

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 3rd day of  
September, 2008.

In the Matter of the Application of Missouri-American	)	
Water Company for Approval of an Agreement with	)	<b><u>Case No. WO-2009-0043</u></b>
Nestlé Purina PetCare for Retail Sale and Delivery of	)	Tariff No. YW-2009-0117
Water.	)	

**ORDER APPROVING AGREEMENT, GRANTING WAIVER OF  
TARIFF PROVISION, AND APPROVING TARIFF**

Issue Date: September 3, 2008

Effective Date: September 12, 2008

On August 13, 2008, Missouri-American Water Company (Missouri-American) filed its Application for Approval of Agreement and Tariff. Missouri-American seeks approval of certain proposed tariff sheets and an agreement between itself and Nestlé Purina PetCare (Nestlé). The proposed sheets add Rate Q to Missouri-American's tariffs and bear an effective date of September 12, 2008. Rate Q is a rate "available for service provided to Nestlé Purina PetCare pursuant to the *Contract for the Retail Sale and Delivery of Potable Water* (Contract)." Missouri-American states that the actual rate under which service will be provided to Nestlé is contained in the "highly confidential" agreement itself, termed a Special Service Contract.

In its application, Missouri-American requested that the Commission waive a provision of its St. Joseph Economic Development Rider (EDR)<sup>1</sup> tariff, which requires that

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<sup>1</sup> The EDR tariff is P.S.C. MO. NO. 1, Sheets 49 through 60, for St. Joseph and vicinity.

the particular development create at least fifty new permanent jobs to qualify under the EDR.

The Commission issued its Order Directing Notice and Order Directing Filing on August 15, 2008. This order set an intervention deadline of August 20, 2008, and required the Commission's Staff to file its recommendation by August 26, 2008. Parties wishing to object to the agreement or tariff were directed to do so by August 26, 2008. Notice was directed to all of the parties in Missouri-American's currently pending rate case, Case No. WR-2008-0311. No requests for intervention or objections to the tariff were received.

Staff filed a recommendation on August 26, 2008, stating that after an investigation of the application and supporting schedules, in Staff's opinion the agreement and proposed tariff complied with the provisions of the St. Joseph EDR, with the exception of only creating 30 additional permanent jobs. Staff recommended that the Commission grant a waiver of that tariff provision to promote the economic incentive purpose of the EDR.

**Missouri-American's Economic Development Rider Tariff for St. Joseph and Vicinity**

This case turns upon the terms of Missouri-American's EDR, approved by the Commission in Case No. WT-2004-0156.<sup>2</sup> That tariff offers water service at a discounted rate "to encourage industrial and commercial development in the State of Missouri." Service under the EDR is available only:

[T]o new industrial or commercial customers moving to the Company's service territory from outside the state of Missouri or relocating or expanding from unsuitable facilities within Missouri, or the additional

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<sup>2</sup> *In the Matter of Missouri-American Water Company's Tariff Filing Concerning St. Joseph Economic Development Rider*, Case No. WT-2004-0156 (Order Approving Tariff, issued October 2, 2003).

separately-metered facilities of an existing industrial or commercial customer, that meet the following criteria:

- 1) The annual load factor of the new or additional facilities must reasonably be projected to equal or exceed fifty-five percent (55%) during the entire term of application of this Rider. The projected annual customer load factor shall be determined using the following relationship: Projected Annual Water Consumption, Expressed as MGD Divided by Maximum Summer Monthly Billing Demand, Expressed as MGD.
- 2) The average annual billing demand of the new or additional facilities must be projected to be at least 0.5% of the total district consumption during each contract year under this Rider.
- 3) The customer's new or additional facilities must create new permanent jobs within the facilities qualifying for this Rider. The number of jobs created must be 0.1 % of the total population of the district's service territory, except that any location providing at least 50 jobs qualifies under this paragraph.

The EDR contains General Incentive Provisions and Alternative Incentive Provisions. The former provides for service at a 30 percent discount below the otherwise applicable rate. The discount declines by 5 percent each year and disappears entirely after the end of the fifth year. Thereafter, the normal tariffed rates apply. The Alternative Incentive Provisions permit a discount that exceeds 30 percent and lasts over five years. These incentives are only available:

[i]n the event the General Incentive Provisions are not sufficient and a qualifying customer can demonstrate a viable competitive alternative in another geographical area, which is critical to the customer's decision to locate new or expanding facilities in the Company's service territory, and the qualifying customer can demonstrate that net benefits will accrue to the State of Missouri by locating or expanding its facilities in the Company's service territory[.]

