

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Missouri-American Water)	
Company's Request for Authority to Implement)	Case No. WR-2011-0337
A General Rate Increase for Water and Sewer)	SR-2011-0338
Service Provided in Missouri Service Areas.)	

MAWC'S RESPONSE TO LOCAL 335'S MOTION TO COMPEL

Comes now Missouri-American Water Company (MAWC or Company), and, in response to UWUA Local 335's Motion to Compel, states as follows to the Missouri Public Service Commission (Commission):

I. PRIOR DECISION

1. On November 30, 2011, Utility Workers Union of America, Local 335 (Local 335) filed a document entitled Motion to Compel (Motion). The Motion concerns Local 335's Data Request No. 1 (issued on August 15, 2011), which stated as follows:

State the total compensation (including bonuses) paid to each MAWC employee, including management personnel and officers, for 2010. Please provide your response in an Excel chart which lists each employee and the total compensation paid to him/her.

2. MAWC responded to Local 335 Data Request No. 1 on September 6, 2011, and provided the requested information for its approximately 864 employees, identified by employee number and job title. MAWC further identified the information as Highly Confidential. A copy of the response is attached hereto as **Appendix A**.

3. Local 335 previously pursued a motion to compel before the Regulatory Law Judge ("RLJ") at the Discovery Conference held on September 28, 2011. Local 335 requested that MAWC be compelled to provide the employee compensation by individual employee name and requested that the information be made public. At that time, the RLJ denied Local 335's motion as to Data

Request No. 1 (Tr. 51-52).

II. CURRENT MOTION TO COMPEL

4. The current Motion to Compel again seeks two orders from the Commission. First, Local 335 seeks a Commission order compelling MAWC to provide the name of each employee associated with each job and compensation level. Second, Local 335 seeks the Commission's order directing that the names and salary information be deemed to be public information.

III. RESPONSE

5. As an initial matter, it appears that Local 335's motion is not timely. Because this matter has been previously ruled on by the RLJ, Local 335's effort should take the form of a motion for reconsideration. The Commission's Discovery Order, issued July 5, 2011, stated in part that "Any party seeking reconsideration of a ruling on discovery shall file a motion for reconsideration no later than five business days following the ruling." Even in the absence of the Discovery Order, the time for pursuing this matter has long run. Commission Rule 4 CSR 240-2.160(2) states that motions for reconsideration may be filed within ten days of the date the order is issued.

6. Substantively, Local 335's Motion fails for the following reasons: 1) MAWC's response provides the information requested; 2) the information Local 335 requests beyond Data Request No. 1 (i.e. names) is not relevant to this matter; and 3) the subject information is appropriately identified as Highly Confidential under the terms of Commission Rule 4 CSR 240-2.135.

A. Information Requested

7. Local 335's Data Request No. 1 does not request each employee's name. It asks MAWC to "State the total compensation (including bonuses) paid to each MAWC employee, including management personnel and officers, for 2010." MAWC has done precisely what was requested. It has listed each employee by employee number and job title, tied to that employee's total compensation for 2010. This is the same information that is provided to Staff as a part of its audit. This information allows a party to review employee compensation and begin its consideration as to whether that compensation should be ultimately incorporated into the revenue requirement to be established by this case.

B. Lack of Relevance

8. Even if the Local 335 request had specified that the employee names were sought, such a request would not have been reasonably related to the discovery of admissible evidence in regard to the setting of just and reasonable rates. For purposes of setting rates, it should not matter whether a specific position is occupied by John Employee, Jane Public or somebody else. What is important is the nature of the job and the cost of maintaining an employee in that position. That information has been provided in MAWC's response.

C. Highly Confidential Designation

9. In regard to the highly confidential designation associated with this information, the Commission will recall that the Commission's confidentiality rule, among other things, provides that employee sensitive personnel information is appropriately treated as Highly Confidential (4 CSR 240-2.135(1)(B)2). In this instance, while employee names are not revealed, the employee number is revealed. That number is the key to several items for

employees, such as changes in beneficiary designations, benefits choices and other matters. It is not information that should be publicly available.

10. Local 335 further cites to the Commission's decision in File No. WC-2011-0291 as support for its position. That File number concerned Local 335's request to make public those MAWC officers' salaries reported in MAWC's Annual Report. The Commission ultimately found that "it is in the public interest to require disclosure of MAWC's officers' salaries." However, officers' salaries are not the issue in this matter.¹ This concerns all of the many hundreds of MAWC's employees – from receptionists to truck drivers. The public interest in the MAWC employees' individual compensation should be much less than any interest in officers' compensation and a Commission decision as to officers should have no import as to the rank and file company employees.

11. Lastly, Local 335 cites several annual report tracking numbers and suggests that MAWC has filed the names and compensation of employee's making over \$25,000 in past annual reports (the 2002-2005 Annual Reports). First, it should be noted that the referenced annual reports were provided between 5 and 8 years ago on a different Commission form from that used today. Subsequent to these filings, the Commission determined that the annual reporting process did not require the provision of all employee salaries greater than \$25,000, and amended the form to only ask for the salaries of the company's officers.

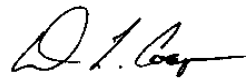
12. Moreover, what MAWC may have done in regard to prior annual reports is not relevant to a data request issue within the context of a rate case. The information found in those earlier reports will concern in many (if not most) cases different employees, different jobs and

¹ MAWC has separately provided officer compensation information in response to Local 335 data request

different compensation levels. What was done in the past, pursuant to a different annual report form, in a different kind of proceeding, under different management, and with less sensitivity as to the consequences of such release, should have no bearing on the Commission's decision in this case.

WHEREFORE, MAWC respectfully requests the Commission issue its Order denying Local 335's Motion to Compel for the reasons stated herein.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 5th day of December, 2011, to:

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