

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

In the Matter of Missouri-American Water Company's ) **File No. WR-2010-0131**  
Request for Authority to Implement a )  
General Rate Increase for Water Service )  
Provided in Missouri Service Areas ) Tracking No. YW-2010-0310

**ORDER SUSPENDING TARIFF, DIRECTING FILINGS, SETTING  
CONFERENCES AND HEARINGS, AND DIRECTING NOTICE; AND  
NOTICE OF CONTESTED CASE**

Issue Date: November 18, 2009

Effective Date: November 18, 2009

On October 30, 2009, Missouri-American Water Company (“the company”) filed certain proposed tariff sheets (“tariff”) with the Missouri Public Service Commission to implement a general rate increase for retail water service. The company states that it designed the tariff to produce an additional \$48,558,667 annually in new water revenues, exclusive of applicable taxes and fees. The company states such amount constitutes a 22.5 percent increase over existing revenues.

The tariff’s purposes also include consolidating the rules and conditions of water service for all the company’s water service territories. The Commission has assigned Tariff Tracking No. YW-2010-0310 to the tariff. The tariff is accompanied by prepared direct testimony in support of the tariff and other materials.

The tariff bears an effective date of November 29, 2009.

**1. Suspension of Tariff and Notice of Contested Case**

The tariff’s effective date does not allow sufficient time to determine whether the tariffs are just and reasonable as the law requires.<sup>1</sup> Therefore, the Commission will

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<sup>1</sup> Section 393.190.1, RSMo Supp. 2008.

suspend the tariffs as the law allows.<sup>2</sup> The law allows a suspension for a period of 120 days beyond the tariff's effective date<sup>3</sup> and, if the Commission cannot conclude the hearing within that period, the commission may extend the suspension for a further six months.<sup>4</sup> The Commission's experience demonstrates that it cannot conclude a hearing on the tariff in 120 days, so the Commission will extend the suspension a further six months.

The statutes allow the Commission to suspend the tariff only pending a "full" hearing and decision on the tariff's propriety.<sup>5</sup> The provision for a full pre-decision hearing signifies that this action is now a "contested case."<sup>6</sup> A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities<sup>7</sup> and a decision without a hearing,<sup>8</sup> including by stipulation and agreement.<sup>9</sup>

This order and notice does not require any party to file an answer.<sup>10</sup> The Commission's discovery regulations are at 4 CSR 240-2.090.<sup>11</sup> Because the "hearing involv[es] a rate sought to be increased, the burden of proof to show that the . . . proposed

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<sup>2</sup> Section 393.150.1, RSMo 2000.

<sup>3</sup> *Id.*

<sup>4</sup> Section 393.150.2, RSMo 2000.

<sup>5</sup> Section 393.150.1, RSMo 2000.

<sup>6</sup> Section 536.010(4), RSMo Supp. 2008.

<sup>7</sup> Sections 536.060(3) and 536.063(3), RSMo 2000.

<sup>8</sup> Sections 536.060, RSMo 2000.

<sup>9</sup> 4 CSR 240-2.115.

<sup>10</sup> Section 536.067(2)(d), RSMo 2000.

<sup>11</sup> Section 536.067(2)(f), RSMo 2000.

increased rate is just and reasonable shall be upon the gas corporation seeking the increase[. <sup>12</sup>]”

## **2. Intervention**

The Commission will set a deadline for filing motions to intervene and a deadline for responses to such motions.

## **3. Test Year and True-up**

The company proposes a historical test year ending June 30, 2009. The company also proposes an update (“true-up”) for known and measurable changes through April 30, 2010.<sup>13</sup> To quickly resolve test year and true-up questions, the Commission will require the other parties to promptly state their positions regarding Missouri-American’s test year and true-up proposal.

## **4. Early Prehearing Conference, Procedural Schedule, and Local Public Hearings**

The Commission will set an early prehearing conference and require the parties to file a proposed procedural schedule. The Staff of the Commission shall have primary responsibility for preparing the proposed procedural schedule. Staff shall coordinate the proposed schedule with the company, the Office of the Public Counsel, and any intervenors, where possible with:

- additional filing dates for testimony;
- a second prehearing conference or settlement conference, if necessary;
- the statement of issues list;

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<sup>12</sup> Section 393.150.2, RSMo 2000

<sup>13</sup> *Recommendation Concerning Test Year and Request for True-Up Audit and Hearing*, filed November 2, 2009.

- the position statements of the parties or pretrial briefs or both; and
- the reconciliation.

The Commission will also direct the parties to file recommendations as to the number, date, time, and location of local public hearings. Dates for local public hearings shall be at least one week after the filing of all direct testimony.

