

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 22nd  
day of December, 1994.

In the matter of the Joint Application )  
of Missouri-American Water Company and )  
Missouri Cities Water Company for )  
permission and authority (i) to merge )  
Missouri Cities Water Company with and )  
into Missouri-American Water Company and )  
(ii) to issue 3,000 shares of Cumulative )  
Preferential Stock, and (iii) to carry )  
out the transactions contemplated by the )  
mergers. )

CASE NO. WM-95-150

ORDER APPROVING MERGER

On November 1, 1994, Missouri-American Water Company (Missouri-American or Applicant) and Missouri Cities Water Company (Missouri Cities or Applicant), filed a joint application with the Commission requesting permission to merge into a single company; Missouri-American would be the surviving corporation. The Applicants filed a motion for expedited consideration on the same date. The Commission issued an Order and Notice on November 16, 1994, directing interested parties to file their applications to intervene by December 1, 1994; no such applications were received.

Missouri-American is a water corporation and public utility subject to Commission jurisdiction and serving approximately 51,000 customers in and around the cities of St. Joseph and Joplin, Missouri, and surrounding areas in Buchanan, Andrew, Jasper and Newton Counties. Missouri Cities is also a water corporation and public utility subject to Commission jurisdiction serving approximately 36,000 customers in and around the cities of St. Peters, St. Charles, O'Fallon, Brunswick, Mexico, Warrensburg, Parkville, Riverside, Platte Woods, Lake Waukomis, Houston

Lake, and the Village of Cottleville, Missouri in Chariton, Platte, Johnson, St. Charles, and Audrain counties. Missouri-American owns one hundred percent of the outstanding stock of Missouri Cities.

The Staff of the Missouri Public Service Commission (Staff) submitted data requests to the joint applicants to which they responded. Staff reviewed the joint application and the responses to data requests and the parties submitted a Stipulation and Agreement for Commission approval on December 16, 1994. The agreement was signed by counsel for the joint applicants, Staff, the Office of the Public Counsel, and American Water Works Service Company, Inc., not an intervenor. The Stipulation and Agreement requested approval of the proposed merger with several conditions.

Staff stated that, other than a change in name, the customers of Missouri Cities should experience no change as a result of the proposed merger and, to that extent, the merger will not be detrimental to ratepayers. However, Staff stated that the proposed merger may be detrimental if the acquisition premium paid for the Missouri Cities' stock is recovered in rates. The parties agreed that the issue of the acquisition premium should be addressed in a general rate case and Staff stated that it had no objection to the merger if that condition were honored.

The parties agreed that Missouri-American should be authorized to issue 2,880 shares of its Cumulative Preferential Stock, 5-7/8% Series. The parties agreed that the Commission should transfer Missouri Cities' certificates of convenience and necessity to Missouri-American as of the consummation date of the merger. The parties also requested the Commission to authorize the transfer of Missouri-Cities' franchises, licenses, leases and permits, mortgages, bonds and other evidence of indebtedness to

Missouri-American. The Stipulation and Agreement provided that Missouri-American should be authorized to adopt the rates reflected in Missouri Cities' tariff P.S.C. Mo. No. 2 and provide water service in Missouri Cities' current service areas pursuant to that tariff.

The joint applicants agreed to maintain all documentation relative to the merger and to merge the continuing property records to enable Staff to perform a depreciation study for purposes of a general rate case. It was agreed that Missouri-American would calculate depreciation expense by applying its own current depreciation rates to assets within its current service territory, and to apply Missouri Cities' current depreciation rates to assets currently in Missouri Cities' service territory until the conclusion of a general rate case. The Stipulation and Agreement provided that all ratemaking issues, including the treatment of the acquisition premium, be deferred for determination in a general rate case. The parties agreed that the Commission's Order adopting the Stipulation and Agreement might become effective no less than seven days after issuance.

In paragraph 6 the parties specifically agreed to deferring all ratemaking issues to pending Cases numbered WR-95-174, WR-95-172, and SR-95-173. In paragraph 5 the parties requested the Commission to consolidate the pending rate cases numbered WR-95-174, WR-95-172, and SR-95-173 for hearing and decision and substitute Missouri-American for Missouri Cities in WR-95-172, and SR-95-173 as the company party.

