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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 30th  
day of July, 1998.

In the Matter of the Application of       )  
United Water Missouri Inc. for an       )  
Accounting Authority Order Relating       )  
to FAS 106.                                )  
Case No. WA-98-187

**ORDER GRANTING REHEARING AND COMPELLING RESPONSE**  
**TO DATA REQUEST 1009**

On November 5, 1997, United Water Missouri Inc. (UWM or Company), pursuant to Sections 393.140 and 386.315, RSMo, filed its application for accounting authority order. The application requested the Commission authorize UWM to maintain on its books its regulatory asset representing the excess of its FAS 106 post-retirement benefits other than pensions (PBOP) expense over the pay-as-you-go amount that the Company has been booking since 1994, with said deferral continuing until the effective date of the report and order in the Company's next general rate proceeding.

On June 26, 1998, the Office of the Public Counsel (OPC or Public Counsel) submitted its data request No. 1009 to UWM. In its data request No. 1009, OPC requested that UWM

provide the following amounts for the years 1994 - 1997  
(actual) and 1998 - 1999 (projected):  
a) FAS 87 pension expense;  
b) minimum ERISA pension contributions.

On July 6, 1998, UWM replied to data request No. 1009 as follows:

UWM objects to DR 1009 as the information requested is  
not relevant to the subject matter of this action --

whether the subject of the requested AAO (FAS 106) is extraordinary in nature -- nor is it reasonably calculated to lead to the discovery of admissible evidence.

UWM agrees that this information will be relevant in a rate proceeding where the Commission is asked to consider all relevant factors. UWM will be more than willing to provide this information at such time as a rate proceeding is initiated.

On July 9, 1998, OPC filed a Motion to Compel response to data request 1009. On July 10, OPC filed the attachments as referenced in its Motion to Compel. In its Motion to Compel, OPC stated that it is entitled to the information requested in data request No. 1009 because FAS 87 costs are relevant to this proceeding because this accounting standard addresses certain post-retirement benefits for employees related to pensions. Further, OPC stated that FAS 106 addresses the remaining PBOP costs. OPC states that its request regarding the accounting for FAS 87 costs is intended to determine that consistent application of generally accepted accounting principles (GAAP) has occurred and that the Company has not manipulated accounting practices in order to create the appearance of an extraordinary event with regard to FAS 106. OPC claims that data request No. 1009 meets the standard of being "reasonably calculated to lead to the discovery of admissible evidence." OPC claims that the Commission Staff and the Public Counsel routinely audit FAS 87 expenses along with PBOPs. OPC points out that UWM does not raise any objection claiming undue burden to produce the requested information. OPC also cites its broad audit and inspection authorities under Section 386.450 RSMo (1994). OPC requests the Commission to issue an order compelling UWM to answer Public Counsel data request No. 1009 by August

( 1, 1998, in order to allow Public Counsel sufficient time to use the information in preparation for the hearing in this case.

On July 14, 1998, by delegation of authority, the Commission issued its Order Granting Motion to Compel Response to Data Request in this matter. The order directed UWM to provide the requested information no later than July 16, 1998 and the order itself became effective on July 24, 1998. On July 15, 1998, UWM filed its Application for Rehearing Concerning Order Granting Motion to Compel Response to Data Request. UWM noted that the Order Granting Motion to Compel was issued in less than ten days from the date of the filing of OPC's exhibits and that UWM did not have an opportunity to respond to the motion pursuant to Rule 4 CSR 240-2.080(12). In light of UWM's wish to respond to OPC's Motion to Compel filed on July 9, the Commission finds it appropriate to grant UWM's motion to rehear the issue concerning OPC's Motion to Compel to response to data request No. 1009.

