

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

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| In the matter of |) | |
| |) | |
| Utility Workers Union of America, |) | |
| Local 335, |) | Case No. |
| |) | |
| and |) | |
| |) | |
| Missouri American Water Company. |) | |

COMPLAINT

COMES NOW Utility Workers Union of America, Local 335 (“Local 335”), by counsel, and hereby files its Complaint against Missouri American Water Company (“MAWC”) pursuant to R.S.Mo. §§ 386.390, 393.130.1 and 4 CSR § 240-2.070. In support of this Complaint, Local 335 states as follows:

Allegations Applicable to All Counts

1. MAWC is a public utility operating under the jurisdiction and oversight of the Missouri Public Service Commission. MAWC’s principal place of business is 727 Craig Road, St. Louis, MO 63141.
2. Local 335 is a labor organization that represents approximately 400 employees of MAWC.
3. Local 335 is an unincorporated association. However, since labor unions are not required to register their names as fictitious names with the Missouri Secretary of State, Local 335 does not have evidence of any such registration. Further, Local 335 does not have an office or place of business in any traditional sense. In general, persons wishing to contact Local 335 may contact the union through its president at the address and telephone number listed here:

Tom Schneider
1911 Oaktree St.

St. Peters, MO 63376
(636) 278-0939

Since all Local 335 officers are employees of MAWC, the water company can easily contact them, and company-union business may be conducted at the water company's offices.

4. Pursuant to R.S.Mo. §386.390.1, the Commission is permitted to hear complaints brought by any person based upon an action by a public utility.

5. Pursuant to R.S.Mo. §393.130, MAWC is required to provide "safe and adequate" service.

6. Pursuant to R.S.Mo. §393.140(2), the Commission is empowered to investigate the "methods employed...in supplying and distributing water for any purpose whatsoever...and to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such...water...and those employed in the distribution thereof."

7. Pursuant to R.S.Mo. §386.310.1, the Commission may require MAWC to operate "in such manner as to promote and safeguard the health and safety of its employees, customers, and the public...and to require the performance of any...act which the health or safety of its employees, customers or the public may demand."

Count I: Request that the Commission Investigate MAWC's Valve Maintenance Program

8. Local 335 hereby restates and incorporates by reference paragraphs 1 through 7, above.

9. There are approximately 4,000 miles of mains present in MAWC's water system.

10. Valves are present in these mains. If a valve is closed, it will isolate that section of main. Closing a valve will limit the number of customers out of water service in the event of a main break.

11. Some valves in the water system are over 80 years old.
12. Valve exercising is a maintenance procedure whereby the valves are closed and reopened. Exercising the valve helps remove the corrosion and sediment that builds up inside, which makes the valve more difficult to close. If a valve does not completely close due to built up corrosion and sediment, it will not be effective in isolating the main. In that case, a valve at another location will need to be closed, thereby putting additional customers out of service.
13. Valve exercising can be done manually by using a valve key or by using a gas powered machine possessed by MAWC.
14. In 2007, American Water Company (MAWC's parent) drafted a "Valve Operation, Inspection, and Maintenance Practice." This document stresses the importance of proper valve maintenance as a way to "increase valve reliability, reduce valve failure, and extend valve life." Moreover, it cautions that valve failure due to insufficient maintenance "may result in extensive damage to infrastructure and/or property loss, extended service interruptions to our customers and can lead to costly repairs or replacement activities." This document sets out the steps for proper valve exercising, the frequency of maintenance techniques, and data collection practices. A true and accurate copy of the American Water practice document is attached hereto as Exhibit 1.
15. Previously, MAWC had a crew of 3-4 maintenance employees who were exclusively assigned to exercising valves. For at least 5 years, MAWC has not maintained a valve exercise crew.
16. Upon information and belief, MAWC no longer maintains a valve exercise program.

17. On or around January 2011, MAWC reduced its maintenance department by 5 employees. These employees have not been replaced.

18. On April 10, 2011, a 30" main broke at Old Bonhomme Road and Olive Blvd. in Olivette, Missouri. The responding crew attempted to close valves in order to isolate the break, but the first three valves they tried were not operational. Upon information and belief, these three valves had been broken for approximately 10 years.

