

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

ALICE GEARY

Complainant,

v.

MISSOURI AMERICAN
WATER COMPANY

Respondent.

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Case No. WC-2009-0147

**ORDER
Denying Dismissal and
Soliciting Conflict Dates**

Issue Date: January 16, 2009

Effective Date: January 16, 2009

The Commission denies the motion to dismiss (“motion”), set forth in the answer of Missouri American Water Company (“MAWC”), and solicits conflict dates for setting a hearing as follows.

A. Background

Alice B. Geary filed the complaint on October 21, 2008, seeking an adjustment to her water bill. On November 24, 2008, MAWC filed its answer, including a motion to dismiss. The motion to dismiss has the endorsement of the Commission’s staff (“Staff”), as set forth in Staff’s recommendation filed on December 11, 2008.

B. Motion to Dismiss

The motion to dismiss argues that the complaint does not describe facts that constitute grounds for the Commission to do anything for Ms. Geary. The Commission's regulations state:

The commission, . . . or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted[.¹]

No relief may be granted on Ms. Geary's complaint, MAWC argues, because the complaint alleges merely a leak in her own plumbing, and Ms. Geary must pay for all water that flows through her meter.

MAWC cites no authority for its proposition. Staff cites a tariff provision requiring Ms. Geary to maintain her plumbing. But inadequate maintenance of indoor plumbing is not among the complaint's allegations. The complaint alleges that MAWC damaged Ms. Geary's plumbing, by forcing air or water through MAWC's main, flooding her house. Such circumstances are not the subject of any authority cited by MAWC or Staff.

Therefore, the Commission denies the motion.

C. Conflict Dates

The Commission intends to schedule a hearing on the merits of the complaint. To do so, it will solicit the parties' conflict dates. Conflict dates are dates on which a party cannot attend a hearing due to a scheduling conflict.

THE COMMISSION ORDERS THAT:

1. Missouri American Water Company's motion to dismiss is denied.
2. No later than January 26, 2009, all parties shall file conflict dates for February 2009.

¹ Regulation 4 CSR 240-2.070(6).

3. This order shall become effective immediately upon issuance.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Jordan, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240.

Dated at Jefferson City, Missouri,
on this 16th day of January 2009.