

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
January 18, 2002**

CASE NO: WO-2002-273

Office of the Public Counsel
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Jefferson City, MO 65102

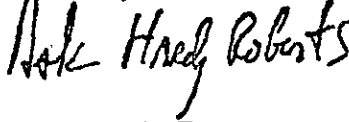
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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Joint Application of Missouri-American)
Water Company, St. Louis County Water Company, d/b/a)
Missouri-American Water Company, and Jefferson City) **Case No. WO-2002-273**
Water Works Company, d/b/a Missouri-American Water)
Company, for an Accounting Authority Order Relating to)
Security Costs.)

ORDER GRANTING INTERVENTION AND
ADOPTING PROCEDURAL SCHEDULE

On December 10, 2002, Missouri-American Water Company, St. Louis County Water Company and Jefferson City Water Works Company, the latter two doing business as Missouri-American Water Company, filed their joint application for an accounting authority order (AAO) relating to security costs. These costs have been incurred, the joint application states, as a direct result of the unexpected and extraordinary events of September 11, 2001. The applicants seek an AAO so that they may recover some part of these costs in a later rate case. The applicants also initially sought expedited treatment so that the order, if granted, would apply to costs incurred during calendar year 2001. The companies originally sought an order by January 4, 2002.

On December 12, 2001, the Office of the Public Counsel filed its response opposing the joint application for an AAO and also opposing the request for expedited treatment. Public Counsel states that the joint applicants have not alleged facts such as would support an AAO. Public Counsel further states that expedited treatment is

unwarranted because it would obstruct Public Counsel's ability to adequately investigate joint applicants' need for an AAO.

The Commission by order issued December 12 convened a prehearing conference on December 17. Appearing were Missouri-American and the Staff of the Missouri Public Service Commission. The Office of the Public Counsel, although duly notified, did not appear. At the prehearing conference, the City of Joplin appeared by counsel and moved to intervene; no parties objected and the presiding officer granted the motion. A group of industrial customers of Missouri-American located in St. Joseph, Missouri, AG Processing, Nestle USA, doing business as Friskies Petcare, and Wire Rope Corporation of America, Inc., also appeared by counsel and moved to intervene. Again, no parties objected and the presiding officer granted the motion.¹

On December 26, the City of Riverside, Missouri, filed its application to Intervene. Riverside states therein that it and its residents are customers of Missouri-American; that they will be directly affected by the outcome of this case; and that no other party can adequately represent its interests. No party objected to this application and the time for doing so has passed. The Commission will grant this application for intervention.

On December 21, Missouri-American filed its Proposed Procedural Schedule. Missouri-American therein withdrew its request for expedited treatment and stated that it now seeks a decision by June 15, 2002. The Company proposed this procedural schedule:

¹ AG Processing, Nestle USA, d/b/a Friskies Petcare, and Wire Rope Corporation of America, Inc., shall for convenience be referred to as the St. Joseph Intervenors. These intervenors also filed an application to intervene on December 17.

Activity	Date
Direct Testimony – All Parties	1-31-02
Rebuttal Testimony – All Parties	2-28-02
Surrebuttal Testimony – All Parties	3-21-02
Issues Statement	3-28-02
Position Statements	4-4-02
Hearing	4-30/5-1-02
Initial Briefs	5-16-02
Reply Briefs	5-30-02

On December 26, the Public Counsel filed its response to Missouri-American's proposed procedural schedule. Public Counsel stated that it agreed with Missouri-American's proposal, with certain modifications:

Activity	Date
Direct Testimony – MAWC	1-31-02
Rebuttal Testimony – All Parties	2-28-02
Surrebuttal & Cross-surrebuttal Testimony – All Parties	3-21-02
Issues Statement	3-28-02
Position Statements	4-4-02
Hearing	4-30/5-1-02
Initial Briefs	5-16-02
Reply Briefs	5-30-02

On December 27, the Commission's Staff filed its response to Missouri-American's proposed procedural schedule. Staff stated that it agreed with Missouri-American's proposed schedule, with certain modifications. These modifications were different than the

modifications proposed by Public Counsel and were motivated by "Staff's involvement in significant preparation for a hearing in another case beginning on March 4":

Activity	Date
Direct Testimony – All Parties	1-31-02
Rebuttal Testimony – All Parties	2-28-02
Surrebuttal Testimony – All Parties	3-21-02
Issues Statement	3-28-02
Position Statements	4-4-02
Hearing	5-9/10-02
Initial Briefs	5-27-02
Reply Briefs	6-10-02

On December 28, the St. Joseph Intervenors filed their response to Missouri-American's proposed procedural schedule. These intervenors proposed two alternative procedural schedules, depending on whether two or three days of hearing were contemplated. Their schedule for a two-day hearing was as follows:²

Activity	Date
Direct Testimony – MAWC	2-15-02
Rebuttal Testimony – All Parties	3-27-02
Surrebuttal Testimony – All Parties	4-26-02
Issues Statement	5-3-02
Position Statements	5-3-02
Hearing	5-9/10-02
Initial Briefs	6-24-02
Reply Briefs	7-15-02

² The schedule for a three-day hearing is not set out because no other party has suggested a hearing of that length.

In support of their proposed schedule, the St. Joseph Intervenors point out that it is necessary to allow a sufficient interval after each date for the filing of testimony to permit a further round of discovery; a round of discovery requires somewhat more than 20 days. These intervenors suggest, as an alternative, that the Commission could by order shorten the response time to data requests and thereby compress the schedule to a certain degree.

