

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 3rd day of March, 2010.

In the Matter of Missouri-American Water)
Company's request for a variance from certain)
requirements set forth in 4 CSR 240-2.050)

File No. WE-2010-0136

**ORDER GRANTING VARIANCE
FOR DISCONTINUANCE OF SERVICE IN ST. LOUIS COUNTY**

Issue Date: March 3, 2010

Effective Date: March 15, 2010

The Missouri Public Service Commission is approving Missouri-American Water Company's ("MAWC") application as amended ("application"). The application seeks a variance from the Commission's regulations on discontinuance of service in St. Louis County only. A tariff implementing the variance is pending in File No. WR-2010-0131.

Procedure

On October 30, 2009, MAWC filed the application. The application included an affidavit and an illustrative tariff. The Commission granted leave to amend the application with a substitute illustrative tariff by order issued December 1, 2009. On January 19, 2010, the Commission's Staff ("Staff") *Recommendation*, which also included an affidavit, supporting the application. The Commission has received no application for intervention, no response to the recommendation, and no request for a local public hearing. Because no party opposes the application, the Commission convened no evidentiary hearing, and bases this order on the affidavits supporting the application and recommendation.¹

¹ *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com'n*, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

Merits

The application is subject to a standard of “good cause.”² Good cause means a remedy that prevents manifest injustice³ based on reasonableness and good faith.⁴ MAWC has met that standard as follows.

The Commission’s regulations on discontinuance of residential service restrict disconnection to certain hours on certain days. Disconnection must occur between 8:00 a.m. and 4:00 p.m. on a day when utility personnel are available to reconnect service.⁵

Further, disconnection can only occur during a certain period:

On the date specified on the notice of discontinuance or within eleven (11) business days after that After the eleven (11) business day effective period of the notice, all notice procedures required by this rule shall again be followed before the utility may discontinue service.⁶

That provision (“11-day period”) is the subject of the application. MAWC seeks no variance as to territories where MAWC bills customers monthly. But where MAWC bills customers quarterly—St. Louis County—MAWC seeks to substitute a 20-day period for the 11-day period.

The reason is that the 11-day period is sometimes too short a time for MAWC to make all the disconnections accrued in a quarter. For those disconnections not made in the 11-day period, MAWC must follow “all notice procedures required by this rule . . . again . . . before the utility may discontinue service.”⁷ MAWC must print another notice to send with the next bill. Disconnection cannot occur except during the next 11-day period. Meanwhile,

² 4 CSR 240-13.065(1).

³ **Bennett v. Bennett**, 938 S.W.2d 952 (Mo. App., S.D. 1997).

⁴ **American Family Ins. Co. v. Hilden**, 936 S.W.2d 207 (Mo. App. W.D. 1996).

⁵ 4 CSR 240-13.050(3).

⁶ *Id.*

⁷ *Id.*

charges that increase uncollectable accounts continue to accrue. And the next 11-day period may also be too short, causing the cycle to continue. The resulting extra printing costs, and accrual of bad debt, harm paying customers.

MAWC seeks to add nine days to the 11-day period for quarterly-billed customers. That variance will reduce the disconnections not made under the first notice by 50 percent. Tariff language to effect the variance is part of Staff's *Recommendation*, Memorandum, Attachment A, to which MAWC made no objection.

On reviewing the application and recommendation, the Commission independently finds and concludes that MAWC has shown good cause for a variance. Therefore, the Commission will grant the application. The Commission will also order MAWC to file a tariff that reflects the variance.⁸ The Commission will allow such filing in either this file or File No. WR-2010-0131. Upon such filing, the Commission will issue an order closing this file.

THE COMMISSION ORDERS THAT:

1. The application is granted.
2. Missouri-American Water Company ("MAWC") shall file—either in this file or in File No. WR-2010-0131—a tariff that conforms to the language set forth in the *Recommendation*, Memorandum, Attachment A.

⁸ 4 CSR 240-13.065(3).

3. This order shall become effective on March 15, 2010.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett, Gunn,
and Kenney, CC., concur.

Jordan, Regulatory Law Judge