UWM states in its motion for rehearing that OPC asserts FAS 87 costs are relevant to this proceeding because it "addresses certain post-retirement benefits for employees related to pensions" while "FAS 106 addresses remaining post-retirement benefit costs." UWM believes that this position "ignores the fact that pensions and post-retirement benefits other than pensions are treated as completely separate items for accounting purposes." Further, UWM states that its request for an AAO concerns only FAS 106 costs. In response to OPC's assertion that the data request is reasonably calculated to lead to the discovery of admissible evidence, UWM responds that whether the accounting is accurate or not has no impact on this proceeding. Further, UWM states that the single factual issue in an application for an AAO is whether the costs

sought to be deferred are extraordinary in nature. Further, UWM states that it is only during a rate case, when the Commission is determining whether the costs should be included in the revenue requirement, that the accuracy of the accounting is relevant and may lead to admissible evidence. Further, UWM states that

It is unclear how it is even possible for UWM to "manipulat[e] accounting practices" to "create the appearance of an extraordinary event." In the event there are any incorrect assignments to FAS 106, they will be audited, as would any expense, in the next rate case and would never find their way to UWM's revenue requirement. An extraordinary event cannot be "created" by accounting practices.

Finally, UMW responds to OPC's citation of its general powers to audit and inspect the books of regulated entities by stating that OPC has failed to show "good cause" as required by 386.450. UWM notes that the Commission's Order Granting Rehearing and Scheduling Prehearing Conference issued on April 23, 1998, stated that the rehearing was granted "solely on the narrow issue as to whether the costs which were asked to be deferred are, in fact, extraordinary in nature."

Under the Uniform System of Accounts (USOA), certain costs may be booked in Account 186 rather than in a traditional account for the type of cost incurred and an asset rather than a liability is created. In the matter of the application of Missouri Public Service, 1 Mo.P.S.C.3rd 200, 202-203 (1991). "The account was created to incur 'all debits not elsewhere provided for, such as miscellaneous work in progress, and unusual or extraordinary expenses, not included in other accounts, which are in process of amortization and items the proper final disposition of which is uncertain.'" The USOA describes extraordinary items as:

7. *Extraordinary Items.*

It is the intent that net income shall reflect all items of profit and loss during the period with the exception of prior period adjustments as described in paragraph 7.1 and long-term debt as described in paragraph 17 below. Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business. (In determining significance, items of a similar nature should be considered in the aggregate. Dissimilar items should be considered individually; however, if they are few in number, they may be considered in aggregate.) To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See accounts 434 and 435.) Id. At 203.

No further responses were filed in relation to OPC's Motion to Compel response to data request No. 1009. The Commission finds that the sole issue of the AAO proceeding scheduled for hearing on August 20 and 21 is whether the costs requested to be deferred in this application for AAO are extraordinary items appropriate for deferral. In its efforts to determine whether the FAS 106 costs are extraordinary in nature, it may prove helpful to OPC to determine what other accounting practices are used by the Company. Therefore, the accounting practices used for FAS 87 costs for post-retirement benefits related to pensions may be relevant or may be reasonably calculated to lead to the discovery of admissible evidence. The Commission finds that it is appropriate for UWM to respond to the Office of the Public Counsel's data request No. 1009. Given that the procedural schedule for this case provided for the production of

rebuttal testimony by Staff and OPC by July 21, and that the hearings are scheduled for August 20 and 21, it is necessary for the Commission to shorten the time for response and require UWM to respond to data request No. 1009 by August 7, 1998 before 5 p.m.

**IT IS THEREFORE ORDERED:**

1. That United Water Missouri Inc.'s Application for Rehearing filed on July 15, 1998 is granted and the Office of the Public Counsel's Motion to Compel filed on July 9, 1998 is granted.

2. That United Water Missouri Inc. is hereby ordered to respond to the Office of the Public Counsel's data request No. 1009 before 5 p.m. on August 7, 1998.

3. That this order shall become effective on August 7, 1998.

BY THE COMMISSION



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Murray, Schemenauer  
and Drainer, CC., concur.  
Crompton, C., absent.

Register, Regulatory Law Judge

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COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION