5. By Order dated May 31, 2007 [Doc. #8], the Commission suspended the tariffs for 120 days and scheduled a pre-hearing conference for June 18, 2007.

6. In its May 31 Order, the Commission also ordered HBA’s First Amended Objection and Request for Suspension of Tariff Filings to be filed.

7. By virtue of its objection to the Tariffs, HBA believes it is a proper party to this case. However, the Commission’s rules do not expressly state that an entity which files an objection pursuant to § 393.150, RSMo, and 4 CSR 240-2.065 becomes a party to that case for all purposes. Accordingly, HBA respectfully requests that this Commission enter its order confirming that HBA is a proper party to this case, Case No. ST-2007-0443.

8. In the alternative, HBA hereby requests the Commission's leave to intervene in Case No. ST-2007-0443.

9. Pursuant to 4 CSR 240-2.075(4), any person may be permitted to intervene upon a showing that: "(A) The proposed intervenor has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or (B) Granting the proposed intervention would serve the public interest."

10. HBA believes the proposed Capacity Charge is unlawful and/or improper for at least the following reasons: (1) it would allow MAWC to recover costs that are not just and reasonable in violation of §§ 393.130.1, 393.150, RSMo; (2) it would unfairly discriminate against future customers in violation of § 393.130, RSMo, by charging future customers for costs associated with serving existing customers; and (3) it would constitute single issue ratemaking in violation of § 393.270.5, RSMo.

11. HBA has an interest that is different from the interests of the general public and that would be adversely affected by the proposed Capacity Charge. The Capacity Charge proposed in the Tariffs would affect the price of and market for new houses and buildings and lots for such houses and buildings. HBA's members participate in that market. These substantial, increased costs would have a direct and adverse effect on the pecuniary interests of HBA members. Also, since the proposed capacity charges will necessarily be paid by future customers of MAWC, HBA is uniquely situated to address this issue. Like the future customers, HBA has an interest in ensuring that any Capacity Charge is fair and reasonable and does not unfairly discriminate against future customers.

12. HBA's intervention is also in the public interest. As an association of persons and entities participating in the building and shelter industry, HBA provides a unique perspective on the quality of sewer service, the costs involved, and the proper method for apportioning those costs between existing and future customers of the sewer company.

13. All notices, correspondence, orders and rulings relating to this matter should be directed to the following on behalf of the HBA:

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WHEREFORE, the Home Builders Association of St. Louis and Eastern Missouri, Inc. respectfully requests that this Commission:

- a) Enter its Order confirming that Home Builders Association of St. Louis and Eastern Missouri, Inc. is a proper party to this case, Case No. ST-2007-0443;
- b) In the alternative, enter its order granting Home Builders Association of St. Louis and Eastern Missouri, Inc. leave to intervene in this case, Case No. ST-2007-0443;
- c) Order such other relief as this Commission deems just and proper.

Respectfully submitted,

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**Attorneys for Home Builders Association  
of St. Louis and Eastern Missouri, Inc.**

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing instrument was forwarded this 7th day of June, 2007, via United States mail, postage prepaid, e-mail, facsimile, or hand delivery to:

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