

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Missouri-American Water Company's)
Tariff to Revise Water and Sewer Rate Schedules.) **Case No. WR-2003-0500**

ORDER DIRECTING FILING

Issue Date: August 16, 2005

Effective Date: August 16, 2005

Procedural History:

In its Order Approving Stipulations and Agreements of April 6, 2004, the Commission approved, and directed the parties to comply with, a series of three stipulations and agreements that, taken together, resolved all outstanding issues in this general rate case. One of those stipulations and agreements, the Revenue Requirement Stipulation and Agreement, provided in part that Missouri-American Water Company, the Commission's Staff and the Public Counsel would cooperate to obtain promulgation of a Commission rule on affiliate transactions applicable to the Company and its affiliates by April 16, 2005. This date was later extended to August 15, 2005.¹

On August 15, 2005, Staff filed its Memorandum to the Commission Concerning the Affiliate Transaction Rule for Water Utilities. Therein, Staff reports that the parties have not been able to reach agreement on the text of a proposed rule, despite the exchange of proposed language and discussions. Staff states its opinion that further efforts are not likely to result in agreement. Staff advises the Commission to proceed with rulemaking on the basis of Staff's proposed text, without the agreement of the other parties.

¹ Order Directing Filing, issued April 14, 2005.

Also on August 15, Missouri-American filed its Response to Order Directing Filing. That pleading also states that "despite the parties' best efforts," no agreement on the language of a proposed rule was reached. Missouri-American requests guidance from the Commission as to further proceedings. The Company states that it is willing to continue discussions with Staff and Public Counsel or to file its own proposed rule if requested by the Commission.

Public Counsel has not filed any pleading.

Discussion:

Staff's Memorandum contains a useful summation of the reasons that an affiliate transaction rule is needed, as well as a review of the major points of disagreement between the parties. As Staff points out in its Memorandum, the Missouri Supreme Court has stated that the expansion of regulated utilities into unregulated areas "gives utilities the opportunity and incentive to shift their non-regulated costs to their regulated operations with the effect of unnecessarily increasing the rates charged to the utilities' customers."² The issue arose in this case because Missouri-American pays significant amounts to various unregulated affiliates for certain services, including accounting, engineering, a call center, and the like. Missouri-American also made its customer information available to an unregulated affiliate that used the information to sell a water line protection plan to those customers.

With respect to further proceedings, it would be useful at this point to examine the language proposed by the parties. The Commission will therefore direct the parties to file their proposed language in this docket, so that it may review and consider the alternative proposals.

² *St. ex rel. Atmos Energy Corp. v. Public Service Comm'n*, 103 S.W.3d 753, 764 (Mo. banc 2003).

IT IS THEREFORE ORDERED:

1. That Missouri-American Water Company and the Commission's Staff shall, and the Public Counsel may, on or before September 16, 2005, file their proposed affiliate transaction rules for water corporations.
2. That this order shall become effective on August 16, 2005.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Kevin A. Thompson, Deputy Chief
Regulatory Law Judge, by delegation
of authority pursuant to Section 386.240,
RSMo 2000.

Dated at Jefferson City, Missouri,
on this 16th day of August, 2005.