Upon review of the application and the Stipulation and Agreement submitted by the parties, the Commission finds that the proposed merger will have no impact on Missouri Cities' rates and operations. Thus, the Commission finds that the proposed merger is not detrimental to the public interest and should be approved. The Stipulation and Agreement

(included with this order as Attachment 1), to the extent that it requests approval of the merger, deferral of ratemaking treatment of the acquisition premium, the issuance of preferred stock by Missouri-American, the transfer of Missouri Cities' certificate to Missouri-American, the adoption by the surviving corporation of Missouri Cities' tariff sheets, the maintenance of documentation relative to the merger and of surveillance reports, and application of depreciation rates, is reasonable and should be approved.

Paragraphs 5 and 6 of the Stipulation and Agreement request Commission action affecting existing dockets numbered WR-95-172, SR-95-173, and WR-95-174. WR-95-172 and SR-95-173 are Missouri Cities' pending rate cases; WR-95-174 is Missouri-American's pending rate case. All were filed on November 23, 1994, the tariffs have been suspended and the cases set for hearing before the Commission in July of 1995. After having considered these requests and the Commission's procedures, the Commission is of the opinion that a more appropriate resolution is for Missouri-American and Missouri Cities to withdraw their pending rate filings and for the surviving corporation, Missouri-American, to refile a general rate case with a single revenue request which would apply to the augmented corporation after the merger has taken place. To avoid undue delay, the Commission would permit the new rate case to proceed under the schedule already assigned to the cases now pending. The Commission will expect to issue an order on such a rate case in accordance with the operation of law date now applicable.

**IT IS THEREFORE ORDERED:**

1. That Missouri-American Water Company and Missouri Cities Water Company are hereby authorized to merge in accordance with the application, the Stipulation and Agreement, and this Order.

2. That Missouri-American Water Company and Missouri Cities Water Company are hereby authorized to take any and all other actions necessary to effectuate the merger authorized in Ordered Paragraph 1.

3. That Missouri-American Water Company is authorized to issue 2,880 shares of its Cumulative Preferential Stock, 5-7/8% Series.

4. That Missouri-American Water Company shall file notification with the Commission upon the closing of the merger authorized in Ordered Paragraph 1.

5. That Missouri Cities Water Company's certificate of convenience and necessity be transferred to Missouri-American Water Company and Missouri-American be authorized to provide water service in Missouri Cities' current service area and to adopt Missouri Cities' current tariff, Mo. P.S.C. No. 2.

6. That, concurrently with the filing required by Ordered Paragraph 3, Missouri-American Water Company shall file the Adoption Notice attached to this order as Attachment A of the Stipulation and Agreement (Attachment 1).

7. That Missouri-American Water Company shall continue to submit monthly surveillance reports to the Commission's Financial Analysis Department and shall maintain documentation regarding the merger and apply depreciation rates in accordance with the Stipulation and Agreement.

8. That Missouri Cities Water Company shall submit to the Commission's Financial Analysis Department, within ninety (90) days of the completed merger, any monthly surveillance reports not previously submitted that cover months prior to the merger.

9. That approval of this transaction does not constitute any determination of the ratemaking treatment to be accorded this transaction, including any resulting acquisition premium.

10. That this Order shall become effective on December 30,  
1994.

BY THE COMMISSION

  
David L. Rauch  
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,  
Kincheloe and Crumpton, CC., Concur.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

DEC 16 1994

MISSOURI  
PUBLIC SERVICE COMMISSION

In the matter of the Joint )  
Application of Missouri- )  
American Water Company and )  
Missouri Cities Water Company )  
for permission and authority )  
(i) to merge Missouri Cities )  
Water Company with and into )  
Missouri-American Water )  
Company and (ii) to issue )  
3,000 shares of Cumulative )  
Preferential Stock, and (iii) )  
to carry out the transactions )  
contemplated by the mergers. )

Case No. WM-95-150

STIPULATION AND AGREEMENT

On November 1, 1994, Missouri-American Water Company ("Missouri-American") and Missouri Cities Water Company ("Missouri Cities") (referred to collectively as "Companies"), filed a Joint Application with this Commission requesting permission and authority to (i) merge Missouri Cities with and into Missouri-American, (ii) issue 3,000 shares of Missouri-American Cumulative Preferential Stock, and (iii) carry out the transactions contemplated by the merger. The Companies requested an order from the Commission bearing an effective date of no later than December 25, 1994, so that the merger could be effected by January 1, 1995.

