

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

In the Matter of Missouri-American Water)
Company's request for a variance from) **File No. WE-2010-0136**
certain requirements set forth in)
4 CSR 240-2.050)

RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and respectfully states the following to the Missouri Public Service Commission ("Commission"):

Procedural History

1. On October 30, 2009, Missouri-American Water Company ("MAWC" or "Company") filed an *Application* to seek a variance from the Commission's regulations regarding residential service, which proposes to modify the effective period of a notice of discontinuance from eleven (11) business days to twenty (20) business days for quarterly billed customers only.
2. On November 30, 2009, the Commission issued a *Notice of Application And Order Directing Filing*, which in part directed the Staff to file a recommendation on the *Application* by December 17, 2009.
3. On December 17, 2009, the Staff filed a *Motion For Extension To File Recommendation*, which by order the Commission granted and directed the Staff to file its recommendation by January 19, 2010.

Recommendation

4. 4 CSR 240-13.050 (3) of the Commission's rules on discontinuance of service for non-payment provides

On the date specified on the notice of discontinuance or within eleven (11) business days after that, and subject to the requirements of these rules, a utility may discontinue service to a residential customer....After the eleven (11) business day effective period of the notice, all notice procedures required by this rule shall again be followed before the utility may discontinue service.

MAWC has approximately 30,000 work orders for shutoffs annually.

5. On December 15, 2009, the Staff received the data requested from the Company that documented MAWC's backlog in non-payment shutoffs for the period June 2008 through July 2009. During this time frame, approximately 5,300 shutoff work orders fell outside the eleven (11) business day effective period of the Company's notice of discontinuance, and thus expired. MAWC's *Application* states that expirations on quarterly-billed customers are particularly problematic as a second notice of discontinuance typically does not go out until the next scheduled quarterly billing.

6. In evaluating the data, the Staff found that with all other factors remaining constant, an increase from an eleven (11) to a twenty (20) business day effective period for a notice of discontinuance reduces the Company's work order expirations for the same time period by approximately fifty (50) percent. Based on this analysis, the Staff believes that the Company's requested variance is in the public interest due to the various benefits specified in the attached *Memorandum*, mainly reductions in: a customer's receipt of numerous disconnection notices, the risk of uncollectable accounts, and further accumulation of past due amounts by the customer.

7. If granted, this variance should not create an additional hardship on customers as MAWC is required to continue the notification procedures as set forth fully in Chapter 13 of the Commission's Rules on Service and Billing Practices.

8. The Commission may grant a variance from all or parts of Chapter 13 for good cause shown. The term "good cause" refers to a remedial purpose and can be applied by the Commission with discretion. Bennett v. Bennett, 938 S.W. 2d 952 (Mo. App. S.D. 1997).

9. MAWC is in compliance with the Commission's annual reporting and assessment remittance requirements.

10. MAWC has four other cases pending before the Commission: WR-2010-0131, SR-2010-0135, WO-2010-0045, and WC-2010-0010. Concerning the Company's pending rate cases WR-2010-0131 and SR-2010-0135, the Staff does not intend for this recommendation to suggest it has approved or acquiesced in any ratemaking principle, nor suggest the intent to be bound to any ratemaking principle regardless of whether this recommendation is approved. To that end, the Staff is auditing the Company's books and records and plant, and any findings regarding the Company's procedures will be fully espoused within the Staff's Direct Revenue Requirement Testimony to be filed March 9, 2010.

WHEREFORE, the Staff submits this *Recommendation* to the Commission for its information and consideration, and recommends that the Commission issue an order: 1) granting Missouri-American Water Company's request for a variance from the Commission's Rule 4 CSR 240-13.050 (3) to allow an effective period of twenty (20) business days on discontinuance notices for quarterly-billed customers in the Saint Louis County service area only; and 2) allow the Company to submit new tariff sheets pursuant to 4 CSR 240-13.065 (3) with revisions similar to those suggested by the Staff in its *Memorandum*.

Respectfully submitted,

/s/ Jennifer Hernandez

Jennifer Hernandez

Legal Counsel

Missouri Bar No. 59814

Attorney for the Staff of the
Missouri Public Service Commission

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via electronic mail on John J. Reichart, Missouri-American Water Company at john.reichart@amwater.com; Dean L. Cooper, Brydon, Swearngen & England P.C., attorney for MAWC at dcooper@brydonlaw.com; and the Office of Public Counsel at opcservice@ded.mo.gov this 19th day of January, 2010.

/s/ Jennifer Hernandez

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. WE-2010-0136
Missouri American Water Co.

FROM: Jim Merciel – Water & Sewer Department
Gay Fred – Consumer Services Department

<u>/s/ Jim Merciel</u>	<u>1/15/2010</u>
Project Coordinator	Date

<u>/s/ Jennifer Hernandez</u>	<u>1/15/2010</u>
General Counsel's Office	Date

SUBJECT: Staff's Recommendation for Approval of Variance Request

DATE: January 15, 2010

INTRODUCTION

On October 30, 2009, Missouri-American Water Company (MAWC or Company) filed an *Application*, in which it seeks a variance from certain requirements of the Commission's regulations, specifically 4 CSR 240-13.050(3), which requires utilities intending to discontinue service to customers for non-payment or other violation, to carry out such a discontinuance within eleven (11) days of the date of notice sent or given to the customer. The request is to increase the eleven day period, or "window," to twenty (20) days.

