

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 21st day of July, 2005.

In the Matter of the Application of Missouri-American Water Company for the Approval of an Agreement with the City of Kirkwood, Missouri, to Construct Transmission Mains and Points of Delivery and to Sell and Deliver Water for Resale and Related Tariff Sheets	) ) ) ) ) ) )	<b><u>Case No. WO-2005-0286</u></b> Tariff No. YW-2005-0662
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**ORDER GRANTING APPLICATION**

Issue Date: July 21, 2005

Effective Date: July 25, 2005

**Syllabus:** This order approves Missouri-American Water Company's application to construct mains and points of delivery to sell and deliver water to the City of Kirkwood, and approves the related tariff sheets.

**Procedural History**

On February 24, 2005, Missouri-American Water Company applied for authority to build transmission mains and points of delivery to sell and deliver water to the City of Kirkwood. According to the application, Kirkwood asked Missouri-American to provide water service so that Kirkwood can resell the water to its citizens. Missouri-American attached its contract with Kirkwood to the application.

Missouri-American also filed a related tariff sheet, bearing an effective date of March 26, 2005. Missouri-American later extended the tariff effective date to July 25.

On February 28, the Commission issued an Order and Notice, giving parties until March 14 to intervene. Utility Workers Union of America Local 225, AFL-CIO, moved to intervene. The Commission granted the request. Edward R. Ciarniello, a Kirkwood resident, also moved to intervene. The Commission denied the request.

Partly in response to Mr. Ciarniello's attempt to intervene, the Office of the Public Counsel asked for a Local Public Hearing. The Commission granted the request, and held a Local Public Hearing in Kirkwood on April 28.

### **Staff Recommendation**

On July 11, Staff filed its Recommendation. Staff recommended that the Commission approve the contract with certain conditions. Those conditions are based upon Missouri-American's assumptions of the costs to build the Kirkwood project and the projected net revenue benefits Missouri-American would receive in the first five years of the contract.

#### **Treatment of potential cost overruns**

Staff stated that Missouri-American estimates that building the project to serve Kirkwood would cost approximately \$2.7 million. Further, Missouri-American's estimates of its net revenue benefits for the first five years of the contract are as follows:

- Year 1 - \$218,525
- Year 2 - \$230,560
- Year 3 - \$248,530
- Year 4 - \$267,010
- Year 5 - \$286,180

Staff believes that it is appropriate for a portion of those benefits to be used as a credit to offset Missouri-American's potential cost overruns on the Kirkwood project. Those net revenue benefits would otherwise accrue solely to Missouri-American until the end of its next general rate case.

In short, Staff totaled the five years' predicted net revenue benefits (\$1,250,805), which would average out to \$250,161 per year. Staff states that 75% of that amount, which is \$187,620, should be an annual cost overrun credit to ratepayers against potential cost overruns for the Kirkwood project. That \$187,620 annual credit would accrue to the ratepayers until Missouri-American filed its next general rate case. Staff attached an example of how this formula would apply to hypothetical cost amounts as Attachment 1 to its Recommendation.

Finally, Staff asks that the Commission order Missouri-American to maintain records that document the Kirkwood projects' costs and annual net revenue benefits. Staff expects that those records would be used in Missouri-American's next general rate case.

### **Missouri-American Response**

Missouri-American responded on July 15. In that response, Missouri-American consented to Staff's accounting suggestions, but objected to the treatment of the cost overruns.

Missouri-American stated that Staff's suggested treatment of cost overruns violates Missouri's ban against single-issue ratemaking, found in Section 393.270.4, RSMo. Missouri-American also states that Staff's idea might violate Missouri's ban against retroactive ratemaking, found in Sections 393.140(5) and 393.270.3. Missouri-American

states that the proper time for the Commission to address its concerns, if any, with cost overruns and contract benefits is in Missouri-American's next general rate case.

### **Discussion**

The Commission concurs with Missouri-American's position, and finds that Staff's cost overrun proposal would violate Missouri's ban on single-issue ratemaking. State ex rel. Utility Consumers' Council of Missouri, Inc., v. Public Service Commission, 585 S.W.2d 41, 49, 56 (Mo.banc 1979). The Commission finds that it is in the public interest to approve the contract, with the accounting conditions agreed upon by Staff and Missouri-American. The Commission can address the project's cost overruns, if any, and net revenue benefits in a general rate case.

### **IT IS THEREFORE ORDERED:**

1. That Missouri-American Water Company's Application for the Approval of Agreement and Tariff is approved, subject to the conditions ordered herein.
2. That Missouri-American Water Company shall maintain financial records regarding the costs to build the project approved in paragraph 1.
3. That Missouri-American Water Company shall maintain financial records regarding the annual net revenue benefits it receives from the project approved in paragraph 1.
4. That Missouri-American Water Company's tariff sheet, P.S.C. MO. No. 6, Original Sheet No. RT 6.6, is approved to become effective as of July 25, 2005.

5. That this order shall become effective on July 25, 2005.
6. That this case may be closed on July 26, 2005.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray and Appling, CC., concur  
Gaw and Clayton, CC., dissent

Pridgin, Regulatory Law Judge