By order dated November 16, 1994, the Commission directed that the County Commissions of Andrew, Audrain, Buchanan, Chariton, Jasper, Johnson, Newton, Platte and St. Charles, Missouri be served with a copy of the Order and that notice of

the Order be sent to the publisher of each newspaper serving the Companies' service areas, and set an intervention deadline of December 1, 1994. Notice was given pursuant to Commission Order. No individuals or entities requested intervention.

Staff submitted and the Companies responded to several data requests regarding the merger transaction. Missouri-American and Missouri Cities are Missouri corporations subject to the jurisdiction of the Commission as "water corporations" and "public utilities" as those terms are defined by Section 386.020 RSMo. Supp. 1993, with offices at 1003 East St. Maartens Drive, St. Joseph, Missouri. Missouri-American currently provides water service to approximately 51,000 customers in and around the Cities of St. Joseph and Joplin and surrounding areas in Buchanan, Andrew, Jasper and Newton Counties, Missouri. Missouri Cities currently provides water service to approximately 36,000 customers in and around the Cities of St. Peters, St. Charles, O'Fallon, Brunswick, Mexico, Warrensburg, Parkville, Riverside, Platte Woods, Lake Waukomis, Houston Lake and the Village of Cottleville in Chariton, Platte, Johnson, St. Charles and Audrain Counties, Missouri.

The merger for which approval is being sought contemplates that Missouri Cities will merge with and into Missouri-American, which will be the surviving corporation. Missouri-American will assume the existing mortgage bonds and other liabilities of Missouri Cities. Missouri Cities' common stock will be cancelled and all outstanding shares of its Cumulative Preferred stock,



5-7/8% Series, will be exchanged for a like number of shares of Missouri-American's Cumulative Preferential stock, 5-7/8% Series. As of the effective date of the merger, the number of outstanding shares of Missouri Cities' Cumulative Preferred stock, 5-7/8% Series, will be 2,880.

The Boards of Directors of Missouri Cities and Missouri-American authorized the merger on September 30, 1994. The shareholders of said Companies approved the merger on October 3, 1994.

Upon consummation of the merger, Missouri-American will succeed to all rights, privileges and obligations of Missouri Cities under its Certificates of Convenience and Necessity, franchises, licenses, easements, leases, permits, mortgage bonds, and other evidence of indebtedness. Other than a change in name, the customers of Missouri Cities should realize no change as a result of the merger.

Staff has reviewed and analyzed the Companies' Application as well as their responses to the Staff data requests and has determined that the proposed merger may be detrimental to ratepayers if the acquisition premium, which Missouri-American paid for the stock of Missouri Cities, is recovered in rates. However, the Parties have not fully explored the impact of the inclusion of the acquisition premium and the Companies have not asked for a ruling in this case on the recovery of the acquisition premium. Consequently, the Parties have agreed that this and other ratemaking issues will be addressed in the pending

rate cases. Therefore, the Staff has no objection to the requested approvals being granted subject to certain conditions to which the Company has agreed. The undersigned parties ("Parties") have agreed to the following stipulations and agreements:

1. The Commission should authorize Missouri Cities to merge with and into Missouri-American in accordance with the Agreement and Plan of Merger.

2. The Commission should authorize Missouri-American to issue 2,880 shares of its Cumulative Preferential Stock, 5-7/8% Series.

3. The Commission should authorize Missouri-American to provide water service in the current service areas of Missouri Cities at rates, terms and conditions which Missouri Cities has on file with and approved by the Commission. The rates charged to the customers of Missouri Cities, as of the effective date of the merger, will be those rates reflected in Missouri Cities tariff PSC.Mo.No.2. Missouri-American agrees to file in this case a Notice adopting Missouri Cities' tariff sheets, similar to Attachment A hereto, to be effective on the date of the merger.

