

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 15th day of
May, 2007.

In the Matter of Missouri-American)
Water Company's Request for Authority)
to Implement a General Rate Increase)
for Water Service Provided in Missouri)

Case No. WR-2007-0216, et al.

ORDER DENYING MOTION TO CONSOLIDATE

Issue Date: May 15, 2007

Effective Date: May 15, 2007

On December 15, 2006, Missouri-American Company applied to the Commission for authority to file tariffs increasing rates for water and sewer service provided to customers in the service area of the Company. On January 10, 2007, the City of Joplin, Missouri ("Joplin"), filed an application to intervene, which was granted on January 23.

On March 29, 2007, Joplin filed a Motion to Consolidate, requesting that Case Nos. WR-2000-0281 and WR-2007-0216 be consolidated. Joplin was an intervenor in WR-2000-0281, which was Missouri-American's 2000 rate case. Joplin sought judicial review of the Commission's August 2000 Report and Order in that matter. A lengthy process of appeals, orders and continuing appeals ensued. On May 24, 2004, the Commission issued a Report and Order on Remand, in which it determined the matter was moot, in that the rates that resulted from WR-2000-281 were superseded by rates approved in WR-2003-0500 (Missouri-American's 2003 rate case). Subsequently, the case was remanded to the Commission again, this time by the Court of Appeals for the Western

District “for the Commission to issue findings of fact and conclusions of law that will allow the courts to determine whether the rates were unduly prejudicial under section 393.130.3.” *State ex rel. City of Joplin v. Public Service Commission*, 186 S.W.3d 290, 300 (Mo. App. 2005).

As Missouri-American notes in its April 5, 2007 suggestions in opposition to Joplin’s motion, all that is required at this time in WR-2000-281 is alteration of the Commission’s existing Report and Order. There is no need for additional evidence or briefing. The record was closed and the briefing completed many years ago. The Court of Appeals pointed out in regard to Joplin’s arguments that “the Commission lacks authority to retroactively correct rates,” lacks the authority to refund money,” and may not “take into account overpayments when fashioning prospective rates.” *City of Joplin* at p. 297.

The process under way in the current case is unrelated to alteration of the 2000 Order. The findings of fact and conclusions of law to be added to the 2000 Order must be drawn from that case’s existing record and then-applicable laws, an entirely different process from issuing a Report and Order based on the facts adduced in the record of the present case and applying presently applicable laws to those facts. Judicial economy is likely to suffer, rather than benefit, from consolidation of these two cases, with their separate records and circumstances.

Commission Rule 4 CSR 240-2.110(3) states that the Commission may consolidate cases that involve related questions of law or fact. Although there may happen to be some facts in common, rate cases require the Commission to review the record in its entirety to determine just and reasonable rates. Any findings and conclusions that need to be added

to the 2000 case must be determined after review of the whole record in that case.
Therefore, the Motion to Consolidate will be denied.

IT IS ORDERED THAT:

1. The Motion to Consolidate Case Nos. WR-2000-0281 and WR-2007-0216, filed by the City of Joplin, Missouri, is hereby denied.
2. This order shall become effective on May 15, 2007.

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, Gaw, Clayton and Appling, CC., concur

Dale, Chief Regulatory Law Judge