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February 8, 2002

Mr. Dale H. Roberts  
Secretary/Chief Regulatory Law Judge  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED<sup>2</sup>**  
**FEB 08 2002**  
**Missouri Public  
Service Commission**

Re: **Case No. WC-2002-146**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **Position Statement of the Office of the Public Counsel**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,

M. Ruth O'Neill  
Assistant Public Counsel

MRO:jb

cc: Counsel of Record

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

Staff of the Missouri Public Service Commission,  
Complainant,  
v.  
St. Louis County Water Company, d/b/a  
Missouri-American Water Company,  
Respondent.

Case No. WC-2002-146

**FILED<sup>2</sup>**  
FEB 08 2002  
Missouri Public Service Commission

**POSITION STATEMENT OF THE OFFICE OF THE PUBLIC COUNSEL**

COMES NOW, the Office of the Public Counsel, and respectfully submits its Position Statement on the Issues presented in this case.

**ISSUE # 1: Is the Company's tariff sheet P.S.C. MO No. 6 Original Revised SHEET No. TR 17.0 unjust, unreasonable, or more than allowed by law or by order or decision of the Commission, and, if so, what changes to the tariff would be proper?**

Public Counsel's Position: Public Counsel believes that the purpose of the legislation at issue in this matter, and the Company's collection of the "tax" from its customers, is beneficial to the public interest. Public Counsel believes the program which has been developed pursuant to this legislation is beneficial to the public interest. Public Counsel takes no position, at this time, on whether the specific language of the tariff is consistent with the specific language in the statute in every respect. However, Public Counsel believes that the program should continue.

**ISSUE # 2: Does Commission approval of a tariff also constitute approval of a contract that is filed with the tariff or on which the tariff is based?**

Public Counsel's Position: Not necessarily. While some contracts entered into by a public utility may result in the filing of tariff sheets after the Commission has approved the contract, not every contract which a public utility seeks to enter into, on the basis of a filed and effective tariff, is automatically approved by the Commission. There is no reason for the Commission to decide, in this case, that all contracts based upon a tariff, or filed contemporaneously with a tariff, must be approved if the tariff is approved.

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Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 8<sup>th</sup> day of February 2002:

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