

Exhibit No.:  
Issue:  
Witness:  
Type of Exhibit:  
Sponsoring Party:  
Case No.:  
Date Testimony Prepared:

Rate Design  
Michael Gorman  
Surrebuttal Testimony  
Triumph Foods, LLC  
WR-2010-0131  
May 6, 2010

**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 )  
Services Provided in Missouri )  
Service Areas )  
\_\_\_\_\_ )

**Case No. WR-2010-0131**

Surrebuttal Testimony of

**Michael Gorman**

On behalf of

**Triumph Foods, LLC**

May 6, 2010



Project 9246

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

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Services Provided in Missouri )  
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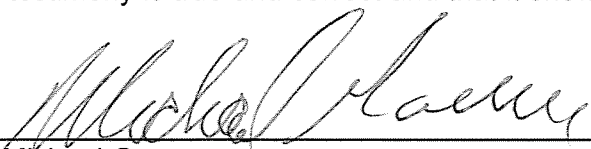
Case No. WR-2010-0131

STATE OF MISSOURI )  
) SS  
COUNTY OF ST. LOUIS )

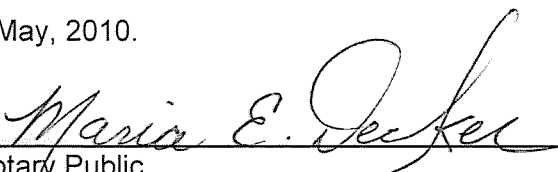
Affidavit of Michael Gorman

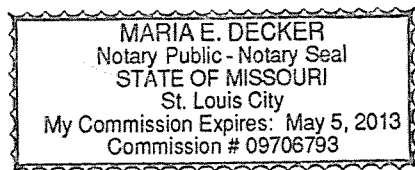
Michael Gorman, being first duly sworn, on his oath states:

1. My name is Michael Gorman. I am a consultant with Brubaker & Associates, Inc., having its principal place of business at 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017. We have been retained by Triumph Foods, LLC in this proceeding on their behalf.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony which was prepared in written form for introduction into evidence in Missouri Public Service Commission Case No. WR-2010-0131.
3. I hereby swear and affirm that the testimony is true and correct and that it shows the matters and things that it purports to show.

  
\_\_\_\_\_  
Michael Gorman

Subscribed and sworn to before me this 5th day of May, 2010.

  
\_\_\_\_\_  
Notary Public



**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	)	Case No. WR-2010-0131
Services Provided in Missouri	)	
Service Areas	)	
	)	

**Surrebuttal Testimony of Michael Gorman**

1    **Q     PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2    A     Michael P. Gorman. My business address is 16690 Swingley Ridge Road, Suite 140,  
3         Chesterfield, MO 63017.

4    **Q     ARE YOU THE SAME MICHAEL GORMAN WHO PRE-FILED REBUTTAL**  
5         **TESTIMONY IN THIS CASE ON BEHALF OF TRIUMPH FOODS, LLC?**

6    A     Yes, I am.

7    **Q     WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

8    A     My surrebuttal testimony responds to the Office of Public Counsel ("Public Counsel")  
9         witness Barbara A. Meisenheimer's rebuttal testimony regarding the Contract for the  
10        Retail Sale and Delivery of Potable Water ("Contract") entered into as of  
11        September 2, 2003 between Missouri-American Water Company ("MAWC") and  
12        Premium Pork, LLC ("Premium Pork"), the predecessor in interest to Triumph Foods,  
13        LLC ("Triumph Foods").

**Michael Gorman  
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1 Q WHAT IS YOUR UNDERSTANDING OF MS. MEISENHEIMER'S  
2 RECOMMENDATION?

3 A As I understand it, Ms. Meisenheimer recommends that the Missouri Public Service  
4 Commission ("PSC" or "Commission") review the Triumph Foods Contract in this  
5 proceeding. She asserts that review is appropriate because she believes that  
6 Triumph Foods has taken water under its Contract rate for more than five years, and  
7 because she believes that there is a risk that variable costs may exceed the Contract  
8 rate. Importantly, Ms. Meisenheimer acknowledges that Triumph Foods has met  
9 Contract and non-Contract related commitments.

