

FILED³

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FEB 04 2002

Missouri Public
Service Commission

In the Matter of the Joint Applica-)
tion of Missouri-American Water)
Company, St. Louis County Water)
Company d/b/a Missouri-American)
Water Company and Jefferson City)
Water Works Company d/b/a Missouri-)
American Water Company for an ac-)
counting authority order relating)
to security costs)

Case No. WO-2002-273

**RESPONSE IN OPPOSITION TO MOTION TO MODIFY PROTECTIVE ORDER
BY AG PROCESSING INC, A COOPERATIVE,
FRISKIES PETCARE, A DIVISION OF NESTLE USA, AND
WIRE ROPE CORPORATION OF AMERICA, INC.**

Come now AG PROCESSING INC, A COOPERATIVE ("AGP"),
FRISKIES PETCARE, A DIVISION OF NESTLE USA ("Friskies") and WIRE
ROPE CORPORATION OF AMERICA INC. ("Wire Rope") and briefly
respond to the Motion to Modify Protective Order filed herein by
Missouri-American.

1. Missouri-American seeks a modification of the
standard protective order issued by the Commission in rate or
rate-related cases. It seeks to include its "security" informa-
tion within the definition of materials that may be asserted to
be Highly Confidential. Were Missouri-American's Motion limited
to that, these intervenors would have no objection.

2. However, Missouri-American seeks further modifica-
tions that are not particular to the information sought to be
shielded but relate to the status of the reviewing party. These
are objectionable and offensive and should be rejected.

3. This country was founded on principles that include a presumption of innocence and fair dealing. Missouri-American argues that only American citizens should be allowed to review the information, but is itself a German-owned company, and was only recently a French-owned company. These intervenors have no idea at this point, other than their attorney, who would be asked to review relevant information. If -- and when -- such persons are identified, and Missouri-American has any reason to believe that such persons would be "disloyal," "unAmerican," a "suspected terrorist," a Muslim or any other religious or ethnic group that Missouri-American considers suspect and a threat to any of its installations, Missouri-American can certainly object to their access to protected materials at that time, and can be prepared to produce its evidence to support their exclusion. No modification to the standard protective order is needed for that purpose. Persons working on this case might be assumed to represent potential challenges to Missouri-American's probity, but until they are identified, should not be presumed to be threats to national security.

4. We wonder: Will Missouri-American exclude "non-Americans" within its own organization from access to this information? Will that exclusion extend to its shareholders, managers, and other "non-American" executives from Germany? What would Missouri-American propose next? A "loyalty oath?" Make information available only to "native born Americans?" Perhaps we should restrict public access to the eventual hearing if we

don't like the way a person "looks" or just let "Right-Wing Republicans" in. It would appear that, at least in the case of Missouri-American, the September 11 terrorists have won. Missouri-American's proposed modification is significantly premature and is vastly overbroad. It should be rejected as completely unnecessary and frankly offensive to everything for which this country stands.

5. Perhaps a greater threat to "national security" might be perceived in the lack of public accountability as exemplified by the still-unfolding schemes of Enron and its purported public accounting firm Arthur Anderson. Indeed, while the lessons unrolling in that debacle are already legion, subjecting a public utility to public scrutiny seems neither reprehensible nor a security threat.

6. Missouri-American also seeks "criminal background checks" on individuals. It does not make clear to whom the results of such investigations are to be provided, what is to be done with such results by them, and -- interestingly -- does not apparently propose that the results of such "background checks" themselves be held confidential in any way. Serious violations of personal privacy would be involved in this requirement and they are, again, vastly overbroad and unnecessary. If Missouri-American has reason to believe that any person identified through the existing process presents a security threat, they are certainly free to so respond with respect to the specific individual. Of course they might risk a defamation suit were their

allegations unsubstantiated, which itself would serve as a deterrent to the irrational and overreachingly broad assertion here that all are suspect until proven not to be. This proposed modification should be soundly rejected.

7. Missouri-American's Motion should be seen for what it is: A rather inartful, crudely conceived and unbelievably arrogant attempt to use a terrorist attack in New York and Washington, D. C. to scare the Commission into approval of its expenses without a rigorous investigation of these expenses through the judicial and administrative process. To attempt to foist irrational and unnecessary secrecy upon what is a **public** proceeding by a **public** utility before the **Public** Service Commission is offensive to the memories of those who lost their lives in and in preventing terrorist attacks. President Bush has stated that "Freedom itself was attacked." Missouri-American seems intent on continuing that attack. It has been well said that in these times, if we sacrifice personal liberties and protections as a result of these attacks, the terrorists win. The inherent contradiction in Missouri-American's proposal is that it seeks "Americans" -- those who apparently subscribe to the principles on which this country was founded -- and which would not have excluded Timothy McVey.

8. There are increasingly few today who remember the McCarthy era, when "guilt by association," black-listing and the "Red Scare" were allowed to run rampant, trample on personal liberties, and ruin innocent lives, all in the name of "national

WHEREFORE, these intervenors, instead, stand for Freedom and in so doing oppose the propose modification to the standard protective order except as stated above.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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ATTORNEYS FOR AG PROCESSING INC.,
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CERTIFICATE OF SERVICE

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

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Dated: February 1, 2002



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