

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

<b>AG/CP Crestwood Retail Owner, LLC,</b>	)	
	)	
<b>Complainant,</b>	)	
<b>v.</b>	)	<b><u>File No. WC-2011-0162</u></b>
	)	
<b>Missouri-American Water Company,</b>	)	
	)	
<b>Respondent.</b>	)	

**STAFF’S REPORT AND RESPONSE TO REQUEST FOR MEDIATION**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through its attorney, and for its *Report and Response to Request for Mediation*, states to the Missouri Public Service Commission (“Commission”) as follows:

1. On December 7, 2010, a formal complaint was filed with the Commission by AG/CP Crestwood Retail Owner, LLC (hereafter referred to as “Company”) concerning a high water bill received from Missouri-American Water Company (“MAWC”).
2. On December 13, 2010, the Company filed a *Request for Mediation*, requesting that the above-mentioned file number be “assigned to voluntary, non-binding mediation.”
3. On December 14, 2010, the Commission issued an *Order Directing Filings*, ordering that the Staff shall conduct an investigation as to the cause of the complaint and shall file a report of its findings no later than January 19, 2011, and that Staff’s Report may include a response to the *Request for Mediation*.
4. On January 10, 2011, MAWC filed an *Answer and Motion to Dismiss* with the Commission.
5. The Staff’s Report prepared by James A. Merciel, Jr., P.E. is attached and is incorporated by reference herein as Exhibit A to this Report.

6. Staff recommends that an adjustment to the Company's water bill is appropriate, but Staff is not making a recommendation as to a specific amount since MAWC submitted an offer to compromise for a specific adjustment in its *Answer*.

7. Staff has no objection to participating in mediation, as requested in this matter.

**WHEREFORE**, Staff respectfully submits Staff's Report and Response to Mediation for the Commission's information and knowledge.

Respectfully submitted,

/s/ Rachel M. Lewis  
Rachel M. Lewis  
Deputy Counsel  
Missouri Bar No. 56073

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Staff of the Missouri  
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**Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record on this 18<sup>th</sup> day of January, 2011.

/s/ Rachel M. Lewis

**MISSOURI PUBLIC SERVICE COMMISSION**

**UTILITY OPERATIONS DIVISION**

**STAFF REPORT**

**AG/CP Crestwood Retail Owner, LLC  
Missouri-American Water Company**

**CASE NO. WC-2011-0162**

**Prepared by**

**JAMES A. MERCIEL, JR., P. E.**

Jefferson City, Missouri  
January 14, 2011

**STAFF REPORT**  
**Case No. WC-2011-0162**  
**Prepared by James A. Merciel, Jr., P.E.**  
**Water and Sewer Department**  
**January 14, 2011**

**BACKGROUND**

On August 6, 2010 Mr. Steven Nugent, a representative of AG/CP Crestwood Retail Owner, LLC, called the Consumer Services Department of the Missouri Public Service Commission (Commission) with an informal complaint about an abnormally high water bill received from Missouri-American Water Company (MAWC or Company) for a commercial property in St. Louis County. This informal complaint, C201101125, was initially handled by Mary Schierman-Duncan of the Consumer Services Department, and then was transferred to the Commission's Water and Sewer Department.

The property involves a large commercial building, formerly a Famous and Barr department store, then later a Macy's department store, sometimes referred to herein as the Crestwood Plaza Property. It is now vacant and was at the time of the billing period reflecting the high usage. Although vacant, the owners maintain utility service, and Mr. Nugent states that they regularly tour the building and check facilities including operating faucets and other water-using fixtures. The bill reflecting high usage was issued by the Company on March 29, 2010 and that usage occurred shortly after a routine meter replacement. Mr. Nugent thought that the replacement could have caused the high bill, perhaps due to an erroneous reading or some type of malfunction of the new meter.

Mr. Nugent had first contacted the Company about the matter, before contacting the Staff of the Missouri Public Service Commission (Staff) with the informal complaint. After some activity, including meetings between representatives from the Company and the property owner, both on their own and again at the request of the Staff to have them discuss water meters and this customer's specific usage, this informal complaint was not satisfactorily resolved. AG/CP Crestwood Retail Owner, LLC, (Crestwood Plaza), the owner of the property, then filed this formal complaint on December 7, 2010.

