

In the Matter of:

The Proposed Missouri-American Water Company 2nd Revised Tariff Sheet No. R 65

WT-2019-0054 VOL. I

November 21, 2018



www.tigercr.com 573.999.2662

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Pre-Hearing Conference
November 21, 2018
Jefferson City, Missouri
Volume 1

In The Matter Of The Proposed)
Missouri-American Water Company's) File No.
WT-2019-0054 2nd Revised Tariff Sheet)
No. R 65)

JOHN T. CLARK, Presiding
REGULATORY LAW JUDGE

REPORTED BY:
Beverly Jean Bentch, CCR No. 640
TIGER COURT REPORTING, LLC

Page

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

WILLIAM R. ENGLAND, III, Attorney at Law
Brydon, Swearngen & England, PC
PO Box 456
Jefferson City, Missouri 65102-0456
573.635.7166

FOR: Missouri-American Water Company

CHRISTOPHER R. PIEPER, Attorney at Law
Blitz, Bardgett, Deutsch
414 East Broadway
Columbia, Missouri 65201
573.634.2500

FOR: Home Builders Association of St. Louis
and Eastern Missouri

CALEB HALL, Senior Counsel
PO Box 2230
Jefferson City, Missouri 65102
573.526.1445

FOR: Office of the Public Counsel

MARK JOHNSON, Senior Counsel
200 Madison Street, Suite 800
PO Box 360
Jefferson City, Missouri 65102-0360
573.751.4140

FOR: Staff of the Missouri Public Service Commission

SUE A. SCHULTZ, Attorney at Law (By phone)
475 Regency Park, Suite 175
O'Fallon, Illinois 62269
314.425.8431

FOR: Avondale Custom Homes, LLC

TIMOTHY W. LUFT, Attorney at Law (By phone)
Missouri-American Water Company
727 Craig Road
St. Louis, Missouri 63141
314.996.2279

FOR: Missouri-American Water Company

Page

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

JUDGE CLARK: Why don't we go on the record now. Today's date is November 21, 2018, and the current time is nine o'clock a.m. We're in Room 305 of the Governor Office Building. The Commission has set aside this time for a Procedural Conference in the case captioned as In The Matter Of The Proposed Missouri-American Water Company 2nd Revised Tariff Sheet No. R 65, File No. WT-2019-0054.

My name is John Clark. I'm the Regulatory Law Judge assigned to this matter. I'm going to begin by asking the attorneys to make their entries of appearance starting with Missouri-American Water.

MR. ENGLAND: Thank you, Your Honor. Let the record reflect the appearance of W.R. England with the law firm of Brydon, Swearngen & England, Post Office Box 456, Jefferson City, Missouri, on behalf of Missouri-American Company, and I believe Tim Luft, attorney for Missouri-American Water Company is also participating by phone.

JUDGE CLARK: Okay. Mr. England, thank you. Mr. Luft, were you able to hear that?

MR. LUFT: Barely.

JUDGE CLARK: I'm sorry. It's going to be hard to hear. If any of the parties directly need to
Page

1 talk, don't ask me to approach. Just come up and you're
2 welcome to speak into the speaker phone. So I have
3 entries from Mr. England and Mr. Luft. From the
4 Commission Staff?

5 MR. JOHNSON: Thank you, Judge. Mark Johnson
6 on behalf of the Staff of the Public Service Commission.

7 JUDGE CLARK: From the Office of the Public
8 Counsel?

9 MR. HALL: Caleb Hall on behalf of Public
10 Counsel. My contact information has been provided to
11 the reporter.

12 JUDGE CLARK: Thank you, Mr. Hall. From the
13 Home Builders Association of St. Louis and Eastern
14 Missouri?

15 MR. PIEPER: Yes. Chris Pieper with the law
16 firm Blitz, Bardgett & Deutsch, 414 East Broadway, Suite
17 100, Columbia, Missouri, 65201.

18 JUDGE CLARK: Thank you, Mr. Pieper. And from
19 Avondale Custom Homes, LLC?

20 MS. SCHULTZ: Sue Schultz with Sandberg,
21 Phoenix & Von Gontard.

22 JUDGE CLARK: Have I missed anyone? I don't
23 think so. I'm going to ask everybody to bear with me.
24 My daughter brought home from preschool a little bit of
25 a cold for me. I'm not going to pretend to understand

Page

1 all of this. My understanding is that a tariff was
2 filed in relation to some changes with the tax law
3 regarding contribution and aid of construction and that
4 the Commission Staff asked to have that suspended so
5 that they could do some further investigation and they
6 subsequently submitted a recommendation.

