

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

In the Matter of the Joint Application of)
Missouri-American Water Company and DCM)
Land, LLC, for a Variance from the Company’s) **File No. WE-2021-0390**
Tariff Provisions Regarding the Extension of)
Company Mains.)

STIPULATION OF FACTS AND LIST OF ISSUES

COMES NOW Missouri-American Water Company (“MAWC” or “Company”) and, on behalf of itself, the Staff of the Missouri Public Service Commission (“Staff”), DCM Land, LLC (“DCM”), and the Office of the Public Counsel (“OPC”), known together herein as “the Parties,” and for their joint Stipulation of Facts and List of Issues, states as follows to the Missouri Public Service Commission (the “Commission”):

STIPULATED FACTS

1. Company and DCM (collectively, the “Joint Applicants”) filed a *Joint Application for Variance and Motion for Waiver* (“*Joint Application*”) seeking a variance from the Company’s Commission-approved Tariff Sheet, 1st Revised Sheet No. R 48, Rule 23 Extension of Company Mains, A.2. and 3., to allow changes to the connection time and funding percentage requirements for new applicants that seek to connect to an extension of the Company’s water mains into the Cottleville Trails development being developed by DCM.
2. The Joint Applicants also request a waiver of the notice requirement in Commission Rule 20 CSR 4240-4.017 that requires sixty (60) days’ notice prior to the filing of a case.
3. The Cottleville Trails development is located in Cottleville, Saint Charles County, Missouri, as legally described in **Appendix B** to the Joint Application (“Cottleville Trails”) and depicted in **Appendix C** to the Joint Application.

4. DCM is currently developing Cottleville Trails for residential use. 355 single family residences, and 175 apartment units are planned for the initial development (“Phase 1”). 217 additional attached, single family residences are planned for future development (“Phase 2”).

5. Cottleville Trails is located within the exclusive service area of MAWC in the Territorial Agreement between MAWC and Public Water District No. 2 of St. Charles County, Missouri (“PWD#2”) that the Commission approved in Case No. WO-2001-441 on May 15, 2001, as amended by an Addendum to the Agreement approved by the Commission on November 15, 2011, in Case No. WO-2012-0088). MAWC’s service area in St. Charles County is a part of the St. Louis Metro District for the purpose of MAWC’s tariff Rule 23 – Extension of Company Mains.

6. MAWC is a Missouri corporation, active and in good standing with the Missouri Secretary of State, with its principal office and place of business at 727 Craig Road, St. Louis, Missouri 63141.

7. MAWC currently provides water service to approximately 470,000 customers and sewer service to approximately 15,000 customers in the State of Missouri. MAWC is a “water corporation,” a “sewer corporation” and a “public utility” as those terms are defined in Section 386.020 and is subject to the jurisdiction and supervision of the Commission as provided by law. MAWC has no overdue Commission annual reports or assessment fees. Other than proceedings before this Commission, there is no pending action or final unsatisfied judgment or decision against MAWC from any state or federal agency or court which involves customer service or rates, which action, judgement or decision has occurred within three years of the date of the Joint Application.

8. DCM is a Missouri limited liability company and listed as active with the Missouri Secretary of State. DCM's principal office and place of business is 5731 Westwood, St. Charles, Missouri, 63304. DCM develops real estate projects in the St. Charles County area.

9. Commission Rule 20 CSR 4240-2.060(4) requires that variance applications must contain the following information:

- (A) Specific indication of the statute, rule, or tariff from which the variance or waiver is sought;
- (B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and,
- (C) The name of any public utility affected by the variance or waiver.

10. The Joint Applicants request a variance from the Company's PSC MO No. 13, 1st Revised Sheet No. R 48, Rule 23A.2. and 3., and, specifically as to the tariff language in bold shown below:

2. The Company will be responsible for all main extensions where the cost of the extension does not exceed four (4) times the estimated average annual revenue from the new Applicant(s) whose service pipe(s) will immediately be connected directly to the extension and from whom the Company has received application(s) for service upon forms provided by the Company for this purpose. New Applicants shall be those who commit to purchase water service for at least one year, and guarantee to the Company that they will take water service at their premises within **one hundred twenty (120) days** after the date the Company accepts the main and determines it ready for Customer service. Estimates of annual revenue will be made by the Company, and will be based on the experience of the Company from the previous year regarding use of water by other Customers similarly situated.

3. If the estimated cost of the proposed extension required in order to furnish general water service exceeds four (4) times the Company's estimate of average annual revenue from the new Applicant, the Applicant and Company shall fund the remaining cost (i.e., total cost less four (4) times the estimated average annual revenue from any new Applicant(s)) of the proposed water main extension **at a ratio of 95:5 (i.e., 95% Applicant funded and 5% Company funded) for St. Louis Metro District**, and 86:14 (i.e., 86% Applicant funded and 14% Company funded) for all other districts.

