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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Pre-hearing Conference

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June 18, 2007

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Jefferson City, Missouri

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Volume 1

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In the Matter of Missouri-American)

Water Company's Filing of Revised )

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Sewer Tariff Sheets to Implement )Case No.

A Capacity Charge for Missouri )ST-2007-0443

15

American's Warren County and )

Jefferson County Sewer Districts )

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MORRIS L. WOODRUFF, Presiding,

DEPUTY CHIEF REGULATORY LAW JUDGE

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REPORTED BY:

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MINDY VISLAY, CCR

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MIDWEST LITIGATION SERVICES

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FOR: Staff of the Missouri Public  
Service Commission.

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1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Good morning, everyone.

3 This is Case No. ST-2007-0443, which concerns  
4 Missouri-American Water Company's filing of revised  
5 sewer tariff sheets to implement a capacity charge for  
6 Missouri-American's Warren County and Jefferson County  
7 sewer districts.

8 We're here today for a pre-hearing conference.  
9 My name is Morris Woodruff, I am the Regulatory Law  
10 Judge for this particular case. And we will begin by  
11 taking entries of appearance, starting with  
12 Missouri-American.

13 MR. ENGLAND: Thank you, Your Honor. Let  
14 the record reflect the appearance of W.R. England,  
15 appearing on behalf of Missouri-American Water  
16 Company, mailing address is Post Office Box 456,  
17 Jefferson City, Missouri 65102.

18 JUDGE WOODRUFF: And for Home Builders  
19 Association.

20 MR. HESS: Robert Hess of Husch and  
21 Eppenberger for Home Builders Association of St. Louis  
22 and Eastern Missouri, 235 East High Street, Jefferson  
23 City, Missouri 65102, P.O. Box 151.

24 JUDGE WOODRUFF: And for Public Counsel.

25 MS. BAKER: Christina Baker, Assistant

1 Public Counsel, P.O. Box 2230, Jefferson City,  
2 Missouri 65102, appearing on behalf of the Office of  
3 Public Counsel and the rate payers.

4 JUDGE WOODRUFF: And for Staff.

5 MR. KRUEGER: Keith R. Krueger for the  
6 Staff of the Missouri Public Service Commission. My  
7 address is P.O. Box 360, Jefferson City, Missouri  
8 65102.

9 JUDGE WOODRUFF: I believe that's all the  
10 parties.

11 There is an ongoing rate case discussion going on  
12 also. Is there anyone here that would like to enter  
13 their appearance? Not seeing anyone.

14 First thing I want to take up, it is listed that a  
15 motion was filed to confirm party status from the  
16 alternative relief intervening filed by the Home  
17 Builders Association. No one filed a response to  
18 that, so I'm assuming there is no objection to that  
19 motion? Hearing no objection, it will be granted and  
20 I will confirm that Home Builders Association is a  
21 party in this case.

22 The reason I scheduled this conference was to  
23 discuss the possibility of consolidating this with the  
24 ongoing water rate case for Missouri-American, which  
25 is WR-2007-0216, and I would like to get the views of

1 the parties on that, briefly, on the record here,  
2 beginning with Missouri-American's.

3 MR. ENGLISH: As you know, we filed a  
4 motion to oppose consolidation, I think, more as a  
5 practical or logistical matter.

6 The rate case is already well in progress, with  
7 hearings in early August -- early to mid-August --  
8 direct testimony has already been filed by all the  
9 parties and rebuttal is also due here shortly. As a  
10 practical or logistical matter, I'm not sure we can  
11 process this particular case in that time frame.

12 Secondly, we're not sure that the two are really  
13 related. The capacity charge, if implemented, would  
14 be a prospective charge that would apply on a non-  
15 recurring basis to applicants for sewer service as  
16 they made those payments. My understanding is we  
17 would account for them as complications in aid of  
18 construction. They would go into a balance sheet  
19 account, that eventually, in future rate cases, would  
20 be used as a reduction or deduction from the plant in  
21 service. So, it's a little different than ongoing  
22 revenues and expenses that are being considered -- if  
23 you will -- in the rate case and trued-up as of May  
24 31st of this year, as I understand the proposal.

25 With that in mind; however, I understand that some

1 parties believe that this is a matter that should be  
2 considered as part of the rate case. And what we  
3 would propose is to try to move this along on a  
4 parallel -- but not necessarily identical -- path that  
5 would have this wrapping up at about the same time  
6 that the Commission would be wrapping up and issuing  
7 the decision in the rate case. I believe the  
8 Operation Law date is November 14th or 15th in the  
9 rate case.

10 We would propose extending suspension of these  
11 tariffs to that same time period, and perhaps, having  
12 a procedural schedule that would have us file direct  
13 testimony and, roughly, 30 days opportunity for  
14 rebuttal 30 days after, ten or 15 days for  
15 surrebuttal, and a hearing very shortly thereafter.  
16 We don't think a hearing of more than a day would be  
17 required. This is a fairly isolated issue, an issue  
18 we think can be tried rather quickly.

19 We could certainly propose -- hopefully agree --  
20 to an accelerated briefing schedule and have it teed  
21 up for a Commission decision at or about the same time  
22 the Commission would probably be issuing a decision in  
23 the rate case. And I've discussed that with some, but  
24 not all, of the parties, and I'll let them speak for  
25 themselves, but I think that might address everyone's

1 concerns about making sure they have plenty of time to  
2 review what we're proposing, engage in discovery, as  
3 well as have it still decided within the parameters of  
4 the current rate case.

