

STATE OF MISSOURI
MISSOURI PUBLIC SERVICE COMMISSION

FILED³
SEP 11 2000

Missouri Public
Service Commission

In the Matter of Missouri-American)
Water Company's Tariff Sheets De-)
signed to Implement General Rate)
Increases for Water and Sewer Ser-)
vice provided to Customers in the)
Missouri Service Area of the Compa-)
ny)

WR-2000-281
SR-2000-282
(Consolidated)

INTERVENORS AG PROCESSING INC, A COOPERATIVE,
FRISKIES PETCARE, A DIVISION OF NESTLE USA,
WIRE ROPE CORPORATION OF AMERICA INC.
AND CITY OF RIVERSIDE

RESPONSE TO MAWC AND STAFF

MOTIONS FOR CLARIFICATION AND EXPEDITED TREATMENT

COME NOW Intervenor AG PROCESSING INC, A COOPERATIVE ("AGP"), FRISKIES PETCARE, A DIVISION OF NESTLE USA ("Friskies") and WIRE ROPE CORPORATION OF AMERICA INC. ("Wire Rope") (collectively herein "St. Joseph Industrial Intervenor") joined by City of Riverside ("Riverside") and for their response to the Motions for Clarification and Expedited Treatment filed by Missouri-American Water Company (MAWC) and Commission Staff on September 6 and September 7, 2000, respectively, state as follows:

1. Both motions, in inconsistent manners, seek "clarification" of the Commission's Report and Order (Order) of August 31, 2000. That Order directed MAWC to "file proposed tariff sheets in compliance with this order." Both parties assert what they believe the Commission found in its Order and pose additional questions pertaining to matters that were not

included in the Order and were not the subject of findings of fact by the Commission.

2. Both parties seek not *clarification* of the Commission's Order but rather seek *reformation or supplementation* of that Order. Neither relief is appropriate nor authorized. Indeed, Staff even notes that the rate design chosen by the Commission "was not presented by any of the parties and *the record does not contain specific evidence related to this option*" (emphasis added). Staff also seeks to put a new reconciliation before the Commission, despite the Commission's earlier rejection of such reconciliations as unsubstantiated. Both parties seek changes or the inclusion of additional decisions in the Order. Both parties are explicitly seeking *changes or modifications* in the Order.

3. The proper way that changes, modifications, reformations or supplementation of a final order are sought is through an Application for Rehearing. Neither Commission Rules nor governing statutes authorize a motion for "clarification" and such motions are unauthorized.

4. Post-decisional pleadings are addressed in 4 CSR 240-2.160. Two mechanisms are referenced in that rule. Applications for rehearing are governed, not by Commission Rule, but rather by applicable statutes, namely Section 386.500 et al. 4 CSR 240-2.160(2) provides for motions for reconsideration "of

procedural or interlocutory orders" and require the movant to "set forth specifically the ground(s) on which the applicant considers the order to be unlawful, unjust or unreasonable."

5. Further, neither motion complies with Rule 4 CSR 240-2.080(3) in that neither motion contains a "specific reference to the statutory provision or other authority under which relief is requested." Commission Rule 4 CSR 240-2.080(3) specifies:

Each pleading shall include a clear and concise statement of the relief requested and specific reference to the statutory provision or other authority under which relief is requested.

6. Finally, the Order issued on August 31, 2000 is not a preliminary order allowing responses by the parties to the case. Commission Rule, 4 CSR 240-2.150(4) provides that

[t]he commission may, at its discretion, issue a preliminary order and allow parties to provide responses to the preliminary order. The commission may then issue its order after reviewing the responses of the parties.

The Order of August 31, 2000 was not a "preliminary order," nor was it so designated by the Commission.

7. There is, accordingly, no statutory or regulatory basis of authority that supports either motion. As noted, both motions seek *reformation or supplementation* of the Order and thus seek a *different* order than the Order that was issued. Such requests are properly the basis for an Application for Rehearing

permitted under Section 386.500 RSMo., but neither party has chosen to seek such rehearing. As a result, neither pleading should be considered by the Commission and both should be either rejected as unauthorized pleadings submitted in violation of Commission rules, or should be denied as inappropriate mechanisms to seek relief.

WHEREFORE, St. Joseph Industrial Intervenors and City of Riverside pray that the Motions for Clarification be rejected or denied on the grounds aforesaid.

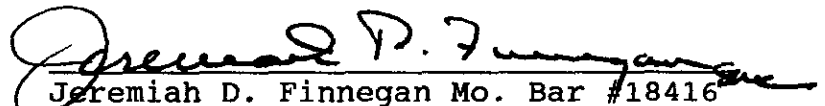
Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



Stuart W. Conrad Mo. Bar #23966
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816) 756-0373
Internet: stucon@fcplaw.com

ATTORNEYS FOR AG PROCESSING INC.,
FRISKIES PETCARE, A DIVISION OF
NESTLE USA and WIRE ROPE CORPORATION
OF AMERICA, INC.



Jeremiah D. Finnegan Mo. Bar #18416
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816) 756-0373
Internet: jfinnegan@fcplaw.com

ATTORNEYS FOR CITY OF RIVERSIDE,
MISSOURI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by hand delivery or U.S. mail, postage prepaid addressed to the following persons:

Mr. John Coffman
Assistant Public Counsel
Office of the Public Counsel
P. O. Box 7800
Jefferson City, MO 65102

Mr. William R. England
Mr. Dean Cooper
Brydon, Swearingen & England, P.C.
312 East Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102-0456

Mr. Karl Zobrist
Blackwell Sanders Peper Martin LLP
Two Pershing Square
2300 Main, Suite 1100
Kansas City, MO 64108

Mr. James M. Fischer
Law Offices of Jim Fischer
101 West McCarty Street
Suite 215
Jefferson City, MO 65101

Mr. Louis J. Leonatti
Attorney
Leonatti & Baker, P.C.
123 E. Jackson St
P. O. Box 758
Mexico, MO 65265

Ms. Diana Vuylsteke
Bryan Cave, LLP
One Metropolitan Square
Suite 3600
St. Louis, MO 63102-2750

Mr. Martin W. Walter
Blake & Uhlig, P.A.
2500 Holmes Road
Kansas City, MO 64108

Mr. Lee Curtis
Attorney
130 S. Bemiston
Suite 200
Clayton, MO 63105

Mr. Charles B. Stewart
Stewart & Keevil
1001 E. Cherry Street
Suite 302
Columbia, MO 65201

Mr. Keith Krueger
Assistant General Counsel
Missouri Public Service Commission
Truman Office Building - R530
P. O. Box 360
301 West High - P.O. Box 360
Jefferson City, MO 65102-0360

Mr. Joseph W. Moreland
Attorney
Blake & Uhlig, P.A.
2500 Holmes Road
Kansas City, MO 64108

Dated: September 11, 2000



Stuart W. Conrad