7 I also received two applications to intervene
8 that were granted from the Home Builders Association of
9 St. Louis and Eastern Missouri and from Avondale Custom
10 Homes LLC. I guess at this time are there any
11 preliminary matters I need to address? Seeing nothing.

12 I'm going to say that this is currently
13 suspended until December 7 of 2018. I assume that I'll
14 receive another motion from Staff in regard to further
15 suspension as necessary.

16 MR. JOHNSON: At this time we are not
17 anticipating doing that.

18 JUDGE CLARK: Okay. So if there's any
19 suspension at all, it's going to come from me?

20 MR. JOHNSON: Yes.

21 JUDGE CLARK: Or from the intervenors or
22 another party. I want to sort out real quick what the
23 nature of the intervenors are. This is directed at the
24 Home Builders Association of St. Louis and Eastern
25 Missouri and Avondale Custom Homes. Because people file

Page

1 motions for intervention for different reasons,
2 sometimes they file just because they're interested
3 parties and want to receive the filings and see what's
4 going on. Sometimes they are interested in contesting
5 or having a part in what's going on. So since I've got
6 you here, Mr. Pieper, from Home Builders Association of
7 St. Louis and Eastern Missouri, what's your interest in
8 intervention?

9 MR. PIEPER: Thank you, Judge. Our interest
10 in intervention is we are directly and potentially
11 adversely impacted by any decision of the Commission
12 regarding this tariff. I would say that the process
13 that has happened thus far since May with the workshop
14 and other proceedings with both Commission Staff as well
15 as in this matter we felt the need to protect our
16 association's interests with respect to this change in
17 the tax law.

18 JUDGE CLARK: Okay. So you see yourself not
19 as just an interested party but as an active party
20 that's contesting this?

21 MR. PIEPER: We are not contesting the tariff.
22 We're in support of the tariff. But in order to ensure
23 that our interests are protected, we entered our
24 appearance and sought intervention to protect those
25 interests.

Page

1 JUDGE CLARK: Okay. Are you opposing the
2 recommendation of Staff or asking for a hearing at this
3 point in time?

4 MR. PIEPER: No, Your Honor. We support the
5 recommendation of Staff. We think it's a reasonable
6 approach to this unforeseen change in the Federal Tax
7 Code. We've worked with Staff through the workshop
8 process and then also in this matter to assist in their
9 investigation, and we are in full support of the Staff's
10 recommendation.

11 JUDGE CLARK: Okay. Thank you. And Avondale
12 Custom Homes, what's your intervention interest? Ms.
13 Schultz?

14 MS. SCHULTZ: I'm sorry. I had it on mute. I
15 will say I could not really hear what Mr. Pieper was
16 saying.

17 JUDGE CLARK: I can summarize it for you.

18 MS. SCHULTZ: I heard a little summary. I
19 think we're good. Thank you, Your Honor.

20 We are interested because my client has a
21 small development currently and a large development
22 planned that would be greatly impacted by the treatment
23 of the CIAC tax. So we are an active interested party.
24 However, as this proceeding has gone along with the
25 tariffs that Missouri-American has proposed that is

Page

1 currently in suspension, we do support that tariff. So
2 we are not asking for any further suspension or hearing
3 at this point.

4 JUDGE CLARK: Okay. That kind of settles
5 almost all the issues for me. What is the Office of
6 Public Counsel's position?

7 MR. HALL: At this time we are not contesting
8 Staff's recommendation and we are not requesting a
9 hearing at this time.

10 JUDGE CLARK: I don't hear anybody contesting
11 this. So I'm not going to order the parties to put
12 together a procedural schedule of any kind. And what I
13 will do is probably put this before the Commission to
14 see if they want to approve the tariff or not.

15 Just for everybody's information, I'm going to
16 be gone next week. So this will probably not occur next
17 week. And the earliest that this will occur will be the
18 beginning of December. So it's possible, I'm going to
19 try not to, but it's possible that it might be suspended
20 another week before going before the Commission.

21 I think I've said about everything I have to
22 say given that I have everybody's positions and I know
23 now that nobody is going to be filing for a hearing.
24 With that, are there any other matters that need to be
25 addressed by the Commission at this time?

