

WORK

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 4th
day of February, 1999.

In the Matter of the Merger of)	
American Water Works Company)	
with National Enterprises, Inc.)	
and the Indirect Acquisition by)	<u>Case No. WM-99-224</u>
American Water Works Company of)	
the Total Capital Stock of)	
St. Louis County Water Company)	

ORDER SETTING ORAL ARGUMENT

On November 18, 1998, the Office of the Public Counsel (Public Counsel) filed a Motion to Open a Docket. Public Counsel states that on or about October 13, American Water Works Company (American) announced that it planned to acquire all of the stock of National Enterprises, Inc. (National). Public Counsel notes that American is the parent of Missouri-American Water Company (MAWC), and that National is the parent of Continental Water Company, which owns St. Louis County Water Company (SLCWC). Public Counsel points out that MAWC and SLCWC are the largest water utilities in Missouri, and urges the Commission to "exercise its jurisdiction under Sections 386.250(3), 393.190(1), and 386.330(1) by opening a docket on its own and holding hearings to review the proposed merger transaction."

On December 8, the Staff of the Commission, and SLCWC and MAWC filed responses opposing Public Counsel's motion to open a docket. These entities contend that the statutes cited by Public Counsel do not confer Commission jurisdiction over mergers of nonregulated parent companies. They direct the Commission to its recent decision in Case No. TM-99-76 in which the Commission declined to open a docket to consider the proposed merger of Ameritech Corporation into SBC Delaware, Inc., a subsidiary of SBC Communications, Inc.

On December 7 and December 9, Utility Workers Union of America Local 335, AFL-CIO (Local 335) and Public Water Supply District No. 1 of Andrew County, Public Water Supply District No. 1 of DeKalb, and Public Water Supply District of Buchanan County (Water Districts) filed to intervene. The Water Districts do not state an opinion on whether the Commission has jurisdiction to consider this proposed acquisition. Local 335 filed a pleading on January 22 in which it points out that it supports Public Counsel's motion to open a docket, and thus presumably agrees with Public Counsel's legal analysis of the Commission's jurisdiction.

The Commission opened this case to receive the motion of Public Counsel. Having considered that motion and the other pleadings, the Commission determines that its analysis of its jurisdiction over this transaction will benefit from oral argument. The Commission will ask Public Counsel, Staff, MAWC and SLCWC, and the two parties that have applied to intervene to present their arguments on the Commission's jurisdiction over the merger. The parties supporting Public Counsel's

motion to open a docket should concentrate their arguments on the ways in which the statutes covering water companies differ from those covering telecommunications companies, and the ways in which the structure of this proposed transaction differs from that in Case No. TM-99-76.

IT IS THEREFORE ORDERED:

1. That an on-the-record proceeding shall be convened on February 16, 1999 at 10:30 a.m. to hear argument on the Commission's jurisdiction over the American Water Works Company's proposed acquisition of the stock of National Enterprises, Inc. The argument will be held on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Any person with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one of the following numbers: Consumer Services Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

2. That this order shall become effective on February 17, 1999.

(S E A L)

Lumpe, Ch., Crumpton, Schemenauer
and Drainer, CC., concur
Murray, C., absent

Mills, Deputy Chief Regulatory Law Judge

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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FEB 05 1999

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION