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December 4, 2003

VIA HAND DELIVERY

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

FILED

DEC 04 2003

**Missouri Public
Service Commission**

**Re: In the Matter of the Application of Missouri-American Water Company for
Approval to Establish an Infrastructure System Replacement Charge (ISRS)
Case No. WO-2004-0116**

Dear Mr. Roberts:

On behalf of Missouri Energy Development Association, enclosed herewith please find an original and eight (8) copies of a Petition for Leave to File Amicus Brief and Amicus Brief of Missouri Energy Development Association, for filing with the Commission in the referenced matter. I would appreciate it if you would see that copies are distributed to the appropriate Commission personnel.

I have also enclosed an extra copy which I request that you stamp "Filed" and return to the person delivering them to you.

Thank you for your attention in this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:



Janet E. Wheeler

PAB/ccp
Enclosures

FILED

DEC 04 2003

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

**Missouri Public
Service Commission**

In the Matter of the Application of Missouri-American)
Water Company for Approval to Establish an) Case No. WO-2004-0116
Infrastructure System Replacement Charge (ISRS))

**PETITION FOR LEAVE
TO FILE AMICUS BRIEF**

COMES NOW the Missouri Energy Development Association ("MEDA"), pursuant to 4 CSR 240-2.075(6) of the Rules of Practice and Procedure of the Public Service Commission of the State of Missouri ("Commission"), and submits its Petition to File an Amicus Brief in the above-captioned proceeding. In support of its Petition, MEDA respectfully states as follows:

1. Petitioner MEDA is an Association comprised of the largest investor-owned electric, gas, and water utilities in the State of Missouri. MEDA's members include Aquila, Inc., Atmos Energy Corporation, Empire District Electric Company, Kansas City Power & Light Company, Laclede Gas Company, Missouri-American Water Company, Missouri Gas Energy, a division of Southern Union Company, and Union Electric Company d/b/a AmerenUE.

2. All notices, orders, correspondence and other communications regarding this Petition for Leave to File Amicus Brief should be sent to:

Craig Brown
President
Missouri Energy Development Association
326 E. Capitol Ave,
Jefferson City, MO 65101
(573) 634-8474
craig.brown@missourienergy.org

3. Pursuant to 4 CSR 240-2.075(6) of the Commission's Rules of Practice and Procedure, MEDA respectfully requests that the Commission grant it leave to file the attached

Brief as an *amicus curiae* in the above-captioned proceeding. MEDA seeks leave to file an Amicus Brief in this proceeding because this case concerns implementation of the infrastructure system replacement surcharge (“ISRS”) mechanism authorized by House Bill 208 (“HB 208”). MEDA was actively involved in the legislative process which led to the enactment of HB 208 this past summer and therefore has an interest in making sure that it is implemented in a manner that accords with the letter and spirit of the legislation.

4. To that end, MEDA wishes to address at least one instance in which it believes the recommendations made by the Commission Staff in this case directly contradict the requirements of HB 208. Specifically, MEDA seeks to address Staff’s recommendation that the amount of accumulated depreciation reflected in the ISRS charge be based on a consideration of *all* of the accumulated depreciation that has accrued since the utility’s last rate case on *all* of the utility’s plant, regardless of whether such plant is eligible for inclusion in an ISRS and regardless of whether it was placed into service decades before, during or subsequent to that rate case. It is simply not possible to reconcile such treatment with the clear language of the ISRS statute which provides for consideration of only that depreciation that is *associated with “eligible infrastructure system replacements.”* Section 393.1000(1)(a) (RSMo. 2003 Supp.). Nor can such treatment be squared with section 393.1006.2(2) of the new law, which expressly forbids the consideration of other revenue requirement or ratemaking issues (beyond the information necessary to confirm that the underlying costs have been calculated in accordance with law) when determining an ISRS charge.

5. In view of these considerations, MEDA respectfully requests that it be granted leave to file an Amicus Brief in this case pertaining to this one issue of statutory compliance.

WHEREFORE, for the foregoing reasons, MEDA respectfully requests that the Commission grant it leave to file the attached Amicus Brief.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Janet E. Wheeler', written over a horizontal line.

Janet E. Wheeler
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Attorneys for Missouri Energy Development
Association

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery, on this 4th day of December 2003 to the following:

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General Counsel's Office
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Jefferson City, MO 65102-0360

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