

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

ROB LEE,

Complainant,

v.

MISSOURI AMERICAN
WATER COMPANY,

Respondent.

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File No. WC-2009-0277

ORDER GRANTING IN PART MOTION FOR DEADLINE

Issue Date: June 2, 2009

Effective Date: June 2, 2009

The Missouri Public Service Commission is: granting in part Rob Lee's motion to set a deadline ("motion for deadline") for Missouri American Water Company ("MAWC") to produce matters in response to discovery. Discovery before the Commission is virtually the same as under the Missouri Supreme Court rules for civil actions in circuit court.¹ The Commission has set the hearing on the parties' agreed dates of June 9 and 10, 2009.

Mr. Lee filed the motion for deadline on June 1, 2009. That same day, the Commission granted the motion for deadline in part and ordered MAWC to file a response to the remainder ("response"). On June 2, 2009, MAWC filed its response, which included a motion to reconsider or clarify. That same day, the Commission denied that motion to reconsider or clarify but issued a protective order limiting the scope of one discovery item.

The remaining part of Mr. Lee's motion for deadline asked the Commission to set a deadline for MAWC to produce the matters that were the subject of the Commission's orders dated May 29 and June 1, 2009 ("discovery orders"). The discovery orders granted

¹ Section 536.073.2, RSMo 2000, and 4 CSR 240-2.090(1) and (2).

Mr. Lee's motions to compel compliance with Mr. Lee's first and second discovery requests, subject to limitations. The Commission will grant the remaining part of Mr. Lee's motion for deadline, but not the one that Mr. Lee requested, which was ten and one-quarter hours after he filed the motion for deadline.

MAWC's response raises issues with the following items:

Item	Matter
First Request No. 1	Repair records for last nineteen (19) years within a 1/4 mile radius of 11119 Carl, St.
Second Request No. 2	All records of any leak testing performed on the water system in the last 70 years within one quarter mile radius of my home at 11119 Carl, St. Louis Mo 63138. If no records exist please state how MAWC has verified the integrity of [its] aging water system.
Second Request No. 3	A list of all complaints within one quarter mile radius of my home at 11119 Carl, St. Louis Mo 63138 in the last 19 years and the action taken to resolve each complaint.

MAWC states that it can comply with the discovery orders by June 5, 2009, if the Commission imposes more limits than the Commission has already imposed in the discovery orders as follows.

As to First Request Item No. 1, MAWC seeks a limitation to the past ten years. We granted that request in our protective order issued on June 2, 2009. As to Second Request Item Nos. 2 and 3, MAWC seeks a limitation to the past seven years. But MAWC has also stated that:

. . . it has previously produced to Complainant said records for the previous ten (10) year period in the civil action styled *Rob Lee v. Missouri-American Water Co.*, pending in Division 15 of St. Louis County Circuit Court, Cause No. 08SL-CC001242, as well as in this action.^[2]

² "Respondent's Objections to Complainant's 2nd Request for Information from MAWC" filed on May 15, 2009; and "Respondent's Response to Complainant's 2nd Request for Information from MAWC" filed on May 26, 2009. Emphasis added.

Thus, no such additional limitation on discovery should be necessary for MAWC's compliance with Second Request Item Nos. 2 and 3.

Therefore, the Commission will set the deadline at 5:00 p.m., June 5, 2009.

THE COMMISSION ORDERS THAT:

1. The motion for deadline is granted in part. MAWC shall comply with our discovery orders by producing the required matters no later than 5:00 p.m. June 5, 2009.
2. This order shall become effective immediately upon issuance.

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)

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

Dated at Jefferson City, Missouri,
on this 2nd day of June 2009.