

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

In the Matter of Missouri-American Water)
Company's Request for Authority to Implement)
A General Rate Increase for Water and Sewer)
Service Provided in Missouri Service Areas.)

Case No. WR-2008-0311
SR-2008-0312

**MAWC'S RESPONSE TO RIVERSIDE AND MISSOURI GAMING COMPANY'S
MOTION FOR LEAVE TO FILE REBUTTAL TESTIMONY**

COMES NOW Missouri-American Water Company (MAWC), and in response to Interveners City of Riverside and Missouri Gaming Company's Motion for Leave to File Rebuttal Testimony of Michael Duffy (Motion for Leave to File Rebuttal Testimony), states the following to the Missouri Public Service Commission (Commission):

1. Rebuttal Testimony in this matter was due on September 30, 2008. Surrebuttal testimony was due on October 16, 2008.
2. On October 20, 2008, without allegation of good cause or explanation of its lateness, the City of Riverside (Riverside) and the Missouri Gaming Company (MGC) filed their Motion for Leave to File Rebuttal Testimony and therein alleged issues regarding the Parkville District.
3. Riverside and MGC allege that "this additional testimony will prejudice no party to the present proceeding." Motion for Leave, para. 4. This is apparently because they believe "all parties will have an opportunity to cross-examine Mr. Duffy at hearing if they desire." *Id.*
4. In fact, if the Motion for Leave to File Rebuttal Testimony is granted, it will prejudice MAWC. Had the rebuttal testimony been timely filed, MAWC would not only have the opportunity to cross-examine Mr. Duffy, but would also have the opportunity to

conduct discovery concerning his allegations and the opportunity to respond to his allegations in surrebuttal testimony.

5. The motion for leave was filed four days after the deadline for filing surrebuttal testimony and only ten (10) days prior to the start of the evidentiary hearing. Accordingly, MAWC has conducted no discovery concerning the matters raised by the testimony and will need to do so before being in a position to respond in testimony or to cross-examine the witness.

6. Riverside itself seems to recognize that the inability of other parties to file responsive testimony may be a problem. Riverside states that it "has no objection if any party wishes to file written surrebuttal in response."¹ Motion for Leave, para. 4.

7. MAWC believes that it is much too late in the process for the Commission to allow this issue to be introduced through rebuttal testimony. This is especially true since the rebuttal testimony suggests that the issues raised either were, or should have been, known to Riverside and MGC at the start of this case and could have formed the basis for timely rebuttal testimony.

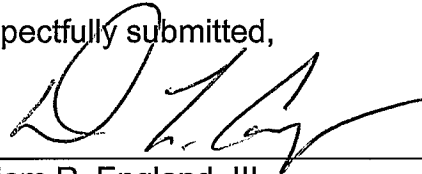
8. If the Commission should instead decide to grant the Motion for Leave to File Rebuttal Testimony, it should provide a MAWC some opportunity to conduct discovery as to the issues raised and prepare and file responsive testimony. MAWC would suggest that if over its objection the Commission grants the Motion for Leave to File Rebuttal Testimony, MAWC should be given until November 12, 2008, to file surrebuttal testimony. The issue could then be tried on the last day of the evidentiary hearing, November 14, 2008.

¹ There is no mention as to MGC's position on this issue.

9. MAWC anticipates that its testimony, if necessary, will generally state that the water service provided to the City of Riverside meets all state and federal quality of service requirements and that MAWC has been, for some time, engaged in a process to address the City's concerns. However, the specifics of that response will depend, in part, on the foundation materials which may be provided by Mr. Duffy in response to discovery requests and the information MAWC is able to gather at this late date.

WHEREFORE, MAWC respectfully requests that the Commission deny Riverside and MGC's Motion for Leave to File Rebuttal Testimony or, in the alternative, grant MAWC sufficient time to conduct discovery and prepare responsive surrebuttal testimony.

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 27th day of October, 2008, to:

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