

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

Andrew G. Smith,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>File No. WC-2012-0189</u></b>
	)	
Missouri-American Water Company,	)	
	)	
Respondent.	)	

**STAFF REPORT**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), by and through the undersigned counsel, and files this *Staff Report* with the Missouri Public Service Commission (Commission), respectfully stating the following:

1. On December 19, 2011, Andrew G. Smith (Complainant) filed a *Complaint* against Missouri-American Water Company (MAWC) with the Commission disputing the \$1,149.15 adjustment MAWC made to Complainant's bill due to Complainant's meter being defective. Complainant's meter stopped registering water usage from October 2010, until such defect was discovered ten months later.

2. The relief requested by the Complainant, as stated in his *Complaint* is:

That the Commission delay any disconnection until all issues are finally resolved.

That the Commission enforce the settlement offered by Complainant. In the alternative the Commission might fashion an appropriate remedy that (1) makes clear that a customer is not required to pay for a defective meter and that (2) should take into account factors such as occupancy and climatic conditions as well as (3) Respondent's negligent failure to maintain its system – and from such failure it should not be allowed to benefit financially.

3. On December 20, 2011, the Commission issued an *Order Giving Notice of Contested Case, Directing Answer and Directing Staff Investigation*, giving MAWC until January 19, 2012, to file an answer to the complaint or a request for mediation. The order directed Staff to investigate the complaint and file a report no later than February 2, 2012.

4. On January 19, 2012, MAWC filed a *Request for Mediation* with the Commission. On January 20, 2012, the Commission issued an *Order Directing Filing*, whereby the Complainant was ordered to respond to MAWC's request for mediation no later than January 30, 2012.

5. On January 30, 2012, the Complainant filed a *Refusal of Mediation* with the Commission, after which the Commission issued a second *Order Directing Filing*, thereby giving MAWC until February 6, 2012 to either satisfy the complaint or file an answer. Staff was ordered to complete its investigation and file a report with the Commission no later than February 13, 2012. On February 1, 2012, the Commission issued an *Order Extending Time for Filing Staff Report* to February 14, 2012. This filing complies with that Order.

6. On February 3, 2012, MAWC filed its *Answer and Motion to Dismiss*, asserting that the Complainant does not state a claim upon which relief may be granted, that the actions taken by MAWC in this case were not in violation of its tariffs, any statutes or Commission order, and further requests that the Commission dismiss the *Complaint*.

7. Staff has completed its investigation, the results of which are attached and incorporated by reference herein in Appendix A as *Staff's Report*.

8. During Staff's investigation of the formal complaint, Claimant alleged that the service was improperly disconnected. MAWC concedes the disconnection was an error and reconnected the service on the same day. As a result, the issue of improper disconnect is, in effect, resolved.

9. Staff asserts that MAWC did not violate its approved tariff or Commission rules in estimating the Complainant's usage for a period of three quarters. However, the Complainant challenges whether the amount of the estimated bill is appropriate given alleged changes in occupancy of the premises in question, making that issue ripe for Commission consideration.

10. Staff recommends Complainant reconsider mediation as it may assist both parties in resolving this Complaint. In the alternative, Staff recommends that the parties proceed to evidentiary hearing.

11. Section 386.480, RSMo, causes it to be a misdemeanor for information furnished to the Commission to be divulged to the public, with few exceptions. Likewise, 4 CSR 240-2.070 states Staff's report as to the cause of a complaint "shall not be made public unless released in accordance with sections 386.480, 392.210(2) or 393.140(3), RSMo, or during the course of the hearing involving the complaint." Therefore, the Staff's Memorandum attached hereto as Appendix A, along with the accompanying schedules, are marked highly confidential "HC."

**WHEREFORE**, Staff respectfully submits this *Staff Report* to the Commission for its information and consideration.

Respectfully submitted,

**/s/ Goldie Tompkins**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 15th day of February, 2012.

**/s/ Goldie Tompkins**