

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

Louis DeFeo,)	
Complainant)	
v.)	<u>Case No. WC-2021-0075</u>
Missouri-American Water Company,)	
)	
Respondent.)	

COMPLAINANT’S RESPONSE to STAFF REPORT

The report states “Staff is unaware of a situation where a meter speeds up for a period of time and then returns to normal.” Staff seems to place their recommendation to the Commission principally on their ‘unawareness.’”

The Company has thousands of customers. How many metering systems does staff have personal awareness of? This “unawareness” flies in the face of absolutely no physical evidence that 43,000 gallons of water ever was delivered to the customers residence. No evidence was found by the Commission’s inspector. No evidence was found by the Company’s inspector. No evidence was found by the customer who was at the premises during the 73 hours that the spike allegedly occurred. The staff report agrees that there is no physical evidence that this occurred. (Page 5.) You cannot hide 43,000 gallons of water.

In over 85 years of living Complainant has meet many exceptional persons but never met a perfect human being. Humans are not perfect. It follows that the things that they design, and build are not perfect. Boeing has built may excellent airplanes, but they also built the 737 MAX.

For an example of smart meter problem see the link below.
<https://www.nbcsandiego.com/news/local/city-water-department-knew-of-smart-meter-problems-despite-public-denials/2040012/>

Another example (Not suspected here.): “The problem with the wireless water meters is that they are vulnerable because of the wireless medium they use. Communications are not encrypted (largely due to higher costs) and so they are easily intercepted, faked or even jammed. The sensors are unattended and hang on the meter, outside the house, and so they are easily tampered with. The cyberattacks against them can be active, where commands are issued to them, or passive, where the data is taken.” See: <https://venturebeat.com/2011/08/06/hacking-water-meters-is-easier-than-it-should-be/>

The present meter (Device 091752354E) was installed in July 2019 replacing a meter (Device 27005480) which was not measuring right. See: Company's response to DR 0004.

The test of the present meter was done on June 9, 2020, over two months after the spike in the reading. See: Company's response to DR 0001.

The staff report overlooks the fact that the meter does not print the customer's bill. This is a process. A chain of events involving the meter, the remote communication of the data which the meter read and the computer program calculating the data. Even if the meter made a correct reading. The remote transmission could have been in error. Have you ever had to call IT because the wi-fi or network failed? Even if the remote transmission was correct, the computer program could have errored. Have you ever received a message on your computer like "Word is not responding? Would you like to send a message to Microsoft to help them fix the error?" Furthermore, the Company admits that their computer program did error.

Keeping in mind that the meter is only a part of the metering system which includes remote communication and computer programs and equipment which the Company has **admitted failed** to produce a letter informing the customer of the alleged spike in use. See: DR 0011 which requested "Please detail the Company's policy for leak notifications for customers with AMR meters" and the Company's response, "The system will trigger a service order to verify a reading if the usage is six times higher than the same time the previous year. A letter will generate if the usage is two times higher than the same time the previous year." The Staff found that the alleged use was three times higher. Also see: DR 0003 – which requests "a copy of all correspondence between Mr. DeFeo and the Company from January 1, 2020, to present." In response the Company produced 7 items none of the 7 includes a leak notification letter. In short, the Company's computer system failed.

The Staff Report does not provide information on the staff's credentials which would qualify them for provide expert opinion on this matter. Complainant has provided the Commission a sworn affidavit (Exhibit C) of an internationally recognized expert hydrologist which sets forth his credentials qualifying him to provide the opinion of an expert. The Staff apparently failed to consider the expert's testimony. It is not even mentioned in the Report. After reviewing the evidence and conducting certain tests, the expert expressed the following:

"It is not possible that more than 40,000 gallons of water could flow onto a property of modest size without providing any evidence of where that huge amount went. Modern data recording, transmission and processing systems are very good, but given their complexity can never be perfect. It is unreasonable for Missouri American Water to insist that the contrary is true, and insist that remote measurements and computer processing are superior to first-hand knowledge, expert opinion, and obvious realities about the huge quantities of water alleged to have been used at 1700 Green Berry Road, but were nowhere seen."

The full affidavit (Exhibit C) is attached.

Response to Staff Reports addressing the Alleged Rule Violations

Rule 20 CSR 4240-13.020(2). States: “Each billing statement rendered by a utility shall be computed on the **actual usage** during the billing period...”

The Staff Report says that the regulation was not violated because “the Company used the actual meter readings.” (Page 6.) Note the Rule says “billing ... shall be computed on the **actual use**”. While the meter reading is an element of “actual use”, it is not the sole determinate of “actual use”. As discussed above, the meter is only part of a system including remote transmission and computer equipment and programming. In addition, the determination of “actual use” includes the physical evidence. The review of all factors demonstrates that the Company did not bill based on “actual use” and therefore violated Rule 20 CSR 4240-13.020(2).

For the same reasons, the Company violated Rule 20 CSR 4240-13.025(1) regarding adjusting billing errors.

Rule 20 CSR 4240-13.040(1). Relates to the Company “adopt(ing) procedures which shall ensure the prompt receipt, thorough investigation and, where possible, mutually acceptable resolution of customer inquiries.”

DR 0011 requested the Company’s policy for leak notifications for customers with AMR meters. The Company’s response: “The system will trigger a service order to verify a reading if the usage is six times higher than the same time the previous year. A letter will generate if the usage is two times higher than the same time the previous year.”

No such letter was generated and sent to the Complainant. The Company violated Rule 20 CSR 4240-13.040(1).

Rule 20 CSR 4240-13.045(9). “If the utility does not resolve the dispute to the satisfaction of the customer, the utility representative shall notify the customer that each party has a right to make an informal complaint to the commission, and of the address and telephone number where the customer may file an informal complaint with the commission.”

Apparently, the company’s telephone system is no more accurate than the computer program. In response to the staff’s DR 0002 requesting, “Please provide all recorded phone calls between the Company and Mr. DeFeo.” The Company response was: “Please see the responsive recorded calls attached. Please note that the May 19, 2020 call did not record properly and the cause of the recording error is unknown...”

Although the Company cannot provide a recording, had the Company representative informed the Complainant of his rights regarding informal complaints, the Company could have provided the Commission a sworn affidavit of the representative.

DR 0003 requests: “Please provide a copy of all correspondence between Mr. DeFeo and the Company from January 1, 2020, to present.” The Company’s response includes 7 items the earliest being 5/22/20. None of the correspondence notifies Complainant of his rights regarding informal complaints.

The Company violated Rule 20 CSR 4240-13.045(9).

Respectfully submitted,

/s/ Louis DeFeo
Louis DeFeo,

I hereby certify that a true and accurate copy of the foregoing has been transmitted by electronic mail on December 16, 2020, to Jennifer L. Hernandez jhernandez@brydonlaw.com, Attorney for Respondent, and the below list of all counsel of record.

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/s/ Louis DeFeo
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