Page

1 Okay. I want to thank everyone for coming in,
2 and I hope I didn't waste anybody's time. I just wanted
3 to ascertain whether or not this was going to be a
4 contested case in any way or not. I hadn't received any
5 filings indicating one way or the other whether there
6 was or not. When I have parties that I don't know how
7 much experience they have before the Commission, I don't
8 necessarily want to deprive them of any rights to a
9 hearing that they may not know that they have but would
10 need to affirmatively apply for.

11 So that being said and hearing no other
12 matters, we'll go off the record and this hearing is
13 adjourned.

14 (Off the record.)

15
16
17
18
19
20
21
22
23
24
25

Page

CERTIFICATE OF REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, Beverly Jean Bentch, RPR, CCR No. 640, Certified Court Reporter with the firm of Tiger Court Reporting, LLC, within the State of Missouri, do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a full, true and correct transcript of such Stenotype notes so made at such time and place.

Beverly Jean Bentch

Beverly Jean Bentch, CCR No. 640

1	anybody's 9:2	C	December 5:13 8:18
100 4:17	appearance 3:12,15 6:24	Caleb 4:9	decision 6:11
2	applications 5:7	captioned 3:7	deprive 9:8
2018 3:3 5:13	apply 9:10	case 3:6 9:4	Deutsch 4:16
21 3:3	approach 4:1 7:6	change 6:16 7:6	development 7:21
2nd 3:8	approve 8:14	Chris 4:15	directed 5:23
3	ascertain 9:3	CIAC 7:23	directly 3:25 6:10
305 3:4	assigned 3:11	City 3:17	E
4	assist 7:8	Clark 3:2,10,21,24 4:7,12,18,22 5:18,21 6:18 7:1,11,17 8:4,10	earliest 8:17
414 4:16	Association 4:13 5:8,24 6:6	client 7:20	East 4:16
456 3:17	association's 6:16	Code 7:7	Eastern 4:13 5:9,24 6:7
6	assume 5:13	cold 4:25	England 3:14,15,16, 21 4:3
65 3:9	attorney 3:19	Columbia 4:17	ensure 6:22
65201 4:17	attorneys 3:12	Commission 3:5 4:4, 6 5:4 6:11,14 8:13,20, 25 9:7	entered 6:23
7	Avondale 4:19 5:9,25 7:11	Company 3:8,18,19	entries 3:12 4:3
7 5:13	B	Conference 3:6	everybody's 8:15,22
A	Bardgett 4:16	construction 5:3	experience 9:7
a.m. 3:4	Barely 3:23	contact 4:10	F
active 6:19 7:23	bear 4:23	contested 9:4	Federal 7:6
address 5:11	begin 3:11	contesting 6:4,20,21 8:7,10	felt 6:15
addressed 8:25	beginning 8:18	contribution 5:3	file 3:9 5:25 6:2
adjourned 9:13	behalf 3:17 4:6,9	Counsel 4:8,10	filed 5:2
adversely 6:11	bit 4:24	Counsel's 8:6	filing 8:23
affirmatively 9:10	Blitz 4:16	current 3:3	filings 6:3 9:5
aid 5:3	Box 3:17	Custom 4:19 5:9,25 7:12	firm 3:16 4:16
anticipating 5:17	Broadway 4:16	D	full 7:9
	brought 4:24	date 3:3	G
	Brydon 3:16	daughter 4:24	Gontard 4:21
	Builders 4:13 5:8,24 6:6		good 7:19
	Building 3:5		Governor 3:5

