

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Petition of Missouri-American)	
Water Company for Approval to Change Its)	<u>Case No. WO-2007-0043</u>
Infrastructure System Replacement Surcharge)	Tariff No. YW-2007-0070
(ISRS))	

ORDER GRANTING APPLICATION TO INTERVENE

Issue Date: September 20, 2006

Effective Date: September 20, 2006

On August 3, 2006, Missouri-American Water Company ("MAWC") filed a petition with the Missouri Public Service Commission pursuant to sections 393.1000, 393.1003 and 393.1006, RSMo Cum. Supp. 2005; and 4 CSR 240-2.060(1) and 4 CSR 240-3.650, requesting adjustment to its rates and charges through a change to its Infrastructure System Replacement Surcharge ("ISRS") rate schedule. On August 4, 2006, the Commission issued notice and set an intervention deadline for August 24, 2006.

On August 24, 2006, the Utility Workers Union of America Local 335, AFL-CIO ("Local 335"), filed an application to intervene pursuant to 4 CSR 240-2.075. Commission Rule 4 CSR 240-2.075(4) provides:

(4) The commission may on application permit any person to intervene on a showing that –

(A) The proposed intervenor has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest.

Local 335 identifies itself as “a labor organization that represents approximately 300 employees of MAWC in a bargaining unit in St. Louis County, Missouri.” Additionally, Local 335 states that it “has a collective bargaining agreement with MAWC which establishes the terms and conditions of employment for the water company’s production, construction, maintenance, operation, distribution, and clerical employees.”

In its application, Local 335 states that it has an interest in this case that is different from that of the general public, and that may be adversely affected by a final order in this case. Specifically, it claims that Local 335 is “concerned with the impact the proposed tariffs could have on jobs, pensions, and terms and conditions of employment” of its members that work for MAWC. Local 335 further states that it “does not have sufficient information about the proposed tariffs to take a position at this time and, thus, is unsure of the position it will take in this proceeding.” Local 335 acknowledges that the general public’s interests, as opposed to its own interests, “are concentrated in the dependable delivery of clean, untainted water at a reasonable cost.” There is no argument offered by Local 335 that this interest can not be adequately protected by the Office of the Public Counsel, who is already a party to this action.

It is unclear how any Commission action in this case would impact Local 335’s terms and conditions of employment, because Local 335 already has an enforceable collective bargaining agreement with MAWC. Section 386.315 specifically prohibits the Commission, when establishing public utility rates, from changing, in any way, the wage rate, benefit, working condition, or other term or condition of employment that is the subject of a collective bargaining agreement between the public utility and a labor organization.

Moreover, Section 393.1006.2(2) prohibits the examination of extraneous ratemaking issues in an ISRS application when it states in pertinent part:

No other revenue requirement or ratemaking issues shall be examined in consideration of the petition or associated proposed rate schedules filed pursuant to the provisions of section 393.1000 to 393.1006.

Finally, Local 335's position in this matter, although not clearly defined at this time, may be irrelevant. Section 393.1006.2(4) provides:

If the commission finds that a petition complies with the requirements of sections 393.1000 to 393.1006, the commission shall enter an order authorizing the water corporation to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission pursuant to the provisions of sections 393.1000 to 393.1006.

If the Commission finds that MAWC's petition complies with the statutory provisions of sections 393.1000 and 393.1006, which are restricted to the appropriate timing of the application and the correct calculation of the proposed changes, it may be bound to enter an order authorizing the ISRS unless Local 335's position clearly raises an issue of statutory compliance.

Although Local 335's position is not clearly articulated at this time, no other party sought to oppose its application to intervene within the ten-day period allowed in 4 CSR 240-2.080(15). Local 335's application shall be granted.

IT IS ORDERED THAT:

1. Utility Workers Union of America Local 335, AFL-CIO's Application for Intervention is granted.

2. This order shall become effective on September 20, 2006.

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)

Harold Stearley, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 20th day of September, 2006.