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## Missouri Public Service Commission

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December 14, 2001

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Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
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FILED<sup>3</sup>  
DEC 14 2001  
Missouri Public  
Service Commission

**RE: Case No. WO-2002-273-In the Matter of the Joint Application 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 Accounting Authority Order Relating to Security Costs.**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S RESPONSE TO APPLICATION FOR AN ACCOUNTING AUTHORITY ORDER AND RESPONSE TO MOTION FOR EXPEDITED TREATMENT.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Victoria L. Kizito  
(573) 751-6726 (Telephone)  
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Enclosure  
cc: Counsel of Record

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

**FILED<sup>3</sup>**  
**DEC 14 2001**  
Missouri Public  
Service Commission

In the Matter of the Joint Application 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 accounting authority )  
order relating to security costs. )

Case No. WO-2002-273

**STAFF'S RESPONSE TO APPLICATION FOR AN ACCOUNTING AUTHORITY ORDER AND**

**RESPONSE TO MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), and for its Response to Application for an Accounting Authority Order and Response to Motion for Expedited Treatment, respectfully states:

1. On December 10, 2001, Missouri-American Water Company, St. Louis County Water Company and Jefferson City Water Works Company (Companies), the latter two doing business as Missouri-American Water Company, filed their joint application for an accounting authority order (AAO) relating to security costs and their motion for expedited treatment.

2. On December 12, 2001, the Missouri Public Service Commission (Commission) issued an Order Setting Prehearing Conference and Adopting Protective Order, directing Staff to file its response to the joint application in this case on or before December 14, 2001.

## Response to Application

3. The Commission's general policy regarding AAO applications is that deferral of costs from one period to a subsequent rate case through an AAO application should only be allowed on a limited basis when events occur that are extraordinary, unusual and unique, and non-recurring, and which give rise to costs that require special consideration. 1 MPSC 3d 200, 205 (Case Nos. EO-91-358 and EO-91-360, Missouri Public Service). While the Companies, in their application, allege that events of September 11, 2001 and the threat resulting therefrom were extraordinary in nature and beyond the imagination of many, the Companies have not identified the new procedures they adopted in response to the attacks, how they updated their existing procedures, or what new facilities they placed in service to further safeguard their water plant and systems. Further, the Companies have not shown that the measures taken are extraordinary or that they meet the other criteria for granting the AAO, as discussed below.

4. The terrorist attacks of September 11, 2001 were extraordinary in many respects. The fact that these events were extraordinary in and of themselves for various reasons, however, does not necessarily make them extraordinary from a utility company perspective. It is the effects of the event *upon the utility* that must be extraordinary before an AAO may be considered. Concerns over the security of a community's water supply pre-date September 11. Terrorist attacks of international or American origin are not unique or non-recurring in the history of this country. It follows that the incurrence of costs by water utilities due to security concerns cannot be found to be inherently extraordinary, unique or non-recurring, without further

examination. The Companies need to provide evidence that the types of costs and the amount of costs they incur related to security concerns has been impacted by the events of September 11. To be more specific, the Companies should be required to provide evidence of the types of security costs it has incurred or will incur after September 11, the timing of the costs incurred to-date and projected to be incurred in the future, the amount of costs incurred, that the costs incurred were specifically attributable to the September 11 attacks, whether the costs incurred were of a capital or expense nature, and whether the costs incurred were one-time only costs or are of a recurring nature. The Companies' application either only makes vague assertions on these points, or is totally silent. Therefore, the Staff does not have the necessary information at this time to make a determination of whether the alleged costs incurred by the companies are extraordinary in nature and, consequently, to make a recommendation to the Commission concerning the water utilities' AAO request.

5. Not only do the Companies need to provide evidence that these costs are truly extraordinary in nature, the Staff believes the Companies need to provide evidence showing that these costs are material to Companies. Even if these costs are later determined to be extraordinary in nature, the Staff suggests that, unless these costs also have a material and significant impact on the Company's earnings during the period or periods they are incurred, special regulatory treatment of the costs through an AAO is not warranted. The Uniform System of Accounts adopted by the Commission in regard to the accounting requirements of its regulated electric and gas utilities generally holds that an impact of 5% of net income from the extraordinary item is an appropriate dividing line for determining whether an alleged extraordinary

event is presumed material from a financial perspective. (See e.g. 4 CSR 240-20.030.) Staff believes this standard should also apply to water companies. Not only have the Companies not presented any evidence of the materiality of the expenditures for which they seek deferral treatment, they have not even provided any actual or estimated amounts for the earnings impact of the expenditures they have made as a result of the September 11 events.