On November 16, 2009, the Commission issued its *Notice of Application and Order Directing Filing*, which directed that notice be provided to affected customers, county commissions, members of the Missouri General Assembly, and news media serving in areas where customers would be affected, and directed the Staff and the Office of the Public Counsel to file recommendations by December 17, 2009.

On November 18, 2009, the Commission issued its *Order Directing Expedited Filing* in which it directed MAWC to clarify its intentions with regard to the effective date on a tariff sheet that was included in its *Application*, specifically a proposed tariff sheet No. 26 bearing an effective date of November 29, 2009. On November 20, 2009 MAWC filed its response to the *Order Directing Expedited Filing*.

On November 30, 2009, MAWC filed a *Motion to Amended Application* which included a second proposed tariff sheet, Sheet No. 27. On December 1, 2009 the Commission issued its *Order Granting Leave to Amend Application*.

On December 17, 2009, the Staff filed a *Motion for Extension to File Recommendation* in which it requested a 30-day extension from the previously ordered December 17, 2009 file date. On December 18, 2009 the Commission issued its *Order Extending Time to File Recommendation* which extended the Staff's file date to January 19, 2010.

STAFF'S INVESTIGATION, FINDINGS AND CONCLUSIONS

In its *Application*, MAWC states that it experiences “spikes” in non-payments and the subsequent need to initiate and carry out discontinuance procedures, because non-pay events occur more frequently with customers on some meter read routes than others. The problem occurs in the Company’s St. Louis service area, and the requested variance is intended to only apply to quarterly billed customers in the St. Louis service area. Currently, the St. Louis service area is the only one where the Company charges on a quarterly basis. The Staff studied the number of discontinuance scheduled events on a monthly and daily basis for some peak times in the Company’s St. Louis area, and finds that, according to MAWC’s data, backlogs do indeed frequently exceed the eleven (11) day window to carry out the discontinuance action. On a number of occasions the backlog also would still exceed the Company’s requested twenty (20) day window. MAWC stated to the Staff that it has the ability to shift duties among its employees for a short periods of time, such as several days, when necessary to handle infrequent spikes. Additionally, MAWC expects that the reduction in discontinuance backlogs if the window is increased to twenty day as requested will make the situation manageable, even though there still would be some expirations of discontinuance notifications, requiring further future action for those customers. The Staff believes that MAWC has approximately 30,000 orders for discontinuance of service annually. Based on data provided by the company for approximately a fourteen (14) month period in 2008 and 2009, and with the current eleven (11) day window for accomplishing discontinuance, approximately 5,300 orders would have expired during that period, but increasing the window to twenty (20) days would reduce the expirations more than 50%.

The Staff does not believe that the additional time should cause additional hardship on customers, because it is a time period that customers are used to dealing with bill payments, and also because the Company would still make an attempt to contact the customer approximately 24 hours before the planned actual discontinuance action, as required by the regulations. The Staff does believe that reducing the number of expired discontinuance notices is in the public interest because it could result in more successful collections of past due accounts and reduce the risk of uncollectable accounts. It is also in the best interest of individual customers because it would reduce the number of occurrences where customers receive more than one notice, and could reduce the risk of customers increasing past due amounts because the Company was unable to pursue some collections in a more timely manner.

MAWC included two proposed tariff sheets with its *Application*. Those sheets pertain to discontinuance of service, and are pages that could be included within a draft revised complete tariff that the Company has included with its rate case, which case is referenced elsewhere in this Memorandum. The Staff agrees that tariff language similar to the included proposed sheets is appropriate if the requested variance is granted, although such a revised complete tariff is not expected to become effective until the end of the pending rate case. In order for the Company to exercise the variance prior to approval of a revised tariff some time in the future, three (3) pages of its existing tariff applicable to its St. Louis area could be modified to reflect the variance and

the twenty day window. The Staff's suggested modifications for the three pages are included with this Memorandum as Attachment A.

On December 17, 2009, the Office of the Public Counsel filed its response to the Commission's *Notice of Application and Order Directing Filing*. There is one public comment filed in this case but it appears to be a comment intended for the Company's rate case currently on file. The Staff has received no other comments in this case.

ADDITIONAL INFORMATION

The Staff has reviewed MAWC's history regarding the submittal of its Commission annual reports and the payment of its Commission assessments, and finds the company current on its annual report submittals, and no past due amounts on its quarterly assessment payments. The annual report review covers the years 2002 to 2009 on the Commission's EFIS electronic records system, and earlier years dating to 1984, when the Company began operating under its present name, elsewhere on the Adjudication Division's posted records. The assessment payment review covers fiscal years 2000 to 2010.