In its *Order Directing Filing* of December 14, 2010, the Commission ordered, among other things, for the Staff to investigate and file a report by January 19, 2011. This report is intended to comply with this order.

**STAFF'S INVESTIGATION AND DISCUSSION**

According to MAWC, Company personnel performed the meter change on October 14, 2009. MAWC stated to the Staff that the meter placed into service on that day was new, with a reading of zero. Usage during the quarterly billing period prior to the meter replacement, June 8, 2009 to September 8, 2009, was 34 hundred cubic feet (34 ccf), which amounts to an average daily water usage of approximately 276 gallons and a resulting water bill amount of \$151.76. The meter

replacement occurred during the next quarterly billing period, September 8, 2009 to December 4, 2010. Of the 51 days in that billing period with the new meter in service, the average daily water usage at the Crestwood Plaza Property was approximately 235 gallons per day, which is comparable to daily usage during the previous billing period.

The high bill occurred during the quarterly billing period after the meter replacement, December 4, 2009 to March 12, 2010. Quarterly usage, as recorded by the water meter, was 4,008 ccf, which amounts to an average daily water usage of 30,592 gallons per day and a resulting water bill in the amount of \$9,927.17. The following quarter, March 13, 2010 to June 8, 2010, water usage was 38 ccf, or 323 gallons per day, and a resulting bill amount of \$164.56, which could be considered a normal amount for the Crestwood Plaza Property.

Water meters are devices that are used as a standard method of measuring water service to customers. There are various types of meters available, but water meters designed to measure residential and commercial water use are "positive displacement," meaning water flows through a closed chamber and moves a device that, in turn, moves an indicator. In positive displacement meters, the device moved by the water is a wobbling disk. The wobbling motion rotates a shaft which turns the dial and indicator numbers that can be seen and read by the person reading the meter. The mechanical motion moving the indicator is caused by and in proportion to water flow using no external power source for the measurement. Examples of other types of meters that are non-positive displacement include those where water flow spins a propeller or turbine, or where sonic sensors measure velocity.

Meter dial indicators work the same way that automotive mechanical odometers record miles traveled. It is not characteristic for meter dials, or for car odometers, to "jump ahead" and give abnormally high readings. As meters are mechanical devices consisting of a measuring chamber with moving parts powered by the water flowing through them and mechanical reading dials, it is not characteristic for meters to at some point begin registering high readings, and then at some later time read correctly. The particular meter installed at the Crestwood Plaza Property appears to be working properly at present. Based on Staff's experience an accuracy test on the meter test would not reveal any problem and there is no way to determine whether or not some problem with the new meter occurred during that one quarterly billing period because it appears to be reading accurately at this time. So, the Staff does not consider it to be very likely that the problem with the Crestwood Plaza Property lies with the water meter.

On the other hand, the high bill experienced by Crestwood Plaza reflects water usage of a magnitude that the Staff believes would have detected by the customer if the building is monitored as Mr. Nugent described to the Staff in a telephone call. The amount of usage, 4008 ccf for the quarter, is the equivalent of approximately 21 gallons per minute, which would be like flowing three (3) garden hoses continuously over the entire three (3) month period. Such a flow is possible, and if it indeed happened it could have either flooded part of the building or gone down a sewer, but either the flow rate or the length of time necessary to flow this quantity of water, or both, probably would not have gone unnoticed by people checking the building in the Staff's opinion.

## **CONCLUSION AND RECOMMENDATION**

While Crestwood Plaza states its belief that no unusual water usage or flows occurred within the premises, and states such based on its regular building monitoring, the Staff is unable to reach a conclusion, one way or another, with regard to any such event. However, based on many years of studying water meters often in the context of high bill complaints, the Staff is also unable to reach the conclusion that any malfunction of the meter caused the high billing amounts. Therefore, the Staff must simply conclude that the indicated water usage is unexplained.

When a known leak causes a high bill, or if unusually high usage occurs for an unknown reason such as in this case, the Staff often recommends that some adjustment be made to the customer's account; that the utility and customer "split the bill" in some manner. An adjustment can ease the financial burden for the customer, and at the same time allow the company to recover direct out-of-pocket costs for water production, primarily power for pumping and chemicals for treatment, which are largely proportional to water volume. However, by making such an adjustment, the Company does not recover other allocated expenses associated with water service that are not directly related to volume of water produced.

