

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

Karen Smith,	)	
	)	
Complainant,	)	
	)	Case No. WC-2014-0161
v.	)	
	)	
Missouri-American Water Company,	)	
	)	
Respondent.	)	

**ENTRY OF APPEARANCE, ANSWER OF MISSOURI-AMERICAN WATER COMPANY AND MOTION  
TO DISMISS**

Now comes Timothy W. Luft and enters his appearance on behalf of Missouri-American Water Company in this proceeding.

**ANSWER**

COMES now Respondent Missouri-American Water Company ("MAWC") and for its Answer to the Complaint of Karen Smith ("Smith"), states as follows:

1. On November 27, 2013, Smith with an address of 830 Harrison, St. Louis, Missouri 63144, filed a formal complaint against MAWC (the "Complaint").
2. Any allegation not specifically admitted herein by MAWC is denied. In the following paragraphs, MAWC will restate, and respond to, each allegation from the Complaint.
3. *Respondent, Missouri American Water Company of 727 Craig Road, St. Louis MO 63141, is a public utility under the jurisdiction of the Public Service Commission of the State of Missouri.*

**ANSWER:** MAWC admits the allegation of paragraph 1 of the Complaint, but notes that its correct legal name is "Missouri-American Water Company."

4. *Please see attached documentation provided for detail description of the facts.*

**ANSWER:** MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this sentence and therefore denies the same.

5. *In January of 2013, Missouri American Water Company began work to replace water line on Harrison, St. Louis MO 63144.*

**ANSWER:** MAWC admits the allegations of contained in this sentence.

6. *On February 4, 2013, Water Company broke the gas line and nicked/broke the water line going to the house located at 8930 Harrison, St. Louis MO, 63144.*

**ANSWER:** MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this sentence and therefore denies the same. MAWC further notes that per its tariff, the service line is to be maintained by the customer, and is not maintained by MAWC.

7. *Homeowner had gravel and oil going through water pipes in house causing damage to faucets, appliance and tub.*

**ANSWER:** MAWC is without knowledge or information sufficient to form a belief as to the truth of the averments contained in this sentence and therefore denies the same.

8. *Water Company did not take responsibility for damages caused by their actions.*

**ANSWER:** MAWC denies the averments contained in this sentence. MAWC further states that it has investigated and attempted to address the issues raised by Complainant.

9. *Additionally, the Water Company did inferior work in repairing damages to curbs, sidewalks, driveways and yards.*

**ANSWER:** MAWC denies the averments contained in this sentence.

10. Throughout the Water Companys [sic] work, they provided inaccurate information and ultimately stopped returning phone calls.

**ANSWER:** MAWC denies that it provided inaccurate information. It is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in this sentence and therefore denies the same.

11. MAWC further states that on April 2, 2013 Smith filed an informal complaint, Complaint No. C201301951 with the Missouri Public Service Commission (“PSC” or “Commission”) against MAWC for the issue at hand in this formal complaint case.

12. On November 8, 2013 the Commission issued a Memorandum in that informal complaint dictating that “no specific relief can be expected for Ms. Smith’s frustrating experience...Ms. Smith is not likely to find satisfaction from the Commission on the plumbing fixtures or the property restoration issue, either in this informal venue or by means of a Formal Complaint.” See **Exhibit A**.

#### **MOTION TO DISMISS AND AFFIRMATIVE DEFENSE**

1. In support of its Motion to Dismiss and as an affirmative defense, MAWC states that Complaint fails to state a claim upon which relief may be granted, in that it does not allege any violation of a statute, rule, or Commission Order, and requests only monetary relief, something that the Commission does not have statutory authority to grant. *See Order Granting Motion to Dismiss, Davis v. Laclede Gas Company*, Case No. GC-2000-771 (issued December 28, 2000), *citing Wilshire Constr. Co. v. Union Electric Co.*, 463 S.W.2d 903, 905 (Mo. banc 1971).

WHEREFORE, Missouri-American Water Company respectfully requests that the Missouri Public Service Commission dismiss the Complaint with prejudice.

Respectfully submitted,

MISSOURI-AMERICAN WATER COMPANY

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was filed electronically and served either electronically or mailed postage prepaid the 2<sup>nd</sup> day of January, 2013 to:

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