MAWC has four other cases pending before the Commission, specifically Case Nos. WR-2010-0131 and SR-2010-0135 its general rate increase cases; Case No. WO-2010-0045, a repository case file for certain documents related to Case No. WC-2009-0277 which is a formal complaint case that is closed; and Case No. WC-2010-0010, a formal complaint filed by the City of O'Fallon pertaining to the availability of wholesale service. None of these cases will impact the subject case, and any decision in this case will have no impact upon the pending cases, or upon any other matter before the Commission.

STAFF'S RECOMMENDATIONS

Based upon the above, the Staff believes that the approval of the variance as requested is reasonable. The Staff recommends the Commission issue an order that:

1. Approves the variance from 4 CSR 240-13.050(3), to allow a twenty day window for time to carry out discontinuances for quarterly billed customers;
2. Directs the Company to submit revised tariff sheets, with changes similar to that as shown in Attachment A, and to incorporate similar provisions in future tariff filings.

List of Attachments:

A – Proposed Tariff Modifications

WE-2010-0136
Staff Suggested Tariff Changes
Missouri-American Water Company – Tariff for St. Louis Service Area
January 15, 2010

Added text shown in red and bold type:

Sheet R 2.2, first paragraph:

Rule 2.2 For violation of any of the Rules and Regulations of the Company by the customer, the right is reserved by the Company to discontinue service. Discontinuance of service to residential customers for non-payment of bills will be in accordance with 4 CSR 240-13.050 **and a variance as authorized in Case No. WE-2010-0136.**

Sheet R 2.3, first paragraph:

RULE 2.3 In all cases of nonpayment of bills by nonresidential customers within sixteen days after the billing date, and **within eleven (11) business days for monthly billed customers, and twenty (20) business days for quarterly billed customers** after due notice has been given, the supply may be turned off and not turned on again except upon payment of the amount due, together with the additional charge for restoring service at the stop cock. In cases of nonpayment of bills by residential customers within sixteen days after the billing date, the supply may be turned off and not turned on again in accordance with the provisions of 4 CSR 240-13.050 **and a variance as authorized in Case No. WE-2010-0136**, except upon payment at the Company office, during normal working hours, of the amount due, together with the appropriate additional charge for restoring service at the stop cock. In these instances the charge for turning on the water at the stop cock will be as follows:

Sheet R 9.0(a), third paragraph

DISCONTINUANCE: In the event a residential or nonresidential customer fails to comply with the above requirements, the Company may discontinue service in accordance with 4 CSR 240-13.050 **and a variance as authorized in Case No. WE-2010-0136.** Written notices by first class mail shall be provided at least ten (10) days and at least twenty-four (24) hours prior to discontinuance, and will be effective for eleven (11) business days **for monthly billed customers, and twenty (20) business days for quarterly billed customers**, following the date specified on the notice. The discontinuance notice shall include information to the customer regarding what is required to avoid discontinuance (i.e. access for meter reading, access for maintenance, scheduling an appointment reading, returning a customer meter reading, etc., as applicable) regardless of previous requests or notifications, and shall inform the customer what will be required before service is restored as provided in this rule.

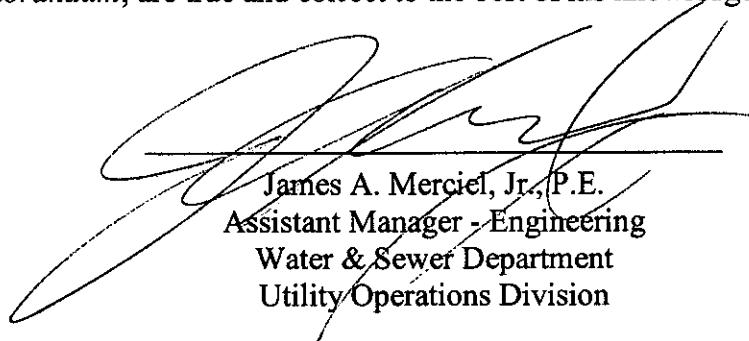
BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

AFFIDAVIT OF JAMES A. MERCIEL, JR.

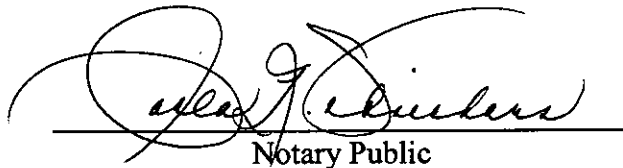
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Case No. WE-2010-0136

James A. Merciel, Jr., of lawful age, on his oath states: (1) that he is the Assistant Manager – Engineering in the Water and Sewer Department of the Missouri Public Service Commission; (2) that he participated in the preparation of the foregoing *Memorandum*; (3) that he has knowledge of the matters set forth in the foregoing *Memorandum*; and (4) that the matters set forth in the foregoing *Memorandum*; are true and correct to the best of his knowledge, information and belief.


James A. Merciel, Jr., P.E.
Assistant Manager - Engineering
Water & Sewer Department
Utility Operations Division

Subscribed and sworn to before me this 15th day of January 2010.


Notary Public



CARLA K. SCHNIEDERS
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: August 25, 2012
Commission Number: 08533187