10 Q IS THE CURRENT CASE THE APPROPRIATE CASE IN WHICH TO REVIEW THE  
11 TRIUMPH FOODS CONTRACT?

12 A No. The Commission has already ruled that review of the Triumph Foods Contract is  
13 inappropriate until it has received the benefit contemplated by the Contract for five  
14 years. In my rebuttal testimony, I discussed Public Counsel's request that the  
15 Commission review the Triumph Foods Contract in Case No. WO-2009-0303. See  
16 MPG Rebuttal Testimony at 9–10. In that case, the Commission determined that,  
17 because Triumph Foods did not begin its operations until January 2, 2006, Triumph  
18 Foods has "not yet received the five-year benefit contemplated by the Contract and  
19 that Public Counsel's request [in that case] is premature." See Order, Case No. WO-  
20 2009-0303 (May 21, 2009) at 4.

21 Based on the finding, the earliest date on which review of the Triumph Foods  
22 Contract would be appropriate is January 2011. This date is beyond the end of the  
23 true-up in this case of April 30, 2010.<sup>1</sup> Any change to the Contract must be

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<sup>1</sup>File No. WR-2010-0131, Tracking No. YW-2010-0310.

1 implemented in a general rate case. See id. at 4–5. See also MAWC P.S.C. MO.  
2 No. 1, Sheet No. 55 for the City of St. Joseph, MO and Vicinity. This Contract should  
3 not be reviewed until MAWC’s next rate case.

4 **Q WAS TRIUMPH FOODS FIRST CHARGED FOR SERVICE AT THE CONTRACT**  
5 **RATE ON \*\* \_\_\_\_\_ \*\*, AS MS. MEISENHEIMER ASSERTS IN HER**  
6 **REBUTTAL TESTIMONY?**

7 A The Triumph Foods commercial operations began in January of 2006 consistent with  
8 the accurate Commission finding in Case No. WO-2009-0303. Triumph Foods did  
9 take water service prior to the in-service date during the development of the facility.  
10 However, the annual volume of water taken during this development stage was small  
11 in relationship to the amount of water taken since the facility began commercial  
12 operation.

13 Indeed, the December 2004 billings referred to by Ms. Meisenheimer are for a  
14 relatively small water service account that had existed prior to commercial operation  
15 of the Triumph Foods facility. MAWC installed a larger service and meter account in  
16 2005, and Triumph Foods did not start taking commercial-level water usage through  
17 that larger account until January 2006. Triumph did not receive a bill for this new  
18 account until August 2005.

19 The intent of the Contract, as I understand it, is to provide a discount rate for  
20 Triumph Foods to support its decision to commence commercial operations in  
21 St. Joseph, Missouri. Hence, the start date of the discount rate should correspond  
22 with the start date of commercial operations of the Triumph Foods facility which was  
23 January 2006.

**REDACTED**

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1 **Q ARE THE RATE ADJUSTMENTS CONTAINED IN THE CONTRACT KEEPING**  
2 **PACE WITH THE COST OF PROVIDING SERVICE UNDER THE CONTRACT?**

3 A Yes. As Ms. Meisenheimer developed on her Schedule BAM REB-3-HC, it is clearly  
4 shown that in the test year in this proceeding the variable production costs are below  
5 the Contract rate, and the Triumph Foods Contract is making a contribution to other  
6 costs.

7 I note the primary difference between Ms. Meisenheimer's estimates of  
8 MAWC variable production cost, and those contained in my direct testimony, is that  
9 Ms. Meisenheimer relied on actual data for June 30, 2009, where I relied on the  
10 Company's pro forma adjusted data for June 30, 2009.

11 In both analyses, the Triumph Foods Contract rate fully recovers variable  
12 production costs, and makes a contribution to other costs. Hence, this rate is  
13 recovering the cost it was designed to recover, and benefitting other customers in the  
14 St. Joseph District by reducing the revenue requirement the Company would have to  
15 recover from those other customers.

