

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

In the Matter of Missouri-American Water )  
Company's Request for Authority to )  
Implement a General Rate Increase ) Case No. WR-2008-0311  
for Water and Sewer Service Provided in )  
Missouri Service Areas )

**MOTION TO REDESIGNATE DOCUMENTS**

COMES NOW Utility Workers Union of America Local 335 ("UWUA 335"),  
and for its Motion to Redesignate Documents states as follows:

**INTRODUCTION**

UWUA 335 intervened in the instant rate case to represent the unique interests of bargaining unit employees of Missouri-American Water Company ("Missouri-American"). In the course of this proceeding, UWUA 335 has issued two Data Requests. This motion pertains to Missouri-American's overly broad designation of its responses as "Highly Confidential."

**DISCUSSION**

On August 25, 2008, Missouri-American submitted its response to UWUA 335's Second Data Request. Missouri-American designated all of the documents produced as "Highly Confidential." Public Service Commission Rule 4 CSR 240-2.135 provides that the "Highly Confidential" designation may be used only where the documents contain information concerning:

- a) Material or documents that contain information relating directly to specific customers;
- b) Employee-sensitive personnel information;

- c) Marketing analysis or other market-specific information relating to services offered in competition with others;
- d) Marketing analysis or other mark-specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;
- e) Reports, work papers, or other documentation related to work produced by internal or external auditors or consultants;
- f) Strategies employed, to be employed, or under consideration in contract negotiations; and
- g) Information relating to the security of a company's facilities.

4 CSR 240-2.135 (1)(B)(1)-(7). A party objecting to the designation of the information should, within ten days, "file an appropriate motion with the commission." 4 CSR 240-2.135 (11).

Most of the documents produced by Missouri-American cannot be considered "Highly Confidential" within the Public Service Commission rules, including: a chart reflecting Missouri-American's organizational structure (only the title of each position is identified); the Senior Management Incentive Plan; the 2007 Annual Incentive Plan; and a summary of full-time non-union benefits (effective January 1, 2008). These disputed documents concern personnel issues; therefore, the only relevant portion of 4 CSR 240-2.135 is part (b), above. However, the documents do not provide any employee names, social security numbers, or other identifying characteristics specific to any actual employee, and thus do not contain employee-sensitive information as required by the rules.

UWUA 335 also requested salary information concerning Missouri-American's executive employees. UWUA 335 did not request, nor did Missouri-American provide, the identity of the individuals holding the executive positions. The Public Service Commission's Staff Attorney has requested this same information from Missouri-American in the past. Therefore, it is UWUA 335's position that the requested salary information is not "Highly Confidential" within the meaning of 4 CSR 240-2.135.

The Public Service Commission has ordered that documents be made public where, as here, a party used the "Highly Confidential" designation in an overly broad manner. *See e.g.*, Commission Order in Case No. EM-2007-0374, attached hereto as Exhibit A.

Further, 4 CSR 240-2.135 (2)(B) requires a party that designates information as "Highly Confidential" to inform, in writing, the party seeking discovery of the reason for the designation. Missouri-American has not done so. Finally, the public would be best served by the publication of these documents because citizens have the right to access information concerning Missouri-American, a public utility, that is not employee-sensitive.

Missouri-American also produced documents improperly labeled "Highly Confidential" pursuant to UWUA 335's First Data Request. These documents include a spreadsheet totaling hours by pay category, union benefits summaries, benefit premium statements, and an organizational chart concerning Missouri-American's subsidiaries. These documents do not provide employee names, social security numbers, or other identifying characteristics specific to any actual employee, and thus do not contain

“employee-sensitive personnel information” or any other information warranting a “Highly Confidential” designation under 4 CSR 240-2.135.

UWUA 335 failed to timely oppose the designations within ten days of receipt because the press of other business, including other matters before this Commission, prevented UWUA 335’s counsel from reviewing the information provided within ten days. Therefore, with regard to these documents, UWUA 335 requests a waiver of Section (11) of the Rule, which requires that objections to designations be made within ten days of filing. The Commission has allowed waiver of this provision where good cause is shown. *See e.g.*, Commission Order in Case No. EM-2007-0374, attached hereto as Exhibit A.

UWUA 335 asserts that Missouri-American’s continuing practice of overly broad designation of documents as “Highly Confidential” is good cause for waiver of the deadline. The information should be made public because the public interest is best served by having as much information that is not employee-sensitive regarding the operation of this utility. Further, as in Commission Order in Case No. EM-2007-0374, Missouri-American is not prejudiced by UWUA 335’s delay in filing its objection.

WHEREFORE, Utility Workers Union of America Local 335 respectfully requests that this Court make public the disputed documents designated “Highly Confidential” by Missouri-American.

s/  Sherrie A. Schroder

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