BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

ROMAN DZURINSKIY,

Complainant,

٧.

File No. WC-2010-0215

MISSOURI AMERICAN WATER COMPANY

Respondent.

ORDER DENYING MOTION FOR REPORT

Issue Date: October 20, 2010

Effective Date: October 20, 2010

The Commission is denying the Motion to Order Staff (Investigator) Present an Investigative Report (for May 18 and August, 18, 2010) Visiting My Property and Its Findings ("motion").

On January 19, 2010, Roman Dzurinskiy filed a complaint charging that Missouri American Water Company ("MAWC") violated a statute, regulation or tariff. Such a complaint is subject to statutory procedure that includes a hearing.¹ The hearing requirement makes this action a "contested case,"² which is a formal procedure for deciding the legal rights and duties of specific persons. Such persons do not include Staff, insofar as Staff is neither MAWC nor Mr. Dzurinskiy, and has no proprietary stake in the action. Nevertheless, Staff employs its technical expertise to assist the Commission. Like the Commission, Staff is impartial, but may be very influential. Therefore, to keep the process open, the Commission's regulations make Staff a party.³

On October 7, 2010, Mr. Dzurinskiy filed the motion, asking that the Commission order Staff to generate a report addressing various inquiries. On October 18, 2010, Staff

¹ Section 386.390.5, RSMo 2000.

² Section 536.010(4), RSMo Supp. 2009.

³ 4 CSR 240-010(11).

filed its response, objecting to the motion, arguing that no law provides for the generation of a report upon filing of a motion. In the motion, Mr. Dzurinskiy cited no supporting law.

The law provides that Mr. Dzurinskiy may obtain information from any party in a contested case but, as Staff notes, such law is in the Commission's rule on discovery and data requests.⁴ A data request, Staff suggests, most closely resemble the motion, so Staff proposes to treat the motion as a data request and respond in the time provided for a data request. Staff's analysis is correct. Staff's treatment of the motion as a data request is appropriate. If Staff fails to respond in the time provided for a data request, Mr. Dzurinskiy may then seek enforcement.

Therefore, the Commission will deny the motion.

THE COMMISSION ORDERS THAT:

1. The Motion to Order Staff (Investigator) Present an Investigative Report (for May 18 and August, 18, 2010) Visiting My Property and Its Findings is denied.

2. This order is effective when issued.

(SEAL)

BY THE COMMISSION

Steven C. Reed Secretary

Daniel Jordan, Regulatory Law Judge, by delegation of authority pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri, on this 20th day of October 2010.

⁴ 4 CSR 240-2.090(1) and (2).