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March 14, 2003

FILED³

MAR 17 2003

**Missouri Public
Service Commission**

FEDERAL EXPRESS

Mr. Dale H. Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, Missouri 65101

Re: **Missouri-American Water Company
Proposed Tariffs, Tracking Nos. JW-2003-1635, JW-2003-
1669 and JW-2003-1674**

Dear Mr. Roberts:

Enclosed are the original and eight (8) conformed copies of the **Protest, Request for Suspension and Application to Intervene of Ag Processing Inc.**, which please file in the above matter and call to the attention of the Commission.

An additional copy of the material to be filed is enclosed, which kindly mark as received and return to me in the enclosed envelope as proof of filing.

Thank you for your attention to this important matter. If you have any questions, please call.

Sincerely yours,

FINNEGAN, CONRAD & PETERSON, L.C.

By: 
Stuart W. Conrad

SWC:s
Enclosures
cc: All Parties

FILED³

MAR 17 2003

Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In re the Filing by Missouri-Ameri-)	
can Water Company of Proposed Tar-)	File Nos. JW-2003-1635
iff Changes in Anticipation of a)	JW-2003-1669
New Call Center)	JW-2003-1674

PROTEST, REQUEST FOR SUSPENSION
AND APPLICATION TO INTERVENE
OF AG PROCESSING INC.

Comes now AG PROCESSING INC, a COOPERATIVE ("AGP", and submits its protest regarding the above proposed tariffs, requests that they be suspended for investigation and consideration by the Commission, and pursuant to 4 C.S.R. 240-2.075 applies to intervene herein and become a party hereto in respect to these matters. In support thereof, AGP respectfully states:

1. AGP is an agricultural cooperative and is a large manufacturer and processor of soybean meal and soy-related food products and other grain products throughout the central and upper Midwest, including the State of Missouri. AGP is the largest cooperative soybean processing company in the world, the third-largest supplier of refined vegetable oil in the United States and the third-largest commercial feed manufacturer in North America.

2. AGP operates a major processing facility in St. Joseph, Missouri, is an large customer of Missouri-American Water Company (MAWC) at that location and utilizes significant quanti-

ties of water provided by or through MAWC's facilities. AGP is believed to be among the largest customers of MAWC in St. Joseph.

3. Correspondence or communications regarding this application, including service of all notices and orders of this Commission, should be addressed to:

Stuart W. Conrad, Esq.
FINNEGAN, CONRAD & PETERSON, L.C.
1209 Penntower Office Center
3100 Broadway
Kansas City, Missouri 64111
Voice: (816) 753-1122
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E-mail: stucon@fcplaw.com

and to:

Mr. Gary Chesnut
Corporate Purchasing Manager
Ag Processing Inc., A Cooperative
12700 West Dodge Rd.
Omaha, NE 68154

4. On February 28, 2003 and on March 10, 2003 MAWC filed proposed tariffs which would change certain aspects of MAWC's tariffs purportedly to facilitate the operation of a "call center." The provisions proposed to be changed that are of particular concern to AGP deal with the date that payment is deemed to be "due" and the shortness of time within which such payment is expected to be made from the date of a bill.

5. AGP is interested in and concerned regarding the terms of these proposed tariff changes and their applicability to AGP. As a major customer of MAWC, AGP is in a position to be directly affected by the proposed tariff and its terms and may be bound or adversely affected by any Commission order issued in this proceeding in connection with this filing. Because of AGP's

size, AGP is in the special and unique position of representing its own interest which will not and cannot be represented adequately by any other party including Public Counsel and which interest is direct and immediate and differs from that of the general public. Therefore, it will aid the Commission and protect and advance the public interest that AGP be permitted to intervene in this proceeding so as to protect its interest.