Once eligibility is established, a "competitive rate" is available that (1) does not exceed the tariffed rate that would otherwise be applicable and (2) is sufficient to recover the Variable Production Cost of Water and make a "reasonable" contribution toward all

other costs. Additionally, the customer must pay the monthly customer charge appropriate to its class; the public fire protection service charge appropriate to its class; all applicable taxes; "any other appropriate fees or charges lawfully charged to the customer"; and recoupment of any capital expenses incurred in extending service to the customer. The incentive rate is also subject to an Escalation Charge "based upon changes in published price indices and/or changes in the Company's cost of service." A test for continued eligibility is applied at the end of each contract year and failure to meet it for two successive years terminates eligibility for the incentive rate. A Special Service Contract may be for a term in excess of ten years and may be renewed.

The EDR requires that each such Special Service Contract be filed with, and approved by, the Commission. In support of such a contract, certain specified information is provided to the Commission.

#### **Approval of the Proposed Special Service Contract and Tariff Sheets and Grant of Waiver**

The application explains that Nestlé is undertaking an expansion of its canned pet food products plant located within the city limits of St. Joseph, Missouri. The total investment in the plant is approximately \$26 million and it is expected to create 30 additional jobs, with the potential for more jobs in the future.

St. Joseph is only one of several locations that Nestlé is considering. Because Nestlé will consume large amounts of utility services, an important factor in the plant-expansion decision is the level of utility rates. The application makes clear that Nestlé's expansion plan is influenced greatly by the rates for water service. Nestlé and Missouri-American have negotiated an agreement that, if approved by the Commission, will provide water service at a competitive rate for a period of ten years. Missouri-American

asserts that approval of the agreement and proposed tariff sheets will impose no detriment on other ratepayers in the St. Joseph district and will, in fact, benefit them in many ways. The City of St. Joseph has indicated that the economic effect of the expansion will be 30 new jobs at a base wage of \$34,866 annually plus benefits.

The application shows, and the Commission finds, that Nestlé is eligible for a discounted rate under the EDR with the exception of the number of jobs created. The application also shows, and the Commission finds, that Nestlé is eligible for a rate under the Alternative Incentive Provisions because the General Incentive Provisions are not sufficient, in that Nestlé has viable competitive alternatives in other geographical areas and the availability of a competitive rate is critical to its decision to expand in St. Joseph. The Commission also finds that net benefits will accrue to the state of Missouri if Nestlé expands its St. Joseph plant in the form of an increased annual payroll subject to income taxes and in the form of other benefits to its citizens.

The proposed Special Service Contract also provides for a reasonable contribution toward "all other costs associated with the provision of service" and this contribution will constitute a benefit to the other customers of the St. Joseph district because it will serve to reduce the revenue requirement of the district as a whole. No other customer's rates will increase because this Special Service Contract is approved. No detriments to either the state of Missouri or to the other water service customers in the St. Joseph district have been identified.

The Commission determines that because of the economic effect on the St. Joseph area and the state of Missouri, and the potential for additional jobs in the future, good cause exists to waive, for purposes of this Special Service Contract, the tariff

provision requiring the addition of 50 jobs. Furthermore, the Commission has reviewed the application, the proposed Special Service Contract, the tariff sheets, and the Staff recommendation and, for the reasons discussed above, concludes that, with the waiver, they comply with the EDR and should be approved.

**IT IS ORDERED THAT:**

1. The requirement of P.S.C. MO. NO. 1, Sheet No. 50, that additional facilities must provide at least 50 new jobs, is waived with regard to the Special Service Contract that is the subject of this case.

2. The Special Service Contract filed by Missouri-American Water Company on August 12, 2008, providing for a discount rate for water service to Nestlé Purina PetCare is approved.

3. Missouri-American Water Company's tariff revision filed August 13, 2008, and designated Tariff No. YW-2009-0117 is approved for service on and after September 12, 2008. The tariff sheets approved are:

**P.S.C. MO. NO. 1**

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**3rd Revised SHEET NO. C, Cancelling 2nd Revised SHEET NO. C  
Original SHEET NO. 62**

4. This order shall become effective September 12, 2008.
5. This case may be closed on September 13, 2008.

**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, Clayton,  
Jarrett, and Gunn, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge