

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

Mitch Sims,)	
)	
Complainant,)	
)	Case No. WC-2013-0338
v.)	Small Formal Complaint
)	
Missouri-American Water Company,)	
)	
Respondent.)	

ANSWER AND AFFIRMATIVE DEFENSE OF MISSOURI-AMERICAN WATER COMPANY

COMES now Respondent Missouri-American Water Company ("MAWC") and for its Answer to the Complaint of Mitch Sims ("Complainant"), states as follows:

1. *My name is Mitchell Allen Sims.* ANSWER: MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 1 and therefore denies the same.

2. *I own property, and reside, at 1703 West Valley Drive, Ozark, Missouri 65721.* ANSWER: MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 2 and therefore denies the same.

3. *I purchased the above referenced property on April 15, 2011.* ANSWER: MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 3 and therefore denies the same.

4. *At the time of the purchase of the referenced property, Aqua Missouri was the utility company which provided water service to this address.* ANSWER: Aqua Missouri provided water service to 1703 Valley Drive, Ozark, Missouri 65721.

5. *Upon information and belief, on or about May 10, 2011, Aqua Missouri sold, transferred or bartered with Missouri American Water for the transfer of the water system serving Spring Valley subdivision located in Ozark Christian County, Missouri.* ANSWER: Denied. MAWC purchased certain assets from Aqua Missouri on May 16, 2011.

6. *Upon information and belief, Missouri American Water took possession of the water distribution system known as Spring Valley, Ozark, Missouri, on or about May 10, 2011.* ANSWER: Denied. MAWC purchased certain assets from Aqua Missouri on May 16, 2011.

7. *Upon information and belief, and according to Missouri American Water's customer service representatives, Missouri American Water did not read any of its serviced customers' water meters prior to accepting ownership of the water distribution system on May 10, 2011.* ANSWER: Denied.

8. *Aqua Missouri's customer service representative reported that the only time which Aqua Missouri read the water meter at 1703 W. Valley Dive, Ozark, Missouri, for this author's water account, was on or about April 15, 2011 – at the time of service turn-on, which was a reading of 2,000.* ANSWER: MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 8 and therefore denies the same.

9. *Aqua Missouri customer service representative stated that it did not read the water meter at 1703 W. Valley Drive, Ozark, Missouri, (or any other customer in this utility coverage area,) at the end of its ownership period, May 10, 2011, but only estimated the customers' usage for its final billing. This resulted in a bill, for this account, for the minimum usage (at that time equaled 2,000 gallons).* ANSWER: MAWC is without knowledge or

information sufficient to form a belief as to the truth of the averments contained in paragraph 9 and therefore denies the same.

10. *Based on the foregoing, Missouri American's first invoice for his account was for water usage from April 15, 2011 (Aqua Missouri's first and only "turn-on reading" of 2,000, see attached) through June 10, 2011 (Missouri American's first reading of 5100 gallons. See Attached). Aqua Missouri through its estimated billing for April had already billed for its minimum 2,000 which would have logically resulted in a reading of 4,000 on May 10, 2011. Therefore, Missouri American was entitled to bill for only 1,100 gallons of usage for its first billing period of May 10, 2011 through June 10, 2011. ANSWER: Denied.*

11. *As a result of Missouri American Water's billing practice of not reading the meters at the beginning of the service period, I was overcharged on its first invoice in the amount of \$13.95. ANSWER: Denied.*

12. *Additionally, due to a remodeling/construction project, the subject property was unoccupied from the time of my purchase, April 15, 2011, until May 28, 2011, and therefore, it would have been extremely unlikely that I, as a single person, could have used 3,500 gallons of water in thirteen (13) days of occupancy at the subject property. ANSWER: Denied.*

13. *Prior to moving into the subject property, per my previous water supplier (City of Ozark Water System), I had never used more than 1,400 gallons of water per month (I am a single person with no pets, and had no unusual demand for water.) ANSWER: MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 13 and therefore denies the same.*

14. *Upon initial contact with Missouri American's customer service representative in June, 2011, that representative agreed that my assessment of the overcharge, due to Missouri American not reading the meters in Spring Valley at the beginning of the ownership, was accurate and that a credit to my account for the \$13.95 overcharge would be forthcoming.*

ANSWER: MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 14 and therefore denies the same.

15. *Shortly thereafter, I received a form letter from Missouri American's accounting department stating that its investigation had determined that the billing was accurate due to the "meter readings."* ANSWER: Denied. MAWC sent a letter to Complainant on August 4, 2011 regarding an inquiry that was made on August 1, 2011 regarding the account.

16. *After several telephone calls and letters concerning the dispute, Missouri American discontinued discussions of the matter. Missouri American has failed to provide affidavits indicating the dates of the actual meter readings, and, the actual usage readings for May 10, 2011 and June 10, 2011.* ANSWER: Denied.

17. *To this date, I have refused to pay the \$13.95 overbilled amount by deducting that amount from each month's payment;* ANSWER: Admitted.

18. *Due to my deducting the overbilled amount, Missouri American has added late fees to my invoices each month, for which it was not entitled.* ANSWER: Denied.

19. *I am entitled to a credit of my account in the amount of \$13.95, plus additional late fees and charges that have been applied to this account, which amounts to \$67.14.* ANSWER: MAWC denies that its bill is inaccurate or that it owes Complainant any adjustment on prior bills. MAWC reviewed Complainant's final bill from Aqua as well as his initial bill from

MAWC and there were no overlapping days and the bill from MAWC was based on an actual reading obtained by MAWC, not an estimate. The rate the Complainant was billed was the rate approved under the former Aqua Missouri tariff.

20. *Therefore, I request that Aqua Missouri credit my account in the amount of \$67.14.* ANSWER: MAWC admits that Complainant is seeking relief in the amount of \$67.14 in this matter.

21. *Additionally, upon information and belief, I am only one of many service customers, in the Spring Valley Water System, (and perhaps other water systems which Missouri American received at the time,) who were billed in this manner; and, that each and every serviced customer in the Spring Valley, Ozark, Missouri, water system was overbilled in this manner.* MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 21 and therefore denies the same.

22. *Upon information and belief all of the serviced customers within Spring Valley, Ozark, Missouri, and possibly other Missouri American Water customers, are entitled to a refund of overcharged amounts.* MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 22 and therefore denies the same.

AFFIRMATIVE DEFENSE

1. MAWC states that Complainant fails to state a claim upon which relief may be granted.

WHEREFORE, Respondent Missouri-American Water Company prays that the Public Service Commission of the State of Missouri dismiss the Complaint with prejudice at the Complainant's cost.

Respectfully submitted,

MISSOURI-AMERICAN WATER COMPANY

By: /s/ Timothy W. Luft
Timothy W. Luft, MO Bar 40506
727 Craig Road
St. Louis, MO 63141
timothy.luft@amwater.com
(314) 996-2279 (telephone)
(314) 997-2451 (facsimile)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed electronically and served either electronically this 22nd day of January, 2013, to:

Office General Counsel
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Lewis Mills
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Mitch A. Sims
1703 West Valley Drive
Ozark, MO 65721
msimsrp@aol.com

/s/ Timothy W. Luft