19. In a case before the Tennessee Regulatory Authority, MAWC's sibling company, Tennessee American Water, was ordered to submit to semi-annual reporting on its valve maintenance program. In that matter, the union representing Tennessee American Water's employees submitted evidence that the company had failed to adequately maintain its valve exercise program. As a result, Tennessee American Water was required to report on the following: (1) the number of employees assigned to its valve program, (2) the number of valves planned to be inspected or maintained in the previous reporting period, (3) the number of valves actually inspected or maintained in the previous reporting period, (4) the number of valves in need of repair or replacement, (5) the date for repair or replacement for damaged valves, and (6) the reasons behind any decision not to repair or replace any damaged valves. A true and accurate copy of the Motion of Tennessee Regulatory Authority Chairman Mary W. Freeman detailing same is attached hereto as Exhibit 2. A true and accurate copy of an April 6, 2011 Tennessee Regulatory Authority press release indicating same is attached hereto as Exhibit 3.

WHEREFORE, Local 335 respectfully requests that the Commission investigate MAWC's valve maintenance program pursuant to R.S.Mo. § 393.140 and, upon completion of the investigation, issue any appropriate relief.

**Count II: Request that the Commission
Investigate MAWC's Fire Hydrant Maintenance Program**

20. Local 335 hereby restates and incorporates by reference paragraphs 1 through 7, above.

21. MAWC is responsible for more than 18,000 fire hydrants in St. Louis County.

22. Upon information and belief, a majority of these hydrants are more than 50 years old.

23. The proper functioning of these hydrants is a critical fire safety issue. Moreover, opening the hydrants is a way to flush out the water system in the event any contaminants enter the system.

24. These hydrants contain a valve similar to the valves described in Count I.

25. MAWC does not currently have a valve exercise program in place regarding the hydrants. Upon information and belief, MAWC has never maintained a valve exercise program for the hydrants.

26. MAWC's current hydrant maintenance program involves using temporary summer employees (usually college students) to perform pressure testing and spot painting of the hydrants. It hires approximately 15-20 temporary employees per summer.

27. MAWC's current system lacks the manpower to insure that its 18,000 hydrants operate effectively. Moreover, the program should operate year round to maximize the scope of the maintenance program.

WHEREFORE, Local 335 respectfully requests that the Commission investigate MAWC's hydrant maintenance program pursuant to R.S.Mo. § 393.140 and, upon completion of the investigation, issue any appropriate relief.

Count III: Request that the Commission Oversee MAWC's Subcontracting of ISRS Work

28. Local 335 hereby restates and incorporates by reference paragraphs 1 through 7, above.

29. Construction and maintenance work of MAWC's water system has been performed by Local 335 for 65 years.

30. Pursuant to an agreement between MAWC and Local 335 dated May 6, 2002, all ISRS work was performed by Local 335.

31. On February 7, 2011 MAWC gave Local 335 notice of its intent to repudiate this agreement within 60 days.

32. In its last best and final proposal during negotiations for a new collective bargaining agreement, MAWC proposed that it have the right to subcontract "all work currently covered by ISRS."

33. Local 335 members are given a comprehensive pre-employment background check, covering criminal history, credit report, history of workers' compensation claims, etc. Moreover, they are given a pre-employment physical and drug test.

34. Local 335 members are also given extensive safety training, with refresher courses at least once per year.

35. It is not clear what safety and training standards, if any, are required by MAWC for its subcontractors.

36. In October and November 2010, the Company subcontracted 6 ISRS projects involving work regularly performed by Local 335 to American Directional Boring, Inc. and G&S Construction Company. MAWC admitted that these jobs were contracted on a "no bid" basis.

37. Dealings with subcontractors, especially on a no bid basis, create the potential for conflicts of interest amongst MAWC's managers.

WHEREFORE, Local 335 respectfully requests that the Commission investigate MAWC's subcontracting of the ISRS work with regard to training, qualifications, safety record, and the bid process pursuant to R.S.Mo. § 393.140, and, upon completion of the investigation, issue any appropriate relief.

Respectfully submitted,

/s/ Michael A. Evans
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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing was served on April 14, 2011, by United States mail, hand-deliver, email, or facsimile upon:

General Counsel Office
Missouri Public Service Commission
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/s/ Michael A. Evans