

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

In the Matter of the Petition of)
Missouri-American Water Company)
for Approval to Change its Infrastructure) File No. WO-2015-0211
System Replacement Surcharge (ISRS))

RESPONSE TO NOTICE OF COMMUNICATION

COMES NOW the Office of the Public Counsel (“Public Counsel” or “OPC”) and submits this response to the Notice of Communication filed by Missouri-American Water Company (“MAWC”) on April 23, 2015, in the above-captioned matter. In support, Public Counsel states as follows:

Discussion

On April 21, 2015, American Water – the parent of MAWC – held an internal company event for senior managers of central division states at which a Missouri Public Service Commissioner and two other parties appeared in order to participate in a panel discussion. The Commissioner’s advisor also attended the meeting along with executives from MAWC. As described by MAWC, the discussion centered on “customer expectations for utilities and regulators.” *See* MAWC Notice of Communication (attached hereto as Exhibit A). *Ex parte* communication is defined by rule as:

Any communication outside of the contested case hearing process between the commission, a commissioner, a member of the technical advisory staff, or the presiding officer assigned to the proceeding and any party or anticipated party, or the agent or representatives of a party or anticipated party, *regarding any substantive issue.*

4 CSR 240-4.020(1)(G) (emphasis added). A review of pending matters before the PSC indicates the existence of contested cases, including at least one customer complaint case (WC-2015-0171) and a complaint brought by the Office of the Public Counsel (WC-2014-0138).

Where the *ex parte* communication at issue is oral, Rule 4 CSR 240-4.020(8)(B)(2) states the following:

If a contested or anticipated contested case is pending, notice shall be filed in the case file and posted on the commissioner's public calendar forty-eight (48) hours prior to such conversation. A representative of the office of the public counsel shall be provided an opportunity to attend the meeting in person or by other reasonable means.

A review of the docket entries for MAWC's pending cases indicates MAWC failed to file notice of the *ex parte* conversation forty-eight (48) hours prior to its occurrence. Further, MAWC failed to communicate with OPC to provide the office an opportunity to attend the meeting – a meeting about customer expectations for utilities and regulators – in person or by other reasonable means.

In advance of filing this objection, Public Counsel conferred with counsel for MAWC. Counsel for MAWC related that the *ex parte* communication rule violation occurred unintentionally due to a parent company employee's unfamiliarity with *ex parte* communication rules in this jurisdiction. Though the rule makes no distinction between treatment of unintentional rule violations and intentional rule violations, how Public Counsel responds to a violation is informed in part by the answer to that inquiry. Public Counsel is satisfied that MAWC's violation of the rule was unintentional, that MAWC understands its obligations under the rule and intends not to repeat the aforementioned rule violation. Should MAWC engage in future violations of the *ex parte* communication rule, which Public Counsel does not expect at this time, Public Counsel's response will change.

Because the *ex parte* communication rule is designed to protect all litigants in matters before the Commission, and because Public Counsel has actual knowledge of what it considers to be a straightforward violation of the rule for which it may have a duty to report, Public

Counsel does not perceive itself as having the ability to remain silent on the matter.

Accordingly, Public Counsel files this Response to Notice of Communication in all cases to which MAWC is a party and which are pending before the Commission. Given the facts and circumstances of this instance, Public Counsel will take no further action and seeks no action from the Commission.

Respectfully Submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 24th day of April, 2015, to all parties of record in this case.

Missouri Public Service Commission

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/s/ Dustin J. Allison

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

NOTICE OF COMMUNICATION

COMES NOW Missouri-American Water Company (MAWC) and pursuant to 4 CSR 240-4.020 (8), MAWC is filing this Notice of Communication in all its cases pending before the Missouri Public Service Commission.

Event: Panel Roundtable Discussion – American Water Central Division Senior Management Team Meeting
Date: Tuesday, April 21, 2015
Time: 12:30 PM – 1:40 PM (70 minutes)
Location: Hyatt Regency St. Louis

Panelists: MOPSC - Commissioner Daniel Hall
Kraft Foods - Stephanie Brownstein, Environmental Engineer
City of Kirkwood – William Bensing, Director of Public Services

Description: A general discussion on customer expectations for utilities and regulators. A perspective was provided by Commissioner Hall, the City of Kirkwood, and Kraft Foods, as a large industrial customer of water.

MAWC Attendees: President Frank Kartmann, Vice President of Operations Phil Wood, Legal Counsel Tim Luft.

Missouri Commissioner Advisor Amy Moore

There were also representatives present from Iowa-American Water, Illinois-American Water, Kentucky-American Water, and Indiana-American Water.

MISSOURI-AMERICAN WATER COMPANY

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by e-mail to all parties of record on this 23rd day of April, 2015.

/s/ Timothy W. Luft