<p>granted 5:8</p> <p>greatly 7:22</p> <p>guess 5:10</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>Hall 4:9,12 8:7</p> <p>happened 6:13</p> <p>hard 3:25</p> <p>hear 3:22,25 7:15 8:10</p> <p>heard 7:18</p> <p>hearing 7:2 8:2,9,23 9:9,11,12</p> <p>home 4:13,24 5:8,24 6:6</p> <p>Homes 4:19 5:10,25 7:12</p> <p>Honor 3:14 7:4,19</p> <p>hope 9:2</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>impacted 6:11 7:22</p> <p>indicating 9:5</p> <p>information 4:10 8:15</p> <p>interest 6:7,9 7:12</p> <p>interested 6:2,4,19 7:20,23</p> <p>interests 6:16,23,25</p> <p>intervene 5:7</p> <p>intervenors 5:21,23</p> <p>intervention 6:1,8, 10,24 7:12</p> <p>investigation 5:5 7:9</p> <p>issues 8:5</p>	<hr/> <p style="text-align: center;">J</p> <hr/> <p>Jefferson 3:17</p> <p>John 3:10</p> <p>Johnson 4:5 5:16,20</p> <p>Judge 3:2,11,21,24 4:5,7,12,18,22 5:18,21 6:9,18 7:1,11,17 8:4, 10</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>kind 8:4,12</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>large 7:21</p> <p>law 3:10,16 4:15 5:2 6:17</p> <p>LLC 4:19 5:10</p> <p>Louis 4:13 5:9,24 6:7</p> <p>Luft 3:18,22,23 4:3</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>make 3:12</p> <p>Mark 4:5</p> <p>matter 3:7,11 6:15 7:8</p> <p>matters 5:11 8:24 9:12</p> <p>missed 4:22</p> <p>Missouri 3:17 4:14, 17 5:9,25 6:7</p> <p>Missouri-american 3:8,13,18,19 7:25</p> <p>motion 5:14</p> <p>motions 6:1</p> <p>mute 7:14</p>	<hr/> <p style="text-align: center;">N</p> <hr/> <p>nature 5:23</p> <p>necessarily 9:8</p> <p>November 3:3</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>occur 8:16,17</p> <p>Office 3:5,16 4:7 8:5</p> <p>opposing 7:1</p> <p>order 6:22 8:11</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>part 6:5</p> <p>participating 3:20</p> <p>parties 3:25 6:3 8:11 9:6</p> <p>party 5:22 6:19 7:23</p> <p>people 5:25</p> <p>Phoenix 4:21</p> <p>phone 3:20 4:2</p> <p>Pieper 4:15,18 6:6,9, 21 7:4,15</p> <p>planned 7:22</p> <p>point 7:3 8:3</p> <p>position 8:6</p> <p>positions 8:22</p> <p>Post 3:16</p> <p>potentially 6:10</p> <p>preliminary 5:11</p> <p>preschool 4:24</p> <p>pretend 4:25</p> <p>procedural 3:6 8:12</p> <p>proceeding 7:24</p> <p>proceedings 6:14</p>	<p>process 6:12 7:8</p> <p>proposed 3:7 7:25</p> <p>protect 6:15,24</p> <p>protected 6:23</p> <p>provided 4:10</p> <p>Public 4:6,7,9 8:6</p> <p>put 8:11,13</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quick 5:22</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>real 5:22</p> <p>reasonable 7:5</p> <p>reasons 6:1</p> <p>receive 5:14 6:3</p> <p>received 5:7 9:4</p> <p>recommendation 5:6 7:2,5,10 8:8</p> <p>record 3:2,15 9:12,14</p> <p>reflect 3:15</p> <p>regard 5:14</p> <p>Regulatory 3:10</p> <p>relation 5:2</p> <p>reporter 4:11</p> <p>requesting 8:8</p> <p>respect 6:16</p> <p>Revised 3:8</p> <p>rights 9:8</p> <p>Room 3:4</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>Sandberg 4:20</p> <p>schedule 8:12</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>Schultz 4:20 7:13,14, 18</p> <p>Service 4:6</p> <p>set 3:5</p> <p>settles 8:4</p> <p>Sheet 3:8</p> <p>small 7:21</p> <p>sort 5:22</p> <p>sought 6:24</p> <p>speak 4:2</p> <p>speaker 4:2</p> <p>St 4:13 5:9,24 6:7</p> <p>Staff 4:4,6 5:4,14 6:14 7:2,5,7</p> <p>Staff's 7:9 8:8</p> <p>starting 3:13</p> <p>submitted 5:6</p> <p>subsequently 5:6</p> <p>Sue 4:20</p> <p>Suite 4:16</p> <p>summarize 7:17</p> <p>summary 7:18</p> <p>support 6:22 7:4,9 8:1</p> <p>suspended 5:4,13 8:19</p> <p>suspension 5:15,19 8:1,2</p> <p>Swearngen 3:16</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>talk 4:1</p> <p>tariff 3:8 5:1 6:12,21, 22 8:1,14</p> <p>tariffs 7:25</p> <p>tax 5:2 6:17 7:6,23</p>	<p>Tim 3:18</p> <p>time 3:4,6 5:10,16 7:3 8:7,9,25 9:2</p> <p>Today's 3:3</p> <p>treatment 7:22</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>understand 4:25</p> <p>understanding 5:1</p> <p>unforeseen 7:6</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>Von 4:21</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>W.R. 3:15</p> <p>wanted 9:2</p> <p>waste 9:2</p> <p>Water 3:8,13,19</p> <p>week 8:16,17,20</p> <p>worked 7:7</p> <p>workshop 6:13 7:7</p> <p>WT-2019-0054 3:9</p>	
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--