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August 23, 2000

FILED²

AUG 23 2000

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

**RE: Missouri-American Water Company - Consolidated Case Nos. WR-2000-281
and SR-2000-282**

Dear Mr. Roberts:

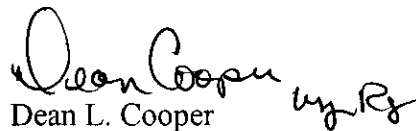
Enclosed for filing in the above-referenced proceeding please find an original and eight copies of MAWC's Response to Staff's Objection to Annotated Late-Filed Exhibit. Please stamp the enclosed extra copy "filed" and return same to me.

Thank you very much for your attention to this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:


Dean L. Cooper

DLC/rhg
Enclosures

cc: Office of the Public Counsel
Mr. Keith Krueger
Ms. Shannon Cook
Ms. Diana M. Vuylsteke
Mr. Karl Zobrist
Mr. Leland Curtis
Mr. Brent Stewart
Mr. James Duetsch

Mr. Joseph Moreland
Mr. Stu Conrad
Mr. Louis Leonatti
Mr. Jim Fischer
Mr. Jeremiah Finnegan

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

FILED²

AUG 23 2000

**Missouri Public
Service Commission**

In the Matter of Missouri-American)	
Water Company's Tariff Sheets Designed)	
to Implement General Rate Increases for)	Case No. WR-2000-281
Water and Sewer Service provided to)	Case No. SR-2000-282
Customers in the Missouri Service Area)	
of the Company.)	

**MAWC'S RESPONSE TO STAFF'S OBJECTION
TO ANNOTATED LATE-FILED EXHIBIT**

COMES NOW Missouri-American Water Company ("MAWC") and, in response to the Commission Staff's ("Staff") Objection to Missouri-American's Annotated Late-Filed Exhibit, states the following to the Missouri Public Service Commission ("Commission"):

1. On August 17, 2000, the Staff filed its Objection to Missouri-American's Annotated Late-Filed Exhibit ("Objection"). The Objection expresses the Staff's disagreement with MAWC's representation of property taxes, a true-up issue, on MAWC's Annotated Late-Filed Exhibit.

2. The Staff first objects to the language of MAWC's late-filed exhibit because it believes that there is an implication that Staff has agreed to the recovery of property taxes. Second, the Staff alleges that MAWC "acceded" to the Staff's position at the hearing of this matter.

STAFF'S POSITION

3. MAWC also understands the Staff's position to be, in the first instance, that property taxes related to the new St. Joseph treatment plant and related facilities ("SJTP") should not be included in MAWC's revenue requirement. This understanding was evident from MAWC's Initial Brief where it describes the dispute as follows:

Staff witness Gibbs also addressed the property tax expense related to the SJTP in his true-up rebuttal testimony. (Gibbs True-Up Reb., Ex. 112, p. 3). Staff took the position that the first property tax payment was too far removed from the true-up cut-off to be reflected in the cost of service. (*Id.*). However, *if the Commission were to find that some level of property tax related to the SJTP should be included in the cost*

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of service, Staff, in the alternative, recommended that recovery be accomplished by the application of a surcharge that would take effect when actual payment is required. (Id. at p. 6-7). The amount recovered would be examined in the next rate case and any over recovery would be refunded to the rate payers. (Id. at p. 7).

(emphasis added).

4. Staff took the position that property taxes should not be included in rates in spite of the fact there is no dispute in this case that the SJTP is on-line and that property tax will have to be paid. Property taxes apply to utility property and are a normal cost of providing service. Further, property tax is a common true-up item in rate cases as it is a known expense. MAWC pointed out in its Initial Brief that the information regarding the SJTP property tax is known. The Buchanan County Assessor has sent correspondence indicating an increased assessment based on the SJTP. Property taxes should be fully included in MAWC's cost of service without mitigation.

5. MAWC did, however, also understand the Staff's concerns described in Staff witness Gibbs' testimony. Because MAWC had no desire to create an over recovery relating to this item, it expressed its willingness to take steps to ensure this outcome. Accordingly, MAWC stated that the alternative offered by the Staff – a refundable surcharge – was acceptable to MAWC. (Tr. 2130-2131) because it would bring a match between both the timing and measurability of the property tax expense and thereby satisfy the interests of both the ratepayers and the Company.

NO ACCESSION TO STAFF'S PROPOSED DISALLOWANCE

6. Staff's second point is that it believes MAWC agreed that property taxes were not an issue. If the Staff was confused about this point, this confusion should have been clarified by MAWC's Initial Brief. MAWC's Initial Brief included the subject "True-Up Issues" in the Table of Contents. The property tax issue was discussed within the True-Up section on pages 106 and 107 of MAWC's Initial Brief. MAWC closed this section by stating that "MAWC requests that the

Commission find that the true-up property taxes be included in rates and order that the refundable surcharge alternative offered by the Staff be used to collect such property taxes.” Staff did not respond in its Reply Brief.

7. Counsel for MAWC stated at the true-up hearing as follows:

. . . after reviewing Staff’s testimony regarding those issues, the chemical expense and property tax, Company is prepared to accept the proposal that’s contained in the Staff prepared testimony of Mr. Gibbs.

(Tr. 2130-2131).

8. The proposal to which MAWC referred was the following alternative offered by Staff witness Gibbs:

. . . if the Commission determines that recovery is appropriate, it would be the recommendation of the Staff that the recovery be accomplished by the application of a surcharge that would take effect when actual payment is required to be made following the Company’s appeal. The amount recovered through this surcharge would be examined in the next rate case. Any over recovery of the property taxes collected through the surcharge would be refunded to the ratepayers.

(Gibbs True-Up Reb., Ex. 112, p. 6-7).

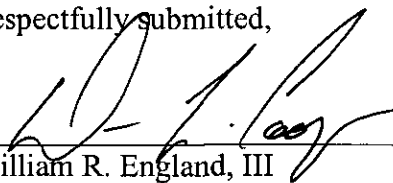
9. Staff states that to the extent “that there is any ambiguity regarding the effect of the Company’s acceptance of this proposal, the ambiguity should be resolved against the party that made the ‘ambiguous’ statement, namely the Company.” It is unclear why there is a need to resolve it against any party. This is sometimes an approach to contractual disputes where terms of an agreement are in doubt. However, such is not the case as to this issue. The subject statement did not represent an “agreement,” nor even a “joint recommendation.” It was a unilateral statement of position by MAWC. To the extent there was any ambiguity, it should have been clarified by MAWC’s Initial Brief, in plenty of time for the Staff to respond in its reply brief.

CONCLUSION

10. MAWC's Annotated Late-Filed Exhibit accurately identifies the subjects which MAWC believes to be at issue. Accordingly, it complies with the Commission's order to "prepare and submit a summary of the financial impact of its position." (Order Directing Filing, August 8, 2000). The Commission should over rule Staff's Objection.

WHEREFORE, MAWC prays the Commission over rule Staff's Objection to Missouri-American's Annotated Late Filed Exhibit; find that the true-up property taxes be included in rates; order that the refundable surcharge alternative offered by the Staff be used to collect such property taxes; and, issue such further orders as are consistent with this pleading.

Respectfully submitted,



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ATTORNEYS FOR MISSOURI-AMERICAN
WATER COMPANY

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 23 day of August, 2000, to the following:

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