6. The provision of concern that is proposed to be changed or added to MAWC tariffs appears on numerous proposed tariff sheets and in what appears to be all of the districts in which MAWC provides service. MAWC proposes to add the phrase: "Bills are net, and are due and payable within ten (10) days after date of bill" to most if not all of its pertinent tariff sheets. This change should be suspended for the following reasons:

a. The due date is calculated from the date of the bill rather than from the date of receipt by the customer. Until a customer receives a billing for a utility (or, for that matter, anyone) it cannot pay that bill. This is particularly onerous for larger customers. Given current practice, it may be as much as two or three days after the bill is prepared that it is placed in the mail, an additional two or three days (or more if over a weekend) before it is delivered to the customer. This could be as much as six or seven days of the ten. Once received, the bill must be internally routed to the proper department within the customer, then verified against internal information and con-

trols, then approved for payment before the check generation process can even be initiated. Thereafter, it may be one or two days before the check run is actually made and the payment check issued and placed in the mail. Allowing another two or three days for return to the utility, it is obvious that more than the "ten days" provided has been exhausted, primarily by delays in the United States Mail for which neither party is responsible. A ten day period from the date of the bill is too short a time. Electronic transfer, though avoiding the delays in mail, has its own processing delays and does not avoid the internal processing and verification that is required. Even if there were no mail delays at all, this schedule would leave insufficient time for a conscientious business to process a bill for payment.

b. Other MAWC tariffs, as well as Commission rules, provide for minimum times for customers to be able to handle and deal with their utility bills. These time periods are important for business customers who process large number of bills daily as certain vendors simply cannot be "broken out" of the flow so as to receive faster treatment. Ten days from date of bill is inadequate and may have other impacts on the customer service standards that are promulgated by the Commission.

c. MAWC appears to propose an inconsistent -- and more lax -- standard for its Jefferson City customers, allowing them 21 days before a billing is "delinquent." While far more reasonable, even this period may not in all cases be adequate.

d. In that same context, MAWC fails to distinguish between a "due" and a "delinquent" bill in all its districts save Jefferson City and there does so inconsistently.

e. In the last MAWC rate case, which resulted in the current rates being charged, MAWC's revenue was based in part upon its cash working capital requirements. Those requirements were calculated using a "lead/lag" study that compared MAWC's positive or inward cash flow from its customers to its negative or cash flow, recognizing the difference as working capital contributed by shareholders on which an opportunity for a return should be provided. Changing the times within which customers make bill payments in a manner that accelerates positive cash flow would impact this calculation and would result in less cash being provided by shareholders. Accordingly, absent a reduction in rates commensurate with the reduction in cash working capital needs, MAWC's earnings will be greater than those permitted under the last rate case decision. Moreover, consideration of this one aspect of a rate case in isolation from other aspects of a rate case would appear to violate the prohibition against single issue ratemaking noted in *State ex rel. Utility Consumers Council of Missouri, Inc.*, 585 S.W.2d 41, 49 (Mo en banc 1979) ("UCCM") where the Commission was directed to consider "all relevant circumstances" in making its decisions.

f. The filing also is asserted to be justified by the implementation of a centralized "call center." While utilities certainly should be encouraged to employ efficient measures of

customer service, when existing rates are based upon a much higher level of costs, the Commission should not permit the utility to be benefitted by cost savings without passing those cost savings along to the ratepayers. To do so would result in rates that exceed the level of costs incurred by the utility.

7. For these reasons, and perhaps others, the proposed tariffs should be suspended and become the subject of an investigation by the Commission. While it may not be necessary to hold a hearing on such issues, they at least should be the subject of discussion and consideration by the Commission and by representatives of customers served by the utilities so that neither excessive profits for the utility are permitted or burdensome and oppressive payment mechanisms are foisted upon the customers without full Commission consideration of the implications of these changes.

WHEREFORE, AGP prays: (a) that the proposed tariffs containing the above-mentioned proposals be suspended pending review of the filing and any supporting documentation; (b) that depending upon such analysis that a hearing or other process may be needed and requested; and (c) that AGP be permitted to intervene herein and be made a party hereto with all rights to have notice of and participate in hearings to present evidence, cross-examine witnesses, file briefs and participate in argument,

should any be had; and (d) for all other needful and proper relief appropriate in the premises.

Respectfully submitted,

PINNEGAN, CONRAD & PETERSON, L.C.



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ATTORNEYS FOR AG PROCESSING INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Application for Leave to Intervene by U.S. mail, postage prepaid addressed to all parties by their attorneys of record as provided by the Secretary of the Commission and shown on the sheet following.



Stuart W. Conrad

Dated: March 14, 2003

Mr. John Coffman
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