

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

In the Matter of Missouri-American Water Company's)
Request for Authority to Implement a General Rate) **Case No. WR-2015-0301**
Increase for Water and Sewer Service Provided in)
Missouri Service Areas.)

APPLICATION FOR REHEARING
OF
PUBLIC WATER SUPPLY DISTRICT NOS. 1 AND 2
OF ANDREW COUNTY

COME NOW Intervenors Public Water Supply District Nos. 1 and 2 of Andrew County ("Water Districts"), pursuant to §386.500, RSMo, and for their Application for Rehearing of the Commission's May 26, 2016 Report and Order, respectfully state as follows:

1. The Commission's Report and Order ("Order") resolved five broad issues addressed during the evidentiary hearing held in this matter. The Water Districts seek rehearing on two of those issues: (1) Consolidation/Consolidated Pricing and (2) Rate Design and Customer Charge.

2. The Order is unlawful, unjust, unreasonable, arbitrary and capricious, not supported by appropriate findings of fact, not based upon substantial and competent evidence on the whole record, an abuse of discretion and discriminatory, all for the reasons as set forth below.

3. Regarding the issue of Water District Consolidation/Consolidated Pricing, the Commission unlawfully and unreasonably adopts Staff's proposed consolidation plan. (Order, p. 28). Each of the Staff's three proposed "hybrid" Districts includes at least one larger district as an anchor for the District. (Order, p. 9). For the new District

2, St. Joseph is the “anchor” district with which Platte County and Brunswick are consolidated.

4. What does the record establish regarding the existing Platte County and Brunswick Districts? The Order itself recites, “Missouri-American intends to retire the aged water treatment facility in the Platte County district by 2018. The anticipated capital expense associated with replacing that water treatment facility makes Platte County an unattractive consolidation partner for the other existing districts.” (Order, p. 11, footnote omitted). And while suggesting that Missouri-American’s annual cost to serve a residential customer is fairly consistent across the existing districts, the Commission specifically finds, “[t]he most significant outliers are Brunswick, which serves 330 residential customers at an annual customer cost of \$702.92, and Platte County, which serves 6,216 customers at an annual customer cost of \$1,031.48.” (Order, p. 12, footnote omitted). While not mentioned in the Order, that same evidentiary exhibit revealed that the annual residential customer cost in St. Joseph, by comparison, is \$418.39. And this is **before** the new Parkville water treatment plant in the Platte County District comes on line.

5. While acknowledging that since 2000, the Commission has set rates for Missouri-American based on a district-specific pricing theory and that St. Joseph has incurred costs for a major infrastructure project that has not been spread among the other districts (Order, pp. 16-17, footnote omitted), the Commission proceeds to require the St. Joseph District ratepayers to subsidize the Platte County and Brunswick customers, with the full knowledge that increased subsidization will be required in the

near future due to the prospect of a major new capital construction project in the Platte County district!

6. The Commission's decision is unjustly discriminatory towards the customers of the St. Joseph District, and the Commission's actions result in unlawful and unreasonable inter- and intra-class shifts of costs to the St. Joseph sale for resale customers. The Commission's decision does not implement just and reasonable rates, and the decision further results in undue or unreasonable preference or advantage to the customers, classes of customers and the localities of Platte County and Brunswick, and an undue or unreasonable prejudice or disadvantage to the customers, classes of customers and the localities within the existing St. Joseph District, all in contravention of Section 393.130, RSMo.

7. This case should also be reheard because the Order unlawfully and unreasonably authorizes Missouri-American to implement a one-block uniform volumetric rate throughout its water districts for all rate classes, thereby abandoning the existing use of a declining block volumetric rate structure for non-residential customer rate classifications for other districts, most notably the St. Joseph District. The Staff proposed to continue that structure for its proposed districts that do not include the St. Louis Metro area. (Order, p. 33). Along with Staff, the Water Districts, and virtually every other party except the Company, supported the continuation of the declining block volumetric rate structure for non-residential customer rate classifications for the other districts (save the St. Louis Metro area). Staff's method in designing the block rates was to keep the existing ratio between the currently approved blocks constant. (Staff Ex. 3; Tr. 800-801). Declining block rates allow larger customers who generally

experience better load factors to pay a lower tail block rate to reflect the lower cost to serve them.

