

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

Kenny and Cathy Cox,	)	
	)	
Complainants,	)	
	)	
v.	)	<b><u>Case No. WC-2008-0302</u></b>
	)	
Missouri American Water Company,	)	
	)	
Respondent.	)	

**ORDER TO SHOW CAUSE WHY COMPLAINT SHOULD NOT BE**  
**DISMISSED**

Issue Date: May 19, 2008

Effective Date: May 19, 2008

On March 12, 2008,<sup>1</sup> Kenny and Cathy Cox filed a complaint with the Commission against Missouri American Water Company ("MAWC"). The Complainants alleged that MAWC engaged in a pattern of delaying and withholding information and deceitful practices resulting in over-billing Complainant thousands of dollars over the course of more than two years in relation to a water line leak. Although MAWC provided the Complainants with a leak adjustment pursuant to its policies, the Complainants alleged that the adjustment was insufficient and requested the Commission to: (1) order MAWC to provide an additional adjustment; (2) order MAWC to compensate Complainants, in the amount of \$500.00, for time spent on the phone dealing with MAWC's customer service; and, (3) order MAWC to cease collections on an unpaid portion of their bill (apparently the amount Complainant believed was in

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<sup>1</sup> All dates throughout this order refer to the year 2008 unless otherwise noted.

relation to the leak).

On April 14, MAWC responded denying Complainant's allegations, stating that: (1) Complainants did not contest the water used as registered by their water meter; (2) MAWC did not receive dozens of calls from Complainants over a two-year period, but rather the first completed phone contact from Complainants was on or around May 1, 2007, and proof of repairs were provided on or around August 14, 2007 (apparently Complainants called earlier on April 22, 2007, but terminated the call without completing a service order); (3) the leak in question was located on Complainants' service line, which is not the company's responsibility to maintain; and, (4) the leak adjustment provided by MAWC pursuant to company policy was a courtesy and was not required by law.<sup>2</sup> MAWC moved the Commission to dismiss the complaint for failure to state a claim upon which relief could be granted.

On April 30, the Staff of the Missouri Public Service Commission filed its report on the investigation into complaint. In its report Staff states: (1) MAWC properly metered the water used and delivered to Complainants' residence; (2) the time associated with MAWC's knowledge of the water leak spanned at maximum 4 months based upon the phone calls placed to MAWC, not 2 years as Complainants alleged; (3) Complainants have only been receiving service from MAWC since September of 2006; (4) Complainants repaired the leak following their conversations with MAWC and provided proof of repairs to MAWC; (4) MAWC provided Complainants with a leak adjustment pursuant to their policy in the amount equal to one-half of the excess use during the two highest usage months of the four months immediately preceding the leak; (5) no Commission Rule, State Statute or the Company's tariff requires MAWC to

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<sup>2</sup> MAWC did offer to let Complainants pay the balance of their bill over a 12-month period.

provide Complainants with a leak adjustment nor was there a violation of any Commission Rule, State Statute or the Company's tariff; and (6) the Commission does not have legal authority to grant monetary relief for any alleged damages for the time Complainants spent on the phone to MAWC. The Staff also recommended that the Commission dismiss the complaint.

On May 5, the Commission directed the Complainants to respond to MAWC's answer and to Staff's report. The Commission requested this response by means of a detailed letter explaining the Complainants rights and obligations in association with a complaint action. The letter also advised Complainants that their complaint could face dismissal if they failed to: (1) respond to Commission orders (4 CSR 240-2.116(3)), prosecute their claim (4 CSR 240-2.116(2)), or attend a prehearing conference, hearing or mediation session (4 CSR 240-2.2.90(3) and 4 CSR 240-2.116(3)). Complainants were directed to respond to the Commission no later than May 16.

The Complainants failed to respond to the Commission's May 5 order, and have not responded to MAWC's answer or to Staff's report. Complainants are directed to file a pleading with the Commission showing cause why their complaint should not be dismissed.

**IT IS ORDERED THAT:**

1. No later than June 5, 2008, Kenny and Cathy Cox shall file a pleading showing cause why their March 12, 2008 complaint against Missouri American Water Company should not be dismissed.

2. This order shall become effective on May 19, 2008.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale  
Secretary

( S E A L )

Harold Stearley, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 19th day of May, 2008.