

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 29th
day of December, 1993.

In the matter of the joint application of	)	
Missouri-American Water Company and the	)	
City of St. Joseph, Missouri for approval	)	<u>CASE NO. WO-93-298</u>
of agreement and tariff filings relating	)	
to discontinuance of water service and	)	
delinquent charges or city sewer services.	)	

ORDER GRANTING JOINT APPLICATION FOR EXECUTION
OF TERMINATION OF WATER SERVICE AGREEMENT

On April 28, 1993, Missouri-American Water Company (MAWC) and the City of St. Joseph, Missouri (City) filed a joint application pursuant to Section 250.236, RSMo Cum. Supp. 1992, seeking approval of the Commission of a Water Discontinuance Agreement negotiated between the parties, which would allow the City to arrange with MAWC to have the water service of the City's sewer customers discontinued when those customers were delinquent in the payment of their sewer bills to the City. On August 27, 1993, the Commission issued an Order Denying Joint Application For Execution Of Water Discontinuance Agreement. The Commission in its order expressed reservations concerning the indemnification provisions found in the agreement, and concluded, "[t]he Commission believes that it is not appropriate to approve an agreement under which a regulated water corporation assumes a risk of potential liability in the course of providing a service at cost to a municipality operating a sewer treatment facility." Order Denying Joint Application For Execution Of Water Discontinuance Agreement, Case No. WO-93-298 at 6. In addition, the Commission also found potential ambiguities in MAWC's proposed tariff schedules, which were submitted as an exhibit with the original application, and noted that it was unclear whether and when particular provisions applied to customers whose water service is discontinued because of nonpayment of a sewer bill, a water bill, or either type of bill. The Commission

did indicate, however, that "[i]n the event the Joint Applicants can agree on a water discontinuance agreement similar to the present one, but which contains indemnity provisions which reference Section 393.015.2 or contain similar language, or language similar to the agreement approved in Case No. WO-93-348, the Commission would be amenable to approval thereof. Any tariff schedule submitted with such an agreement should clarify whether and when MAWC's rules, regulations and conditions of service pertaining to the discontinuance of water service and renewal of water service apply when water service is discontinued for nonpayment of a sewer bill." Order Denying Joint Application For Execution Of Water Discontinuance Agreement, Case No. WO-93-298 at 6-7.

On September 3, 1993, MAWC and the City filed an Application For Rehearing. By order dated September 10, 1993, the Commission denied the Application For Rehearing, but did reopen the case for the purpose of allowing MAWC and the City to file an amended application in conformity with the Commission's order of August 27, 1993. On November 15, 1993, MAWC and the City filed an Amended Joint Application with a new agreement, denominated as a Termination of Water Service Agreement, attached as Exhibit A to the Amended Joint Application. On December 13, 1993, the Staff filed a memorandum recommending approval of the Termination of Water Service Agreement, and authorizing MAWC to file tariff sheets identical to the proposed tariff schedules attached to the Amended Joint Application as Exhibit B. Staff indicated that it had reviewed the Amended Joint Application, the revised contract, and the revised proposed tariff changes, and concluded that the revised contract and the revised proposed tariff changes satisfy the concerns expressed by the Commission in its order of August 27, 1993.

Upon review of the verified Amended Joint Application and attachments, and Staff's recommendation, the Commission finds that the Termination of Water Service Agreement should be approved. The new Termination of Water Service

Agreement is very similar to the Water Discontinuance Agreement filed with the original Joint Application. Both agreements contain provisions for appropriate notification of the City's sewer customers, and monetary compensation to MAWC for the cost of disconnections, reconnections, and lost water revenues. However, the new agreement does contain several changes. The new agreement references Section 393.015 rather than Section 250.236, RSMo Cum. Supp. 1992, contains a provision stating that all notice, complaint procedures, and administrative consumer remedies are the responsibility of the City, and that the procedures of the Public Service Commission which ordinarily would apply to utility service from a regulated utility do not apply to termination of water service for nonpayment of a sewer bill pursuant to the agreement, and contains a more stringent indemnification provision. The new provisions are very similar, if not identical, to provisions in a similar agreement between St. Louis County Water Company and the St. Louis Metropolitan Sewer District, which the Commission approved in Case No. WO-93-348.

The Commission also finds that the new proposed tariff schedules contained in Exhibit B have been amended to eliminate the bulk of the ambiguities found in the tariff schedules proposed under the original Joint Application. Thus, the Commission finds the Termination of Water Service Agreement to be reasonable and in the public interest, and further finds the proposed tariff schedules to be appropriate, and just and reasonable.

IT IS THEREFORE ORDERED:

1. That the Amended Joint Application of Missouri-American Water Company and the City of St. Joseph for approval of the Termination of Water Service Agreement attached as Exhibit A to the Amended Joint Application be and is hereby granted.

2. That Missouri-American Water Company be and is hereby authorized to file tariffs consistent with the proposed tariff schedules attached as Exhibit B to the Amended Joint Application.

3. That this Order shall become effective on January 11, 1994.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

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