16 **Q IS IT LIKELY THAT MAWC'S VARIABLE PRODUCTION COSTS WILL EXCEED**  
17 **THE CONTRACT RATE, RESULTING IN TRIUMPH FOODS MAKING NO**  
18 **CONTRIBUTION TO THE OTHER COSTS OF THE SYSTEM?**

19 A That could occur in the future. Hence, it may be appropriate for the Commission to  
20 review the Contract and variable costs periodically. This review can be used to  
21 assure the Commission that the Contract rate revenue will recover the variable  
22 production costs, and make a contribution to other costs during the term of the  
23 Contract.

1 Ms. Meisenheimer's and my review of the Contract revenue and variable cost  
2 in this case shows that the Contract rate meets this objective in this case.

3 **Q DID MS. MEISENHEIMER CONCLUDE THAT THE CONTRACT RATE WAS**  
4 **BELOW MAWC VARIABLE PRODUCTION COSTS?**

5 A No. This is based on Ms. Meisenheimer's statement in response to MAWC's First Set  
6 of Data Requests to the Office of Public Counsel, Data Request No. 7. In response  
7 to that request, "Is it Ms. Meisenheimer's opinion that the contract rates currently paid  
8 by Triumph and Nestle are below the variable or incremental cost of water in the  
9 St. Joseph District?" Ms. Meisenheimer responded, "No."

10 **Q HAS TRIUMPH FOODS FULFILLED ITS CONTRACT AND NON-CONTRACT**  
11 **RELATED COMMITMENTS TO DATE?**

12 A Yes. As noted by Ms. Meisenheimer in her rebuttal testimony, Triumph Foods has  
13 met its obligations under the Contract, as well as its non-Contract related  
14 commitments. See BAM Rebuttal Testimony at 17. Indeed, Triumph Foods has  
15 exceeded its commitments to MAWC and the City of St. Joseph.

16 Triumph Foods and MAWC have cooperated under the Contract and have  
17 obtained approval of the Contract from the PSC. See Order, Case No. WT-2004-  
18 0192 (Nov. 18, 2003).

19 In approving the Contract between MAWC and Premium Pork, the  
20 Commission noted expectations related to the Contract, including that the new facility  
21 will lead to the creation of 1,000 jobs and that each employee will earn over \$10.00  
22 per hour in pay and benefits. Total payroll at the facility was projected to be  
23 \$66 million by 2017 and the facility's annual impact on the St. Joseph economy was

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1 projected to be at least \$21 million. See Order, Case No. WT-2004-0192 (Nov. 18,  
2 2003) at 8–9. See also Application, Case No. WT-2004-0192 (Oct. 17, 2003) at 4  
3 and Appendix G “St. Joseph Pork Processing Plant Economic Impact Study.”

4 As I discussed in my rebuttal testimony, Triumph Foods today employs over  
5 2,500 people, with an hourly average wage of \$14.00. In 2009, total payroll was  
6 \$94 million. Triumph Foods estimates that its impact on the St. Joseph economy in  
7 2009 was over \$135 million. See MPG Rebuttal Testimony at 11–12. I agree with  
8 Ms. Meisenheimer that, “[c]urrently Triumph Foods appears to meet many of the  
9 terms of the Contract such as the required share of district water use and the load  
10 factor requirement. Triumph also appears to be meeting non-Contract related  
11 commitments related to economic growth and community involvement.” See BAM  
12 Rebuttal Testimony at 17.

13 **Q PLEASE SUMMARIZE YOUR TESTIMONY.**

14 **A** I do not believe that a review of the Triumph Foods Contract is appropriate in the  
15 current rate case. Triumph Foods has not yet received the five-year benefit  
16 contemplated by the Contract to support the commercial operation of the Triumph  
17 Foods facility. Further, the review conducted by myself and Public Counsel witness  
18 Ms. Meisenheimer proves that in the current rate case, Triumph Foods’ Contract  
19 discount rate is still just and reasonable. Specifically, the Contract rate provides fully  
20 recovery of MAWC’s variable production costs serving the Triumph Foods facility, and  
21 makes a contribution to the other costs in the St. Joseph District. Therefore, Triumph  
22 Foods’ rate in this proceeding does not detrimentally impact other customers in the  
23 St. Joseph District, but actually provides benefits to St. Joseph customers by a



1 reduction in the revenue requirement that would otherwise be recovered from those  
2 customers.

3 **Q DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

4 **A** Yes, it does.

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