During the evidentiary hearing held on these issues many references were made to the “**Staff’s Water Utility Rate Design Analysis**” (“Analysis”) that was performed by Staff and submitted in this proceeding on June 16, 2015.¹ In discussing the provision of water service to large customers, the Staff Analysis notes that the predominant rate structure is a declining block usage rate.

. . .For the larger systems with commercial and industrial customer classes, as well as other customer classes, the predominant rate structure is a declining block usage rate. Each has a fixed component that is based on meter size and then a corresponding declining rate structure. It is a fair assumption that these larger types of customers are placing a constant strain on the system and are not subject to the peaking strains that are more typical from residential customers. **Therefore, the declining block rate structure is a better reflection of the costs of providing service to these classes of customers.**

Due to the massive amounts of water required by some of these customers, the fixed costs are higher, but as usage increases those fixed costs are satisfied through the higher initial blocks. As the relatively less expensive higher gallons are consumed, the rate drops accordingly. Since these large users are going to demand water through the initial blocks on a consistent basis, those initial blocks act as a de facto customer charge.

When moving from a declining block rate to a uniform rate, high demand users would necessarily see a reduction in their initial usage costs, but would see an increase in their late block usage. Lower demand users who do not generally reach the higher blocks would ultimately pay much less.

In order to perform a proper analysis of the change to these classes, Staff would have to study the individual usage patterns of the large users to determine if additional classes would have to be created with different rates to account for the different usage patterns. The declining block rate structure generally performs this task already and thus seems to be the best practice at this time. The additional cost and resources necessary to complete

¹ EFIS Docket No. 3; Staff also references this filing at page 24 of its Initial Brief.

the analysis during the course of each rate case would likely be greater than the benefit. (Emphasis added).

Finally, the Staff's Analysis cautions: "When determining an appropriate rate design and rate structure, **it is imperative to have the appropriate level of data and time to evaluate the various factors that are used to determine the ultimate rate. Without proper analysis, unintended consequences are inevitable.**" (Emphasis added).

8. Indeed, the Water Districts pointed out that in the context of this proceeding, the necessary level of data for designing different rates and time for studying their impact was not presently available. The existing record is devoid of analysis of any proposed change; there is no competent and substantial evidence to support any proposed change; and the resulting consequences to high volume users such as the Water Districts is unlawful and unreasonable.

9. Ironically, in discussing district consolidation and the possible adoption of the full single-tariff pricing option, the Commission explicitly recognized the "lack of scrutiny;" that "the option has many unknowns;" and thus, the Commission "is not willing to take that leap at this time." (Order, p. 28). Yet, regarding the issue of declining block rates, the Commission rejects the proposal of the Staff Witness whose testimony it found "extremely credible" in another section of the Order, and simply recites that Missouri-American proposes to implement a one-block uniform volumetric rate throughout its water districts for all rate classes, citing five lines of direct testimony that simply confirms that is, indeed, the Company's proposal. (Order, p. 33).

10. The Commission's decision to abandon the existing declining block rate structure is unlawful and unreasonable; is not based on substantial and competent evidence on the whole record; is arbitrary, capricious and unreasonable; and constitutes an abuse of discretion. "However difficult may be the ascertainment of relevant and material factors in the establishment of just and reasonable rates, neither impulse nor expediency can be substituted for the requirement that rates be authorized by law and supported by competent and substantial evidence upon the whole record." *State ex rel. Sprint Spectrum L.P. v. Mo. Pub. Serv. Comm'n*, 112 S.W.3d 20, 28 (Mo. App. W.D. 2003) quoting *State ex rel. Mo. Water Co. v. Pub. Serv. Comm'n*, 308 S.W.2d 704, 720 (Mo. 1957). The Commission's decision does not implement just and reasonable rates, and the decision further results in unlawful and unreasonable intra-class cost shifts to the Water Districts, all in contravention of Section 393.130, RSMo.

WHEREFORE, the Water Districts respectfully request rehearing of the matters discussed above.

Respectfully submitted,

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ATTORNEYS FOR PUBLIC WATER
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 23rd day of June, 2016, to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Larry W. Dority