5 JUDGE WOODRUFF: Home builders Association,  
6 do you have anything to add?

7 MR. HESS: Yes. We opposed consolidation  
8 mainly for the reason that we want to have ample time  
9 to prepare, and we were worried that the schedule of  
10 the rate case would not allow that.

11 As we see it, the issues are -- you know -- are  
12 the costs they are trying to recover reasonable, the  
13 importance of those costs between existing and future  
14 customers. And I think that's really the issue where  
15 the rate case and this case are intertwined, because I  
16 understand there's been some testimony filed in the  
17 rate case talking about how the cost of the  
18 improvements that were made to these two facilities  
19 should be enforced, and we think they are linked. And  
20 the other issue is to the extent this stays separate  
21 whether it's a single issue rate-making.

22 We want time to do discovery. If the discovery  
23 that's been done in the rate case -- to review it for  
24 completeness, follow-up anything that hasn't already  
25 been disclosed, and then time for our expert to review

1 it. So, to the extent that we can come to a schedule  
2 that allows all that to get done, we don't have any  
3 problem with parallel tracks.

4 MS. BAKER: Our argument has always been  
5 this is a new charge and it, alone, would be a single  
6 issue rate-making. And so that's why, through  
7 expediency with an existing rate case, we filed a  
8 motion to consolidate it into the existing rate case.

9 Whether it's this rate case or another rate case,  
10 quite frankly, makes no difference to us, it's just a  
11 timing issue.

12 So; therefore, the proposal to put it on a track  
13 of its own, but yet, it be within the existing rate  
14 case, is certainly acceptable to Public Counsel.

15 JUDGE WOODRUFF: Would Public Counsel see  
16 this thing consolidated with the rate case but with a  
17 separate schedule?

18 MS. BAKER: Yes. I assume it would be  
19 looked at as a true case is looked at, where it is  
20 given a different hearing date and a different  
21 discovery and testimony date, but it is still part of  
22 the existing rate case. And that's mainly our  
23 desire -- is that it has to be a portion of the  
24 existing rate case, because these are revenues that  
25 have been already paid out by the company and are



1   being looked at in the existing rate case. So, it  
2   needs to be consolidated or put off until another rate  
3   case.

4                   JUDGE WOODRUFF: Mr. English, would  
5   Missouri-American want this to be consolidated also as  
6   a formal matter?

7                   MR. ENGLISH: Our preference is not to  
8   consolidate the two, but I understand Public Counsel's  
9   concern. And if that eliminates the legal argument of  
10   single issue rate-making, that might be a way to do  
11   it.

12                  Again, we don't think it is -- a single issue  
13   rate-making, that is -- but in order to get this thing  
14   moving, if the two were consolidated for purposes of,  
15   ultimately, a decision -- so, you issued one decision  
16   in both cases, that's fine. We just wanted it to have  
17   a separate track so it gets the attention we think it  
18   deserves. Whereas; in rate cases, sometimes issues  
19   don't necessarily -- all issues don't necessarily get  
20   the recognition or attention that they might otherwise  
21   deserve simply because they get lost in the shuffle.

22                  JUDGE WOODRUFF: Yes, I certainly have  
23   experience with that.

24                  Mr. Krueger, how does the Staff feel about it?

25                  MR. KRUEGER: Well, the Staff does not

1   oppose consolidation, but I see some problems in  
2   processing this case in the same timetable that we  
3   have for the rate case. So; therefore, I think -- and  
4   also the issue of getting this case the attention it  
5   deserves -- I think there's benefits to these two  
6   going on parallel tracks.

7                   JUDGE WOODRUFF: Is there anything else  
8   that anyone wants to add?

9           What I'm going to do is leave you to your  
10   discussions here and see if you can give me a proposed  
11   schedule and also recommendations on formal  
12   consolidation of this.

13           I'm going to ask you to jointly file -- or appoint  
14   one of yourselves to file something by Thursday of  
15   this week, the 21st, giving the Commission your  
16   recommendation of what should be done in this case,  
17   and that involves both the post-schedule as well as  
18   possible consolidation and maybe working something out  
19   as far as a parallel track of scheduling. Ultimately,  
20   it would be up to the Commission and Judge Dale for  
21   her view from the rate case.

22           So, give me that by Thursday, and I'll try to put  
23   it on for the Commission to make a decision by  
24   Tuesday. If you already know what you're going to do  
25   by the end of the day, if you want to file something

1 tomorrow, I can maybe even get it on for Thursday.  
2 I'm sure you all want to get this decided as soon as  
3 possible.

4 Anything else while we're on the record? With  
5 that then, the on-the-record portion of this  
6 conference is adjourned, and I'll leave you to your  
7 discussions, thank you.

8 (WHEREIN, the recorded portion of the pre-hearing  
9 conference was concluded.)

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## 1 CERTIFICATE OF REPORTER

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3  
4 I, Mindy Vislay, Certified Court Reporter with the  
5 firm of Midwest Litigation Services, and Notary Public  
6 within and for the State of Missouri, do hereby  
7 certify that I was personally present at the  
8 proceedings had in the above-entitled cause at the  
9 time and place previously described; that I then and  
10 there took down in Stenotype the proceedings had; and  
11 that the foregoing is a full, true and correct  
12 transcript of such Stenotype notes so made at such  
13 time and place.

14  
15  
16  
17 \_\_\_\_\_  
18 Mindy Vislay, CCR

19 Notary Public (County of Cole)

20 My commission expires March 19, 2011  
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