

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

In the Matter of Missouri-American Water Company )  
For a Certificate of Convenience and Necessity )  
Authorizing it to Install, Own, Acquire, Construct, )  
Operate, Control, Manage and Maintain a Sewer )  
System in Benton County, Missouri. )

**Case No. SA-2015-0065**

**STAFF’S MOTION TO STRIKE**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Motion to Strike*, states as follows:

1. On September 8, 2014, Missouri-American Water Company (“MAWC”) filed its *Application* for authority to acquire and operate sewer service assets in Benton County, Missouri, belonging to Benton County Sewer District No. 1. The assets are being sold by a receiver under authority of the United States District Court for the Western District of Missouri.

2. On November 16, 2014, George M. Hall, self-described as a customer of Benton County Sewer District No. 1, filed his *Motion for Out Of Time Intervention and, If Necessary, Original Formal Complaint or, in the Alternative, Motion for Leave to File an Amicus Curiae Brief*. The Commission denied Mr. Hall’s application to intervene out of time on December 17, 2014, but did grant him leave to file an *amicus curiae* brief.

3. Mr. Hall appealed the Commission’s denial of his untimely application to intervene to the Missouri Court of Appeals for the Western District. The Court of Appeals dismissed Mr. Hall’s appeal on September 22, 2015.

4. On November 12, 2015, effective December 12, 2015, the Commission granted the requested certificate of convenience and necessity (“CCN”) to MAWC, as

recommended by Staff on November 17, 2014.

5. Now, on December 11, 2015, Mr. Hall has purported to move the Commission to withdraw the CCN it granted to MAWC on November 12, by filing his ***Motion For Withdrawl [sic] of Order Granting Certificate of Convenience and Necessity.***

6. Mr. Hall seeks relief that the Commission has no power to grant. The Commission is “an administrative body created by statute and has only such powers as are expressly conferred by statute and reasonably incidental thereto.” ***State ex rel. AG Processing Inc. v. Thompson***, 100 S.W.3d 915, 919 (Mo. App., W.D. 2003). The Commission's authority, therefore, must come from the statutes and the Commission merely carries out the public policy declared by the Missouri Legislature. ***State ex rel. Springfield Warehouse & Transfer Co. v. Pub. Serv. Comm'n***, 240 Mo.App. 1147, 225 S.W.2d 792, 794 (1949); ***Public Service Com'n of State v. Missouri Gas Energy***, 388 S.W.3d 221, 230 (Mo. App., W.D. 2012). The Commission's order granting the CCN in question was not stayed by Mr. Hall's purported filing and became effective on December 12, 2015. The Public Service Commission Law does not authorize the Commission to terminate a CCN. See ***State ex rel. City of Sikeston v. Pub. Serv. Comm'n of Missouri***, 336 Mo. 985, 997-98, 82 S.W.2d 105, 109-10 (1935).

7. Mr. Hall is also without standing to move for the withdrawal of the order granting the CCN in question because he is not a party to the case. As described above in Paragraphs 2 and 3, the Commission denied Mr. Hall's application to intervene in this matter and the Court of Appeals has upheld the Commission's order. Therefore, Mr. Hall's purported motion is unauthorized and should be stricken.

**WHEREFORE**, Staff prays that the Commission will strike Mr. Hall's purported motion; and grant such other and further relief as the Commission deems just in the premises.

Respectfully submitted,

**/s/ Kevin A. Thompson**

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing has been served, by hand delivery, electronic mail, or First Class United States Mail, postage prepaid, to all parties of record on the Service List maintained for this case by the Data Center of the Missouri Public Service Commission, on this 14<sup>th</sup> day of December, 2015.

**/s/ Kevin A. Thompson**