

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Missouri-American Water)	
Company's Tariff Sheets Designed to Implement)	Case No. WR-2000-281
General Rate Increases for Water and Sewer)	Tariff No. 200000366
Service Provided to Customers in the Missouri)	Tariff No. 200000367
Service Area of the Company.)	

ORDER GRANTING INTERVENTION

On October 15, 1999, Missouri-American Water Company (MAWC) submitted to the Commission proposed tariff sheets intended to implement a general rate increase for water and sewer service provided to customers in the Missouri service area of the Company. The proposed tariffs bear a requested effective date of November 15, 1999. The proposed water service tariffs are designed to produce an annual increase of approximately 53.97 percent (\$16,446,277) in the Company's revenues. The proposed sewer service tariffs are designed to produce an annual increase of approximately 5.0 percent (\$2,363) in the Company's revenues.

On October 28, 1999, the Commission issued its Suspension Order and Notice, suspending the proposed tariffs until September 14, 2000, and consolidating Case No. SR-2000-282 into Case No. WR-2000-281. In that Order, the Commission set certain procedural dates intended to permit resolution of this matter within the interval allowed by law, including a deadline for applications to intervene of November 17, 1999. Public Water Supply District No. 2 of St. Charles County, Missouri (PWSD), timely filed its Application to Intervene on November 16, 1999.

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On November 29, 1999, MAWC filed its opposition to PWSD's application to intervene; PWSD responded on November 30, 1999. This issue is thus ripe for decision.

Discussion:

PWSD states, in its application to intervene, that it "should be permitted to intervene in this proceeding for any, if not all, of the reasons set forth in [4 CSR 240-2.075(4)]." PWSD states that it is a political subdivision and that the public interest favors its intervention. PWSD further states that it is a direct competitor of MAWC and that the issues "addressed and ruled upon in this case will have financial and competitive consequences for the District and its customers." Finally, PWSD asserts that "this particular rate case proceeding is expected to address numerous and significant public policy issues above and beyond what otherwise might be expected in a 'typical' rate case proceeding." PWSD has, it contends, "a definite interest in those issues and how the Commission ultimately will address them." While PWSD is in general a competitor and adversary of MAWC, it has not yet taken any position in this proceeding.

MAWC opposes PWSD's intervention. MAWC states that PWSD is not a customer of MAWC, but a competitor. PWSD and its customers will not be affected by the outcome of this case, MAWC asserts. The Public Counsel's involvement in this case is, MAWC contends, sufficient to protect any legitimate interests PWSD may have in this proceeding. Further, MAWC argues that the public interest disfavors this attempt by PWSD to turn this case into a "tool of competition." MAWC states that permitting PWSD to

Amendment XIV; Missouri Constitution, Article I, Section 10 (1945). Such persons have a right to intervene. *Supra*, 923 S.W.2d at 368.

In Ballmer, *supra*, an insurance company sought to intervene in a "friendly" lawsuit wherein a father sued his son for the wrongful death of another son in an automobile accident. The insurance company sought to intervene to prevent its insured from confessing judgment. Intervention was denied because the insurer lacked an interest in the case: "As to whether State Farm has an 'interest' in the underlying action, this court has stated that 'the liability of an insurer as a potential indemnitor of the judgment debtor does not constitute a direct interest in such a judgment as to implicate intervention as a matter of right.'" *Id.* (citations omitted). PWSD does not have a right to intervene in this matter.

PWSD contends that permitting its intervention would serve the public interest. This contention is similar to permissive intervention under the civil rules. An economic interest, such as PWSD claims, will support permissive intervention. See Meyer v. Meyer, 842 S.W.2d 184, 188 (Mo. App., E.D. 1992). Permissive intervention is, by its nature, discretionary. *Id.* PWSD filed a timely application to intervene and has met the minimum standards set by the Commission's rule. Permitting PWSD's intervention will not delay resolution of this matter. PWSD is a political subdivision and asserts that it will be economically affected by the outcome of this case. Upon consideration of all of the circumstances and the arguments of the parties, the Commission will grant the PWSD's application to intervene.

IT IS THEREFORE ORDERED:

1. That Public Water Supply District No. 2 of St. Charles County, Missouri, is granted intervention in this case in accordance with 4 CSR 240-2.075(4). The Commission's Records Department shall add its counsel to the service list in this case: Charles Brent Stewart, Esq., Stewart & Keevil, L.L.C., 1001 Cherry Street, Suite 302, Columbia, Missouri 65201.

2. That this order shall become effective on December 16, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Kevin A. Thompson, Deputy Chief
Regulatory Law Judge, by delegation
of authority pursuant to 4 CSR
240-2.120(1), (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 6th day of December, 1999.