

FILED<sup>3</sup>

AUG 25 2000 *nh*

STATE OF MISSOURI  
MISSOURI PUBLIC SERVICE COMMISSION

Missouri Public  
Service Commission

In the Matter of Missouri-American )  
Water Company's Tariff Sheets De- )  
signed to Implement General Rate )  
Increases for Water and Sewer Ser- )  
vice provided to Customers in the )  
Missouri Service Area of the Compa- )  
ny )

WR-2000-281  
SR-2000-282  
(Consolidated)

APPLICATION FOR REHEARING OF  
AUGUST 23 ORDER DIRECTING SCENARIOS  
BY INTERVENORS AG PROCESSING INC, A COOPERATIVE,  
FRISKIES PETCARE, A DIVISION OF NESTLE USA,  
WIRE ROPE CORPORATION OF AMERICA INC., CITY OF RIVERSIDE  
AND CITY OF JOPLIN

COME NOW Intervenor AG PROCESSING INC, A COOPERATIVE ("AGP"), FRISKIES PETCARE, A DIVISION OF NESTLE USA ("Friskies") and WIRE ROPE CORPORATION OF AMERICA INC. ("Wire Rope") (collectively herein "St. Joseph Industrial Intervenor") joined by City of Riverside ("Riverside") and City of Joplin ("Joplin") and pursuant to Section 386.500 RSMo 1994 respectfully seek Rehearing or Reconsideration of the August 23, 2000 Order Directing Scenarios ("Order") on the following grounds:

1. The Order is unlawful, having been issued on August 23, 2000, with an effective date of August 24, 2000 and further was faxed to parties no earlier than 9:01 a.m. on August 23, 2000 thereby giving parties less than ten (10) days and, in fact, less than seven (7) hours within which to file purportedly timely Applications for Rehearing. In fact such action is unreasonable per se, in violation of law and in direct violation

of the order of the Circuit Court of Cole County, Missouri that such orders shall not be issued with less than a ten (10) day effective date. Accordingly, such order violates these parties rights to due process under the Missouri Constitution and under Amendment V and Amendment XIV of the United States Constitution.

2. The Order is unlawful, unreasonable, and is arbitrary and capricious in that it directs Staff of the Public Service Commission, a party litigant before the Commission in this proceeding, to make evidentiary filings and submit such filings for the consideration of the Commission without regard to or opportunity to the other parties to the proceeding to cross-examine with respect to such information. It therefore contaminates the record of this proceeding, destroys the purported impartiality of the decision makers, subverts the Constitutional requirement that decisions of the Commission be based upon competent and substantial evidence on the whole record and furthermore violates the Commission's own rules by directing that the Staff make an ex parte contact with and submit ex parte information to the Commission. As a result, the Order Directing Filing is unlawful, unconstitutional and in flagrant violation of these parties rights of due process in and to a fair and unbiased procedure.

3. The Order is unlawful, unreasonable, and is arbitrary and capricious in that it purports to direct a party

litigant before the Commission to submit exhibits and materials that are inconsistent with that party's asserted and supported position in litigation. The Staff is either an advisor to the Commission and is part of the decision making process at that level, or it is a litigant before the Commission. It cannot be both a party litigant before the Commission and a legal representative of the Commission and lawfully cannot be ordered by the Commission to serve both purposes. To attempt to do so is in outright violation of the Commission's own rules regarding ex parte contact by directing the Staff to make ex parte communications with the Commission and to submit ex parte information to the Commission in disregard of other parties' rights to due process and fair procedure.

4. The Order is unlawful, unreasonable and is arbitrary and capricious in that it reveals that the Commission has reviewed and given consideration to Staff's prior late-filed exhibits which were timely objected to by these parties and should not have been considered by the Commission in any part of its decision making process in this proceeding whatsoever for the reasons stated in such objection, which objection is incorporated herein by reference as though fully set out.

5. The Order is unlawful and unreasonable in that it purports to establish a procedure for one party on an ex parte basis, without participation by any other parties, without a

hearing, without an opportunity for cross-examination, and without even timely notice and receipt of the purported communication, to subvert the established hearing and evidentiary process in this case and thereby denies them due process as guaranteed them by the Missouri and United States Constitutions.

WHEREFORE, St. Joseph Industrial Intervenors, City of Riverside and City of Joplin pray that their Application for Rehearing be granted and that the Commission set aside its

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

Stuart W. Conrad by JBD

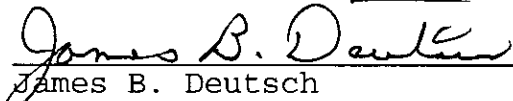
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served the foregoing pleading by hand delivery or U.S. mail, postage prepaid addressed to the following persons:

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Dated: August 25, 2000

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