11. The Joint Applicants also request a variance from PSC MO No. 13, 1st Revised Sheet No. R 51, Rule 23C.6, and, specifically as to the tariff language in bold shown below:

6. Upon completion of the Main Extension, and prior to acceptance of the extension by the Company, the Applicant will provide to the Company a final statement of Applicant's costs to construct such extension. The final statement of costs will be added to the actual costs for Company to provide services as per the Developer Lay Proposal. Upon acceptance of the main extension, the Company will then issue payment to the Applicant of **five percent (5%) (for St. Louis Metro District contracts) and fourteen percent (14%) (for all other district contracts)** of the total, final costs that exceed four (4) times the estimated average annual revenue pursuant to Provision A.2 and 3., above. The Company will adjust its payment based on the shortfall or excess of the difference between the actual Developer Lay costs and the Developer Lay Proposal payment made by the Applicant pursuant to Provision C.5., above.

12. The Joint Applicants further request the Commission approve that any Main Extension Contract, as referenced in PSC MO No. 13, 1st Revised Sheet No. R 51, Rule 23C.4. to be entered into with DCM for Cottleville Trails reflect the variances granted pursuant to this Joint Application.

13. The Joint Applicants request the Commission allow a variance from the definition of new applicants provided in Rule 23A.2, specifically, to increase the one hundred twenty (120) day deadline currently provided by the tariff. The Joint Applicants request the Commission allow the estimated average annual revenue from new Applicant(s) for Cottleville Trails to be calculated using "...those who commit to purchase water service for at least one year, and guarantee to the Company that they will take water service at their premises within **five (5) years** after the date the Company accepts the main and determines it ready for Customer service."

14. Further, the Joint Applicants request the Commission allow a variance from the 95:5 funding ratio for the St. Louis Metro District provided in Rule 23A.3 and 23 C.6, and allow use of the 86:14 (i.e., 86% Applicant funded and 14% Company funded) ratio that applies to all other of the Company's districts, for Cottleville Trails.

15. Cottleville Trails will be built out as follows: (i) Phase 1 will have 530 homes (i.e., 355 single family residences and 175 apartments), and the build-out of a development of such magnitude may not reasonably be expected to occur in 120 days, but Joint Applicants reasonably anticipate the build-out to occur over a 5-year period; and, (ii) Phase 2 will have an estimated additional 217 homes, and the build-out of a development of such magnitude similarly may not reasonably be expected to occur in 120 days, but Joint Applicants reasonably anticipate it to occur over a 5-year period.

16. Other than MAWC-, no other public water utility will be affected by this variance.

17. MAWC estimates its average annual revenue per residential customer connection in its St. Charles District to be \$446.04.

18. Once full build out is complete, MAWC estimates its annual revenue from Phase 1 to be \$158,344, and its Phase 2 annual revenue to be \$96,791.

19. In addition, MAWC estimates its annual revenue from the anticipated 175 unit apartment complex to be \$50,000, for an aggregate development annual revenue of \$305,135.

20. DCM estimates that the cost of the water infrastructure to extend the Company's main to Cottleville Trails is \$200,000; and the cost of the water infrastructure in Phase 1, under the Company's design and material requirements, is \$2,100,000. DCM's total land and construction costs for Phase 1 are **\$ _____**; costs for Phase 2 have not yet been estimated.

21. The design and cost for the water infrastructure in Phase 2 has not yet been determined; however, DCM has determined that the total difference in costs for Phase 1, if the variances and waiver are not granted, is more than \$1,209,539.52, as there would be no legitimate opportunity to recover any of the cost other than the 5% amount the Company would pay upon installation of the mains. Staff has determined that if the request for variance from PSC MO No.

13, 1st Revised Sheet No. R 48, Rule 23A.2. was granted the total difference in cost for Phase 1 would be \$189,000.

22. As part of the water main extension needed for the development, DCM is installing a 12” main in place of an existing 4” main in Old Town Cottleville. That replacement would improve fire protection in the area and provide water main access to several additional properties nearby.

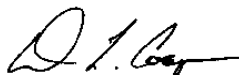
23. Through the verifications attached to the application the Joint Applicants declared that they had had no communication with the Office of the Commission (as defined by Commission Rule 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case, other than those pleadings filed for record; and that failure to waive the 60 day requirement could result in a delay of the development of Cottleville Trails. The Parties agree that good cause has been shown for a waiver of the 60-day notice requirement of Rule 20 CSR 4240-4.017(1).

LIST OF ISSUES

1. Should the Commission waive the 60-day notice required by Rule 20 CSR 4240-4.017 to file a case given that no party opposes the grant of such waiver?
2. Does the Commission have the authority to grant a waiver or variance from the Company’s Tariff?
3. If the Commission does have the authority to grant a waiver or variance from the Company’s tariff, should the Commission grant a variance allowing MAWC to:
 - a. Extend in this case the 120-day period for connecting customers to qualify for reimbursement from the Company to 5 years; and

- b. Apply the upfront 86:14 cost sharing ratio from the Company’s other districts to Cottleville Trails, rather than the 95:5 cost sharing ratio that otherwise applies in the Company’s St. Louis Metro District.

Respectfully submitted,



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ATTORNEYS FOR MISSOURI-AMERICAN WATER COMPANY

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 16th day of September 2021, to:

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