### **5. Hearing Dates**

The Commission will schedule the evidentiary hearing dates in this order and will reserve dates for a true-up hearing. By establishing the hearing dates now, the Commission will ensure that it hears this matter as expeditiously as possible. Additionally, the early establishment of the hearing dates will allow ample time for notice to customers.

### **6. Notices**

Missouri-American shall give notice to customers as directed in the ordered paragraphs below. The Commission's Data Center shall serve a copy of this order upon the county commission of each county in Missouri-American's service area, and upon every party to Missouri-American's last general rate case, Case No. WR-2007-0216. In addition, the Commission's Public Information Office shall make notice of this order available to the media serving Missouri-American's service area and to the members of the General Assembly representing the residents of Missouri-American's service area.

#### **THE COMMISSION ORDERS THAT:**

1. The proposed water service tariff sheets filed on October 30, 2009, by Missouri-American Water Company under Tariff Tracking No. YW-2010-0310 are suspended as follows.
  - a. The specific tariff sheets ("the tariff") suspended are:

**P.S.C. MO No. 9**

**Original Sheet No. RT 1**  
**Original Sheet No. RT 2**  
**Original Sheet No. RT 3**  
**Original Sheet No. RT 4**  
**Original Sheet No. RT 5**  
**Original Sheet No. RT 6**  
**Original Sheet No. RT 7**  
**Original Sheet No. RT 8**  
**Original Sheet No. RT 9**  
**Original Sheet No. RT 10**  
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**Original Sheet No. RT 63**  
**Original Sheet No. RT 64**

- b. The tariff sheets specified in ordered paragraph 1 are suspended for 120 days, from November 29, 2009, to March 29, 2010.
  - c. The suspension ordered paragraph 1a is extended an additional six months beyond March 29, 2010, to September 29, 2010.
2. The Commission will consider motions to intervene and responses as follows:
- a. Any application for intervention shall be filed no later than November 30, 2009.
  - b. Any response to any application for intervention shall be filed no later than December 4, 2009.
  - c. Any application for intervention or response to such application shall be filed electronically at: [www.psc.mo.gov](http://www.psc.mo.gov) or delivered to:

Secretary  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102-0360

3. No later than December 11, 2009, each party, including persons granted intervention, shall file a response to Missouri-American Water Company's proposed test year and true up period. Such response shall either:

- a. state concurrence in Missouri-American Water Company's proposal; or
- b. propose an alternative.

4. The early prehearing conference, procedural schedule, and local public hearings shall be set as follows:

- a. A regulatory law judge assigned to this action will convene an early pre-hearing conference on December 14, 2009, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri.
- b. To participate in the early pre-hearing conference, any party shall appear at the time and place set forth in ordered paragraph 4a in person or, no later than December 10, 2009, file a motion to appear by telephone.
- c. The parties shall jointly or separately file a proposed procedural schedule as described in the body of this order, including recommendations as to the times, dates and locations for local public hearings, no later than January 5, 2010.

5. Dates for evidentiary hearings are as follows.

- a. A regulatory law judge assigned to this action will convene an evidentiary hearing on May 17, 2010, at 9:00 a.m. The hearing will be held in

Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The Commission has reserved May 17 through 21, 2010, and May 24 through 28, 2010, for the evidentiary hearing.

- b. The Commission has reserved June 16 through 18, 2010, for any required true-up hearing in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri.

6. Notice of this action shall be as follows.

- a. The Data Center of the Missouri Public Service Commission shall serve a copy of this order upon the county commission of each county in Missouri-American Water Company's Missouri water service area and upon every party to Case No. WR-2007-0216.
- b. The Missouri Public Service Commission's Public Information Office shall make notice of this order available to the members of the General Assembly representing the residents of Missouri-American Water Company's Missouri service area and to the news media serving those residents.
- c. Missouri-American Water Company shall notify each affected customer of the hearings scheduled in this case, either by a notice on, or accompanying, a bill; or by a separate notice, at least ten days, but not more than 45 days, before any local public hearings, or evidentiary hearing, whichever is earlier. Such notice shall include notice of the application in File No. WE-2020-0136. The form of the notice shall be



subject to the agreement of all parties and shall be filed for the Commission's approval no later than 60 days before any local public hearings, or evidentiary hearing, whichever is earlier.

7. All hearings and conferences described in this order will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. Any person needing additional accommodations to participate in any hearing or conference shall call the Missouri Public Service Commission's Hotline at 800-392-4211 (voice) or Relay Missouri at 711 before the date of that event.

8. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Daniel Jordan, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 18<sup>th</sup> day of November, 2009.