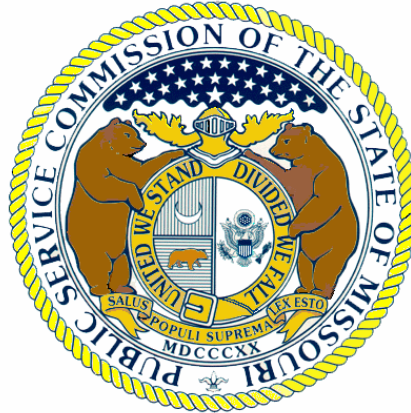


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



Gene Koverman

Complainant,

v.

Missouri-American Water Company,

Respondent.

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Case No. WC-2006-0248

REPORT AND ORDER

Issue Date: June 23, 2006

Effective Date: July 3, 2006

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Gene Koverman)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-2006-0248</u>
)	
Missouri-American Water Company,)	
)	
Respondent.)	

APPEARANCES

Gene Koverman, Pro Se
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St. Louis, Missouri 63141

Kenneth C. Jones, Attorney at Law
727 Craig Road
St. Louis, Missouri 63141

For: Missouri-American Water Company

Shelley Syler, Assistant General Counsel
P.O. Box 360, Jefferson City, Missouri 65102

For: Staff of the Missouri Public Service Commission

REGULATORY LAW JUDGE: **Morris L. Woodruff**
 Kennard L. Jones¹

¹ Judge Jones presided at the hearing.

REPORT AND ORDER

Summary

The Commission finds that the complainant has failed to present evidence to establish that an increased water bill resulted from a defective water meter rather than actual increased usage. Complainant's complaint is denied.

FINDINGS OF FACT

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

Procedural History

On December 9, 2005, Gene Koverman filed a complaint against Missouri-American Water Company. Koverman's complaint alleged that the water bill he received in July 2005 was excessive because the water meter supplied by Missouri-American incorrectly registered the amount of water used. Koverman asks for a \$200 refund from Missouri-American. In addition, since his sewer bill from Metropolitan Sewer District is based on the amount of water used, he also asks the Commission to order Missouri-American to pay him \$100 to compensate him for the increased sewer bill.

The Commission notified Missouri-American of the filing of the complaint on December 12. Missouri-American filed a timely answer, denying Koverman's claim, on January 11, 2006. On January 13, the Commission ordered its Staff to investigate Koverman's complaint. Staff filed a report regarding the results of its investigation on February 28. An evidentiary hearing was conducted on April 25.

Koverman's Complaint

Koverman's evidence established that he owns a four-unit apartment building in Bridgeton, Missouri. From April to July 2005, all four units were occupied.² The apartment building receives water service from Missouri-American, and sewer service from the Metropolitan Sewer District. As the owner of the building, Koverman pays the bill for water and sewer usage in the entire building.

On July 15, 2005, Koverman received a water bill from Missouri-American in the amount of \$386.30 for three months of service. That bill was higher than normal and Koverman contacted Missouri-American to express his concern that something might be wrong with the building's water meter. Missouri-American responded by sending out a field service representative on July 22 to check for damage to the meter and to look for leaks in the service lines.³

The service representative noted that the meter was registering slight usage, in other words, water was flowing through the meter, at a time when no one was at home and presumably no water was being used. From this, the service representative concluded that there was a leak in the system and that the building owner would need to hire a plumber to find and fix the leak.⁴

Koverman denied that there was a leak in the building and again contacted Missouri-American to request a second inspection. On July 28, Missouri-American again sent out a service representative to meet Koverman and to inspect the meter and water system. The

² Transcript, pages 29-30, lines 25, 1-11.

³ Transcript, pages 51-52, lines 18-25, 1-10.

⁴ Transcript, page 52, lines 2-6 and Exhibit B.

service representative again noted slight registration on the meter and again concluded that there was a leak somewhere on the system.⁵

Koverman paid the disputed water bill but continued to be dissatisfied with Missouri-American's explanation for the high bill. In February 2006, after Koverman filed his complaint with this Commission, Missouri-American removed and replaced the building's water meter. The testing of the meter that had been removed indicated that it was functioning normally.⁶

Koverman bases his contention that the meter must have malfunctioned on the unusually high amount of water that the meter showed to have been used in the three months prior to July 15, 2005. The following chart shows the amounts billed quarterly for the periods before and after the bill in question:

January 15, 2004	\$219.01
April 14, 2004	\$224.05
July 14, 2004	\$265.66
October 14, 2004	\$260.91
January 17, 2005	\$227.12
April 15, 2005	\$163.13
July 15, 2005	\$386.30
October 12, 2005	\$203.27
January 16, 2006	\$112.41 ⁷

As can be clearly seen, the amounts billed vary from quarter to quarter, but the \$386.30 bill for July 15, 2005, is higher than the bill from any other quarter. Koverman contends that since there was no leak on the building's water system, the unusually high bill could only have resulted from a defective meter.