6. In their application, the Companies state that the steps taken to further safeguard their water plant and systems were taken “after consultation with certain governmental entities.” The Companies, however, do not claim that they were required or directed by the government to take any particular steps. The Companies also do not specify the steps they have taken, or that the Companies’ expenditures were directly related to the consultation with the government entities.

7. The Companies cite the Statement of Policy (96 FERC, Paragraph 61299, docket No. PL01-6-000) of the Federal Energy Regulatory Commission (FERC) relating to energy companies, and the National Association of Regulatory Utility Commissioners (NARUC) Resolution on Commission Procedures Related to the Increased Security Measures Undertaken by Water Utilities, which suggest that regulatory agencies should be open to consideration of various rate alternatives for security expenditures, including AAOs. Likewise, the Staff is open to considering the AAO option for this type of cost. However, the Commission has established criteria for issuance of AAOs, and the Staff believes those criteria are still appropriate in assessing whether an AAO is justified in this situation. Further, the Staff must be able to examine concrete data concerning security expenses before making a

recommendation to the Commission as to whether its established criteria have been met here.

8. In their application, the Companies request that the Commission's AAO include language that the Commission "intends" to allow recovery of prudently incurred deferred costs in a subsequent rate proceeding through an amortization to expense over a period not to exceed three years. However, Missouri case law is clear that AAOs shall not create any expectation that deferral terms within them will be incorporated or followed in rate application proceedings. Missouri Gas Energy v. Public Service Commission of Missouri et al., 978 S.W.2d 434, 438. This type of ratemaking determination for deferred costs should be reserved for rate proceedings in which the Commission has evidence concerning all relevant factors for deferred costs and all other elements of utility cost of service.

9. The Companies have requested a four-year grace period in this case before it has to file a rate case to recover deferred amounts. The Companies have not provided any evidence supporting this unprecedented and excessive request. In 1 MPSC 3d 200, 205-207 (Case Nos. EO-91-358 and EO-91-360, Missouri Public Service), the Commission established a policy of requiring utilities that are granted AAOs to file rate cases within a certain period of time so that the deferrals not be allowed to continue indefinitely. Depending upon the circumstances, the Commission has required utilities to file rate cases within one to three years of receiving the AAOs, or forfeit subsequent rate recovery of deferred amounts.

## **Response to Motion for Expedited Treatment**

10. Due to the Companies' failure to provide substantive evidence to support its AAO request in its filed application, the Staff will need to rely on discovery to determine whether the Companies' request for deferral in this case is appropriate. The Companies seek an AAO from the Commission by January 4, 2002. This time frame is wholly inadequate to allow for the Staff to issue discovery requests, receive responses and, if necessary, issue follow-up data requests. Time must be allowed for adequate discovery so that the Staff can produce a comprehensive and well-informed recommendation on this application, and for the Commission's due consideration.

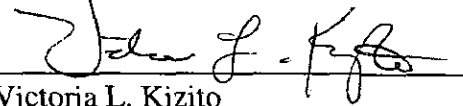
11. Commission Rule 4 CSR 240-2.080 (17) requires a motion for expedited treatment to state the harm that will be avoided or the benefit that will accrue, including a statement of the negative effect, or that there will be no negative effect, on the party's customers or the general public, if the commission acts by the date desired. The Companies have not adequately explained their alleged need for a Commission order to be issued by January 4, 2002. The application states that this date is requested, "so that any impact such order may have on the Companies accounting records may be addressed in the 2001 accounting records." Note that the Application does not state that the order will have an impact on 2001 accounting records, only that it may. Nor is there any evidence that any impact on 2001 accounting records will be significant and material. In addition, in the event that the Companies' request that the impacts of the order be included in 2001 accounting records is judged to be reasonable, there has been no evidence introduced that the issuance of an order by January 4, 2002 is required to accomplish this. The Staff's

general experience has been that most utilities do not close their calendar year-end books until late January of the following year, or even later.

WHEREFORE, Staff respectfully requests that the Companies' Motion for Expedited Treatment be denied, and the Application for Accounting Authority Order be set for hearing pursuant to the procedural schedule to be proposed by the parties by December 26, 2001 and approved by the Commission.

Respectfully submitted,

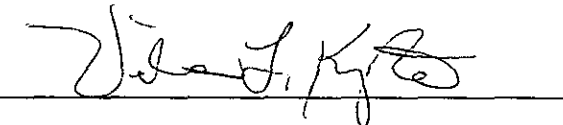
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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 14th day of December 2001.





**Service List for**

**WO-2002-273**

**Revised: December 12, 2001, (ego)**

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