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September 11, 2000

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102

FILED²

SEP 11 2000

Missouri Public
Service Commission

RE: *Missouri-American Water Company*
Case No. WR-2000-281

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are the original and eight (8) copies of St. Joseph Area Public Water Supply Districts' Response to Motions for Clarification and for Expedited Treatment. A copy of the foregoing Response has been hand-delivered or mailed this date to parties of record.

Thank you for your attention to this matter.

Sincerely,


Larry W. DORITY

/jr
Enclosures

cc: All parties of record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

SEP 11 2000

Missouri Public
Service Commission

In the Matter of Missouri-American Water)
Company's Tariff Sheets Designed to)
Implement General Rate Increases for)
Water and Sewer Service Provided to)
Customers in the Missouri Service Area)
of the Company.)

Case No. WR-2000-281

ST. JOSEPH AREA PUBLIC WATER SUPPLY DISTRICTS'
RESPONSE TO MOTIONS FOR CLARIFICATION
AND FOR EXPEDITED TREATMENT

COME NOW Intervenors Public Water Supply District No. 1 of Andrew County, Public Water Supply District No. 2 of Andrew County, Public Water Supply District No. 1 of DeKalb County, and Public Water Supply District No. 1 of Buchanan County (collectively referred to herein as "St. Joseph Area Public Water Supply Districts" or "Water Districts") and, pursuant to 4 CSR 240-2.080(16) and the Missouri Public Service Commission's ("Commission") "Notice Setting Time For Response" entered in this matter on September 7, 2000, respectfully submit their Response as follows:

1. On September 6, 2000, Missouri-American Water Company ("MAWC") filed a motion for clarification and for expedited treatment. On September 7, 2000, the Staff of the Commission filed a motion for clarification and for expedited treatment. Counsel for the Water Districts received the MAWC Motion via facsimile late in the afternoon of September 6. It is the Water Districts' belief and understanding that this matter was added for "good cause shown" to the Commission's Agenda Meeting held on Thursday morning, September 7, 2000, and that Staff's Motion was filed with the Commission just prior to the Agenda Meeting. Counsel for the Water

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Districts was served with a copy of Staff's Motion, via e-mail, later that morning. The Water Districts further believe and understand that both the MAWC and Staff Motions were considered and discussed during the September 7, 2000 Agenda Meeting, although the Water Districts had not had an opportunity to respond to said motions (having not even been served with the Staff Motion at that point in time). Accordingly, the Water Districts were denied sufficient time to review and respond to these Motions prior to their receipt and review by the Commission. The Water Districts, therefore, object to the Commission's previous consideration of these Motions in order to protect the record in this proceeding for possible appeal.

2. The Commission's Rules of Practice and Procedure, Chapter 2, prescribe the method of issuing commission orders and the effective date of such orders,¹ and the procedure for requesting a rehearing of a final order.² The Commission's Rules do not provide a mechanism, such as that sought by the movants, to confirm a party's possible construction of an Order or to supplement findings of fact upon which no record evidence exists. The Motions for Clarification and for Expedited Treatment filed in this matter simply serve to underscore the legal error and unlawful nature of the Report and Order adopted by the majority of the Commission.

¹4 CSR 240-2.150 Decisions of the Commission (1) provides that "[T]he record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument. Paragraph (4) of said Rule provides that the "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." However, the Commission did not utilize this provision in this matter, issuing its Report and Order on August 31, 2000, to become effective September 14, 2000.

²4 CSR 240-2.160 Rehearings and Reconsideration (1) provides that "[A]pplications for rehearing may be filed pursuant to statute." Section 386.500 RSMo 1994.

3. The dilemma “concerning some aspects of the rate design that the Commission has ordered”³ is based on the fact that the majority has misconstrued (or simply ignored) the positions of the parties on the issue of class cost of service, and has devised a specific rate design that was not presented by any of the parties that produces unreasonable and unlawful results. As noted by the Commission’s own Staff, the specific rate design chosen by the Commission was not presented by any of the parties and the record does not contain specific evidence relating to it. And while the Staff may offer to speculate about possible scenarios, they rightfully point out that “neither the foregoing scenario nor any of the other possible scenarios are in the record in this case.”⁴ (Emphasis added.)