⁵ Transcript, page 54, lines 19-23 and Exhibit B.

⁶ Transcript, Page 57, lines 20-23 and Exhibit C.

⁷ The numbers are taken from Exhibit A.

In response to Koverman's evidence, Missouri-American presented the testimony of David Youngerman. Youngerman has been operations supervisor for Missouri-American for two years and was meter shop supervisor for nine years before taking his current position. Youngerman's testimony established that when the meter from Koverman's building was removed and tested, it operated within normal parameters.⁸ Youngerman also explained that when a water meter does malfunction it will run lower, in other words, it will register less water than is actually used.⁹ He also explained that a malfunctioning water meter would not register high usage in one period and low usage in a subsequent period.¹⁰

Staff's witness, Jerry Scheible, also testified regarding his investigation of Koverman's complaint. Scheible is a utility regulatory engineer for the Commission and has held that position for four and a half years. Scheible confirmed that a malfunctioning water meter will not register high usage in one period and then return to normal usage in the next period.¹¹

Both Youngerman and Scheible testified that the observed increase in water usage during one quarter could have resulted from several causes, each of which is more likely than a malfunctioning meter. Since this is an apartment building, the water use habits of the tenants living in the building at that time could have affected water usage. Furthermore, there could have been an undetected leak in the apartment building to account for the increased water usage during the second quarter of 2005. Scheible testified that a silent

⁸ Transcript, page 57, lines 20-23 and Exhibit C.

⁹ Transcript, page 58, lines 17-23.

¹⁰ Transcript, pages 58-59, lines 24-25, 1-2.

¹¹ Transcript, pages 89-90, lines 20-25, 1-6.

toilet leak between the tank and the drain, which would be difficult to detect, could waste as many as 500 gallons of water per day.¹²

For the second quarter of 2005, the period in question, Missouri-American says the apartment building used 169,796 gallons of water. For the second quarter of 2004, water usage at that building was 113,696 gallons. That means that water usage in the second quarter of 2005 increased by 56,100 gallons, or 49 percent.¹³ That is a sizable increase, but it is not so large as to be outside the realm of possibility for this apartment building.¹⁴

CONCLUSIONS OF LAW

The Missouri Public Service Commission has reached the following conclusions of law.

Missouri-American is a public utility as defined by Section 386.020(42), RSMo Supp. 2005. Furthermore, Missouri-American is a water corporation as defined by Section 386.020(58), RSMo Supp. 2005. As such, Missouri-American is subject to the Commission's jurisdiction pursuant to Chapters 386 and 393, RSMo.

Section 386.390, RSMo 2000, authorizes a person, such as Koverman, to bring a complaint before the Commission regarding a public utility.

As the complaining party, Koverman bears the burden of proving the allegations in his complaint.

DECISION

After applying the facts, as it has found them, to its conclusions of law, the Commission has reached the following decisions.

¹² Transcript, page 89, lines 13-19.

¹³ Exhibit 4.

¹⁴ Transcript, page 88, lines 1-7.

Koverman's complaint against Missouri-American rests on the assumption that the unusually high water bill for the second quarter of 2005 could only have resulted from a defective water meter. He did not, however, present any evidence to establish that the water meter was in fact defective. On the contrary, extensive testing of the water meter by Missouri-American revealed that it was not defective at the time it was tested. Expert testimony offered by both American-Water and by the Commission's Staff also established that the water meter was unlikely to have malfunctioned in the spring of 2005, without exhibiting the same defect when it was tested in February 2006. The expert witnesses offered by Missouri-American and Staff agreed that most likely the increased water usage in the second quarter of 2005 resulted either from increased usage by the tenants of the apartment building, or from an undetected leak in the building.

Koverman countered Missouri-American and Staff's implication of increased usage or a leak by asserting that he knows his tenants and would have been aware of increased water usage or a leak. However, it would be impossible for Koverman, or any landlord, to know what is going on in each of his rental units at all times for a three-month period. Given the many possibilities for wastage of water within an apartment building, the Commission cannot presume that the increased water usage recorded by Missouri-American's water meter was the result of a defective meter.

Koverman's complaint is not supported by the evidence and he has not met his burden of proof. The complaint must be denied.

IT IS ORDERED THAT:

1. Gene Koverman's complaint against Missouri-American Water Company is denied.

2. This report and order shall become effective on July 3, 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)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC.,
concur and certify compliance with the provisions
of Section 536.080, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 23rd day of June, 2006.