4. The Commission should authorize the transfer of all certificates of convenience and necessity, franchises, licenses, leases and permits, mortgages, bonds and other evidence of indebtedness of Missouri Cities to Missouri-American effective on the effective date of the merger.

5. The Commission should order that Missouri-American's and

Missouri Cities' rate cases docketed as Case No. WR-95-174 and Case Nos. WR-95-172 and SR-95-173, respectively, will be consolidated for hearing and for decision. Missouri-American as the surviving corporation will be substituted in the place of Missouri-Cities in Case Nos. WR-95-172 and SR-95-173. Missouri-American agrees to make such filings as the Commission may direct to accomplish this substitution of parties.

6. All ratemaking issues, including but not limited to treatment of Missouri-American's acquisition cost of Missouri Cities' stock, will be deferred to and addressed in the Companies' consolidated rate cases docketed as Case No. WR-95-174 and Case Nos. WR-95-172 and SR-95-173.

7. Missouri Cities and Missouri-American agree to maintain all documentation relative to the analyses of the merger and acquisition and to merge the continuing property records so that Staff may perform a depreciation study of the merged company in the pending rate cases.

8. Missouri-American agrees to calculate depreciation expense by applying current Missouri-American depreciation rates to assets in the current Missouri-American service territory and current Missouri Cities depreciation rates to assets in the current Missouri Cities service territory until the pending rate cases are concluded.

9. Missouri-American shall begin filing consolidated monthly surveillance reports to the Commission's Financial Analysis Department with the month ending January 31, 1995, and shall

file, within ninety days of consummation of the merger, surveillance reports for Missouri Cities for all months in arrears.

10. None of the signatories to this Stipulation and Agreement shall have been deemed to have approved or acquiesced in any ratemaking or procedural principle or any method of depreciation or cost determination or cost allocation, or any service or payment standard and none of the signatories shall be prejudiced or bound in any manner by the terms of this Stipulation and Agreement in this or any other proceeding except as otherwise expressly specified herein.

11. This Stipulation and Agreement has resulted from negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Stipulation and Agreement in its entirety by an Order bearing an effective date of no later than December 30, 1994, then this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof. The parties agree that the Commission's Order adopting this Stipulation and Agreement may become effective not less than seven days after the Order is issued.

12. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the Parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1 RSMo. 1986 to present testimony, to cross-examine witnesses, and to present oral argument and written

briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo. 1986; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1986.

13. If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Stipulation and Agreement. Each Party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all Parties. All memoranda submitted by the Parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all Parties, and shall not become a part of the record of this proceeding or bind or prejudice the Party submitting such memorandum in any future proceeding or in this proceeding whether or not the Commission approves this Stipulation and Agreement. The contents of any memorandum provided by any Party are its own and are not acquiesced in or otherwise adopted by the other signatories to the Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall to the extent

reasonably practicable, provide the other Parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

WHEREFORE, for the foregoing reasons, the undersigned parties respectfully request that the Commission issue its Order approving the specific terms and conditions of this Stipulation and Agreement.

Respectfully submitted,

STAFF OF THE MISSOURI PUBLIC  
SERVICE COMMISSION

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and MISSOURI CITIES WATER COMPANY

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 16th day of December, 1994.

Wm K Haas

ATTACHMENT A

MISSOURI AMERICAN WATER CO.

MISSOURI PSC No. 2  
Original Adoption Notice Page

ADOPTION NOTICE

Missouri-American Water Company, hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed by it, all tariffs, schedules, rules, notices, concurrences, schedule agreements, divisions, authorities or other instruments whatsoever, filed with the Public Service Commission, State of Missouri, by Missouri Cities Water Company prior to January 1, 1995 (collectively hereinafter referred to as the Tariff Sheets).

By this notice Missouri-American Water Company also adopts and ratifies all supplements or amendments to any of the Tariff Sheets which Missouri Cities Water Company has heretofore filed with said Commission.

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Issued:

Effective:

By:



Service List for Case No. WM-95-150

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