4. In MAWC’s Motion, the company takes issue with the majority’s erroneous characterization of its position as to Staff’s class cost of service study, and points out that company stated “however, given the fact that any movement from single tariff pricing to district specific pricing will result in dramatic shifts in revenue requirements between districts, further shifts between customer classes within districts would not seem to be warranted at this time and Company would recommend, if the Commission adopts district specific pricing, that rates within districts simply be increased by the uniform percent necessary to achieve the revenues allocated to each district. (MAWC Initial Brief, page 66).”⁵

5. Recognizing the significant rate increases and resulting rate shock that would result to many districts given any movement from single tariff pricing to district specific pricing, no party

³Staff Motion, p. 1, par. 2.

⁴Staff Motion, p. 5, par.12.

⁵MAWC Motion, p. 2, footnote 1.

to this proceeding, including Staff, recommended that class cost of service revenue shifts be implemented on a flash-cut basis on top of the adoption of DSP.⁶ (Municipal and Industrial Intervenor Initial Brief, p. 53; Water Districts Initial Brief, pp. 10-11.) In fact, as the St. Joseph Industrial/Riverside Intervenor noted in their Brief at page 53: "At the final analysis, Mr. Harwig suggested that class rates in this case be adjusted based on an equal percentage or 'across the board' approach, simply because of the significant impact that the proposed increase would have even with the large disallowance St. Joseph Industrials and Riverside have proposed." (Emphasis added.)

6. What is in the record evidence of this proceeding is Staff's own witness Hubbs' testimony that the resulting 268% rate increase suggested for the St. Joseph Public Water Supply Districts was "beyond the bounds of gradualism":

[Fischer]: Q. Would you agree that an increase of 268 percent for my clients, the public water supply districts around St. Joseph, would also be . . . beyond the bounds of gradualism?

[Hubbs]: A. Yes. The initial implementation of that would be beyond the bounds of gradualism.

[Fischer]: Q. And that would also be true in the Brunswick area for a 478 percent increase for the sales for resale class?

[Hubbs]: A. Yes, sir.

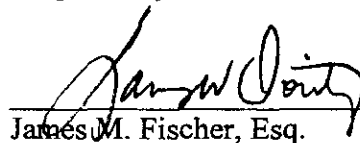
(Tr. 994).

⁶Staff erroneously suggested that a five-year phase-in period keeps the effect of the move to DSP within the bounds of gradualism. (Hubbs Surrebuttal, Ex. 43, pp. 4-5; Staff Reply Brief, p. 24.) However, Staff's comfort-level with a phase-in proposal was clearly misplaced when, after the record was closed and Staff offered its Late-filed exhibit reflecting rate impacts, the parties and the Commission were finally informed of the devastating impacts carrying costs added to the Staff's projections (e.g., St. Joseph Area Water Districts would see a 490+% cumulative increase in year 5).

These percentage increases in rate impacts resulting from the majority's move to district specific pricing coupled with changes due to class cost of service studies become, in the company's own words, outrageously high. (Company Brief, pp. 72-73, emphasis added.) Simply put, such percentage increases are unprecedented. There is no substantial and competent evidence in this record that would support the majority's decision to adopt, on a flash-cut basis, interclass revenue shifts in addition to the very substantial rate increases resulting from the movement to DSP. Any adjustments to the relationships among individual class rates should be considered in subsequent rate or rate design cases.

7. The St. Joseph Area Public Water Supply Districts will be filing their Application for Rehearing in this matter, fully setting forth the grounds on which they consider the majority's Report and Order entered in this matter to be unlawful, unjust and unreasonable. As suggested by Staff in its Motion, counsel for the Water Districts would welcome the opportunity to personally appear before the Commission to further respond to these Motions, or these matters may be more appropriately addressed in Rehearing.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Initial Brief of St. Joseph Area Public Water Supply Districts has been hand-delivered or mailed, First Class mail, postage prepaid, this 11th day of September, 2000, to:

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