On January 2, 2002, the St. Joseph Intervenors filed a reply to Staff's response to Missouri-American's proposed procedural schedule. Therein, the intervenors criticize the 35-day interval in Staff's proposed schedule between the filing of position statements on April 4 and the start of the hearing on May 9. The intervenors, while agreeing that the issues statement should proceed the position statements by some interval, propose that most of these 35 days be "distributed through the foregoing schedule to provide more adequate time for data requests on the current 20-day turnaround."

The St. Joseph Intervenors also assert that Staff's proposed schedule makes no allowance for the time required to prepare the hearing transcript. A transcript normally requires as much as two weeks to prepare; the St. Joseph Intervenors further contend that they ought not to be required to incur the cost of an expedited transcript. A briefing schedule, the intervenors point out, is normally developed by discussion of the parties and the presiding officer at the close of the hearing. The intervenors also suggest that Staff has provided inadequate time for the Commission and the presiding officer to review the briefs and the record, decide the case, and write the order.

No party has responded to the St. Joseph Intervenors' filing of January 2, and the interval for doing so has passed.

Having considered all of the pleadings and arguments of the parties, the Commission will establish an appropriate procedural schedule for this case. In devising this schedule, the Commission finds January 31 to be an appropriate date for Missouri-American to file its Direct Testimony because, after all, Missouri-American itself proposed this date. The Commission agrees that Missouri-American, who has the burden of proof, should file its testimony first. The intervals between testimony filing dates should be as long as possible. As the St. Joseph Intervenors point out, a 35-day interval of inactivity between the filing of Position Statements and the start of the hearing is unnecessary. The Commission favors the earlier of the proposed hearing dates in order to give Missouri-American a decision as soon as reasonably possible. At the suggestion of the St. Joseph Intervenors, to which no party objected, the Commission will shorten the response time applicable to data requests in this case. Finally, a briefing schedule is best developed at the close of the hearing.

The Commission finds that the following conditions should be applied to the procedural schedule:

(A) The Commission will require the prefilng of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefilng testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(B) The parties shall agree on and file a list of issues to be determined herein by the Commission. Staff shall be responsible for actually drafting and filing the list of issues and the other parties shall cooperate with Staff in the development thereof. Any issue not included in the issues list will be presumed to not require determination by the Commission.

(C) Each party shall file a list of the witnesses to appear on each day of the hearing and the order in which they shall be called. The parties shall establish the order of cross-examination and file a joint pleading indicating the same.

(D) Each party shall file a statement of its position on each disputed issue, including a summary of the factual and legal points relied on by the party. Such statement shall be simple and concise, shall follow the issues set out in the issues list, and shall not contain argument about why the party believes its position to be the correct one. The position statement shall be filed in both paper form and electronically, either on computer disk or by e-mail. Electronically-submitted documents shall be in Word, WordPerfect, or ASCII format. The Regulatory Law Judge's e-mail address is: ktomp099@mail.state.mo.us.

(E) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the regulatory law judge at least five days prior to the date of the hearing.

(F) All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080. The briefs to be submitted by the parties shall follow the same list of issues as filed in the case. The briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission. The presiding officer will establish a briefing schedule at the close of the hearing.

(G) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been

prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the regulatory law judge, and all counsel.

(H) All parties shall file proposed Findings of Fact and Conclusions of Law, including appropriate citations to prefiled testimony, as directed by the Procedural Schedule.

IT IS THEREFORE ORDERED:

1. That the Application to Intervene filed by the City of Riverside, Missouri, on December 26, 2001, is granted. The Commission's Data Center shall add Riverside's counsel to the service list maintained in this case.

2. That, with respect to all Data Requests served after the effective date of this order, the party to whom data requests are presented shall answer the requests within ten days after receipt unless otherwise agreed by the parties to the data requests. In all other respects, Rule 4 CSR 240-2.090(2) shall remain in force as published, except that a party unable to respond to a data request within ten days must so notify the requesting party no later than the tenth day.

3. That the parties shall comply with the conditions set out in this order.

4. That the following procedural schedule is adopted:

Direct Testimony Missouri-American	January 31, 2002 4:00 p.m.
Rebuttal Testimony All Parties except Missouri-American	March 7, 2002 4:00 p.m.
Surrebuttal & Cross Surrebuttal Testimony All Parties	April 12, 2002 4:00 p.m.
Joint Issues List	April 17, 2002 4:00 p.m.

Position Statements and Proposed
Findings of Fact and Conclusions of Law
All Parties

April 24, 2002
4:00 p.m.

Evidentiary Hearing

April 30 & May 1, 2002
8:30 a.m.

The hearing will be held at the Commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a facility which meets the accessibility standards of the Americans with Disabilities Act (ADA). If any person needs additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

5. That this order shall become effective on January 28, 2002.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Kevin A. Thompson, Deputy Chief
Regulatory Law Judge, by delegation
of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 18th of January, 2002.

FYI: To Be Issued By Delegation

ALJ/Secretary: Thompson / Pope

Date Circulated 1-16 Return Not Later Than 1-18 10 am

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advent pp 5, 8

Simmons, Chair

Murray, Commissioner

Lumpe, Commissioner

Gaw, Commissioner

Forbis, Commissioner

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 18th day of Jan. 2002 .

Dale Hardy Roberts
Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