Contemplating billing adjustments for high bills requires consideration by the Company, as well as by the Staff in recommending such, as to whether the action is really fair and appropriate for the involved customer, the Company and other customers. As examples, customers might actually use the water for filling a swimming pool or for irrigation but will not admit to the use; or customers might intentionally use the water perhaps for irrigation but not comprehend the volume that was used; customers might have a leak and neglect to do needed repairs, running the usage up unnecessarily; and actual intended commercial water use, in particular, can vary greatly from customer to customer, and from day to day for any particular customer. Bill adjustments are reasonable if the customer had no control over the usage or truly has no idea what happened, and the Company can be reasonably certain that is the case.

In conclusion, after discussions with Mr. Nugent about their water usage and their building management, the Staff finds that Crestwood Plaza had no knowledge of the water usage as apparently recorded by the water meter. However, there is also no reason to find that the water meter readings are erroneous. Therefore, the Staff recommends that an adjustment to the customer's water bill is appropriate. The Staff is not making a recommendation on a specific adjustment amount at this time, since the Company has submitted, with its Answer, an offer to compromise for a specific adjustment and the parties have the opportunity to negotiate any adjustment amounts. The parties are in a position to mediate as desired; the Staff is willing to participate in mediation if necessary, or address an adjustment in a hearing if necessary.

Attachment: A – Summary of meter readings and indicated water usage

Crestwood plaza department store building  
 meter reads and billings  
 WC-2011-0162  
 Staff Report  
 January 14, 2011

ccf = hundred cubic feet  
 cf = cubic feet  
 gpm = gallons per minute

date	billdate	meter reading	usage ccf	billed usg	billed amt	billdays	usedays	useperday, cf	gal per day	continuous gpm
6/8/2010	6/11/2010	4062	38	38	\$164.56	74	88	43	323	
3/12/2010	3/29/2010	4024	4008	4008	\$9,927.17	110	98	4,090	30,592	21
12/4/2009	12/9/2009	16	16	70	\$241.09	89	51	31	235	
10/14/2009		0								
10/14/2009	meterchange	63598	54				36	150	1,122	0.78
9/8/2009	9/11/2009	63544	34	34	\$151.76	92	92	37	276	0.19
6/8/2009	6/11/2009	63510	20	20	\$89.43	71	68	29	220	0.15
4/1/2009	4/3/2009	63490	11	11 closed account		21	19	58	433	
3/13/2009	3/13/2009	63479								

**Attachment A**

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

AFFIDAVIT OF JAMES A. MERCIEL, JR.

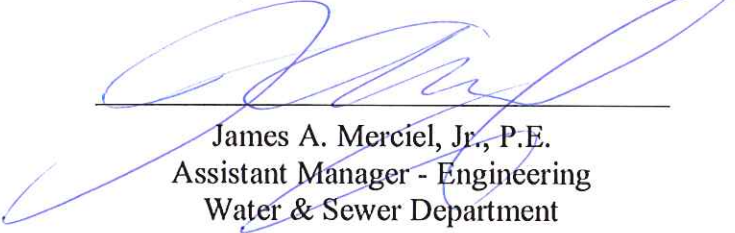
STATE OF MISSOURI )

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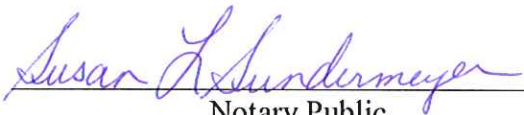
Case No. WC-2011-0162

COUNTY OF COLE )

James A. Merciel, Jr., of lawful age, on his oath states: (1) that he is the Assistant Manager – Engineering in the Water and Sewer Department of the Missouri Public Service Commission; (2) that he participated in the preparation of the foregoing *Staff Report*; (3) that he has knowledge of the matters set forth in the foregoing *Staff Report*; and (4) that the matters set forth in the foregoing *Staff Report*; are true and correct to the best of his knowledge, information and belief.

  
James A. Merciel, Jr., P.E.  
Assistant Manager - Engineering  
Water & Sewer Department  
Utility Operations Division

Subscribed and sworn to before me this 14<sup>th</sup> day of January 2011.

  
Notary Public

SUSAN L. SUNDERMEYER  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Callaway County  
My Commission Expires: October 03, 2014  
Commission Number: 10942086