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August 17, 2000

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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

FILED³

AUG 17 2000

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. WR-2000-281

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S OBJECTION TO MISSOURI-AMERICAN'S ANNOTATED LATE-FILED EXHIBIT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Keith R. Krueger
Deputy General Counsel
(573) 751-4140
(573) 751-9285 (Fax)

KRK:sw
Enclosure
cc: Counsel of Record

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

AUG 17 2000

In the Matter of Missouri-American Water)
Company's Tariff Sheets Designed to)
Implement General Rate Increases for)
Water and Sewer Service Provided to)
Customers in the Missouri Service Area of)
the Company.)

Missouri Public
Service Commission

Case No. WR-2000-281

STAFF'S OBJECTION TO
MISSOURI-AMERICAN'S ANNOTATED LATE-FILED EXHIBIT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and objects to the Annotated Late-Filed Exhibit filed by Missouri-American Water Company ("Company"), and in support thereof, states to the Missouri Public Service Commission ("Commission") as follows:

1. On August 8, 2000, the Commission issued its Order Directing Filing, in which it directed all parties to file a late-filed exhibit "based upon the record as it presently exists," in which each party was to set out a scenario "depicting the calculation of the revenue requirement according to its position in this case, listing the revenue to be generated with respect to each contested issues herein."

2. In response thereto, the Company, on August 15, 2000, filed its Annotated Late-Filed Exhibit. The second entry on the first page of the text of the exhibit (the reconciliation page) reads as follows: "Revenue requirement on Company's proposed Property tax on SJTP and related facilities (2) ... 998,400.0." In a footnote at the bottom of the same page, the Company

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states that: "Staff suggested that if the Commission granted a property tax amount, the company could recover the property taxes through a surcharge when the actual amount is known." Annotation 2, which accompanies this entry, explains how the \$998,400 figure was calculated. The next entry on the same page shows the "Impact of settled/non-contested issues on Company's request" to be \$2,279,163.

3. The necessary implication of the foregoing entries is that the Staff and the Company have agreed that the Company may recover the property taxes through a surcharge when the actual amount of the property taxes is known. The Staff has never agreed to such a proposal, and in fact, the Company has stipulated on the record that the property taxes may be excluded from the revenue requirement.

4. At the evidentiary hearing on the true-up issues in this case, on June 26, 2000, the Company's attorney, W. R. England, III, made the following statement:

And, again, for purposes of the record, after reviewing Staff's testimony regarding those issues, the chemical expense and property tax, Company is prepared to accept the proposal that's contained in the Staff prepared testimony of Mr. Gibbs.¹

This statement constitutes an unequivocal acceptance of "the proposal that's contained in the Staff prepared testimony of Mr. Gibbs."

5. Staff witness Doyle L. Gibbs addressed the property tax issue in his True-up Rebuttal Testimony, beginning at page 3, where he stated the following:

Q. Does the Staff agree with the Company's inclusion of the imputed property tax expense related to the new St. Joseph treatment plant?

A. No. The Staff not only disagrees with the inclusion of property taxes related to the new treatment plant, but also disagrees with the adjustment amount that was calculated by the Company.²

¹ Tr. 213, line 22 – Tr. 214, line 2.

² Gibbs True-Up Rebuttal Testimony, Ex. 112, p. 3, lines 5-10.

Mr. Gibbs then devoted the next three pages of his True-Up Rebuttal Testimony to an explanation of why the Staff opposes the inclusion of property taxes on the new plant in its revenue requirement. He concluded this discussion with the following testimony:

Q. Please summarize the Staff's recommendation for property taxes for the new treatment plant.

A. Since the payment date of property taxes for the new treatment plant is so far beyond the true-up cut-off date, including these taxes in cost of service would distort the expense, revenue and rate base relationship. Including only this one item beyond the true-up date without considering other changes in the cost of service would be inappropriate ratemaking. In addition, since it is obvious that Buchanan County has miscalculated the in-service date and has not previously included CWIP in its assessment, the Company should receive a favorable ruling on its appeal.

For these reasons, the Staff recommends that the property taxes associated with the new plant should not be included in the cost of service.³

The testimony of Mr. Gibbs unequivocally states that the Staff recommends that "the property taxes associated with the new plant should not be included in the cost of service."

6. The Company's position is apparently based upon the testimony of Mr. Gibbs that "if the Commission determines that recovery is appropriate, it would be the recommendation of the Staff that the recovery be accomplished by the application of a surcharge ..."⁴

7. From the foregoing, it is clear that the Staff's proposal is that the property tax would not be included in the revenue requirement. Only if the Commission rejected that proposal would the Staff support a surcharge. When the Company, on the record, acceded to the Staff's proposal, it agreed the property tax would not be included in the revenue requirement.

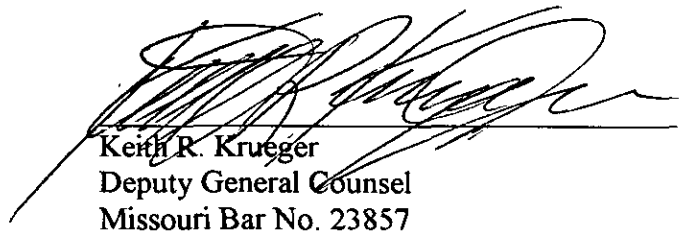
8. The Staff contends that the Company's acceptance of the Staff's proposal was unambiguous. However, if the Commission does believe that there is any ambiguity regarding the effect of the Company's acceptance of this proposal, the ambiguity should be resolved against the party that made the "ambiguous" statement, namely the Company.

³ Gibbs True-Up Rebuttal Testimony, Ex. 112, p. 6, lines 4-14.

WHEREFORE, the Staff objects to the Company's late-filed exhibit to the extent that it seeks to include the issue of inclusion of property taxes in revenue requirement as a contested issue, and requests that the property taxes be excluded from revenue requirement.

Respectfully submitted,

DANA K. JOYCE
General Counsel

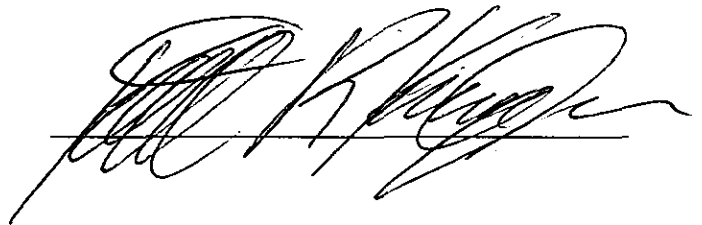


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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 17th day of August 2000.



⁴ Gibbs True-Up Surrebuttal Testimony, Ex. 112, p. 6, lines 21-23.

**Service List for
Case No. WR-2000-281, et al.
August 17, 2000**

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