

4. Pursuant to Commission Rule 4 CSR 240-2.090(2)(C), "If the recipient objects to data requests or is unable to answer within twenty (20) days, the recipient shall serve all of the objections or reasons for its inability to answer in writing upon the

requesting party within ten (10) days after receipt of the data requests, unless otherwise ordered by the commission.”

5. Pursuant to ¶ 4(A) of the Discovery Conditions set out in the parties’ *Proposed Procedural Schedule*, approved by the Commission on September 19, 2014, “[u]ntil direct testimony is filed on November 14, 2014, the response time for all data requests shall be twenty (20) calendar days, with ten (10) calendar days to object or to notify the requesting party that more than twenty (20) calendar days will be needed to provide the requested information.”

6. Staff now timely asserts the following objections to the City’s Data Requests (“DRs”).

Objections:

7. The City’s DR No. 2 states:

2. List each date that the Missouri Public Service Commission (hereinafter referred to as the "Commission") approved tariff increases for Missouri-American Water Company (hereinafter referred to as "MAWC") exceeding seven percent (7%) in relation to MAWC sale of water to the residents of the City of Houston Lake (hereinafter referred to as "Houston Lake") from January 1, 1986 through the date of your answers herein, including the following information:

- a. The day, month and year of each approved tariff increase;
- b. Whether the Commission notified Houston Lake, by any means, of each approved tariff increase, and if yes, the date of each notification to Houston Lake and the method of notification used.

d. Whether the Commission directed MA WC to notify Houston Lake of each approved tariff increase, and if yes, the means (i.e. letter, order, etc.) of each direction given to MA WC including the date each direction was given.¹

OBJECTION:

Staff objects that the information requested is publicly available in the records of the Commission and is thus equally available to the City as to Staff and that this request is therefore overly broad and burdensome. Subject to that objection, Staff will provide a response to DR No. 2 and its subpart a. With respect to subparts b and d of DR No. 2, Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what actions other components, such as the Adjudication Division or the Data Center, may have taken. Subject to that objection, Staff will provide a response.

8. The City's DR No. 3 states:

3. Since January 1, 1986, has the Commission ever provided notice to Houston Lake, or made Houston Lake aware by any method of Communication, of any tariff increases exceeding seven percent (7%) that MAWC was granted by the Commission on MAWC's sale of water to the residents of Houston Lake from January 1, 1986 to and through the date of your answers herein.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what actions other

¹ Subparts numbered as in the original.

components, such as the Adjudication Division or the Data Center, may have taken. Subject to that objection, Staff will provide a response.

9. The City's DR No. 4 states:

4. If your answer to the preceding Data Request is No, please list in detail why notice was not given to Houston Lake by the Commission on each such occasion that the Commission granted to MAWC a tariff increase exceeding seven percent (7%) on MAWC's sale of water to the residents of Houston Lake from January 1, 1986 to and through the date of your answers herein.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what actions other components, such as the Adjudication Division or the Data Center, may have taken. This extends to and includes information or knowledge as to why other components of the Public Service Commission took a particular action or did not act, on any particular occasion. Subject to that objection, Staff will provide a response.

10. The City's DR No. 5 states:

5. If your answer to Data Request Number 3 is Yes, list the following information:

- a. The date of each notice or method of Communication;
- b. Whether the Commission include **[sic]** with each such notice to Houston Lake the percentage of each such increase approved for MAWC together with an estimate of the annual increase in gross receipts

resulting from the tariff increase on the customers residing in Houston Lake, as required pursuant to R.S.Mo. §393.275.1;

b. A complete description of the Communication or Document used to convey said information to Houston Lake, including the following information:²

(1) The method of Communication used on each date above to provide said information to Houston Lake (i.e. written notice, email correspondence, telephone conversation);

(2) Identify the Person who gave or prepared the Communication or Document;

(3) The date the Communication or Document was given or prepared;

(4) Identify whether the Commission has a copy of the Communication or Document, and if Yes, identify the Person who presently has care, custody and control of the copy of the Communication or Document.

c. Whether Houston Lake acknowledged receipt in any way of each such notice or method of Communication and if Yes, list how Houston Lake acknowledged receipt in any way of each such notice or method of Communication.

² Subparts numbered as in the original.

OBJECTION:

Staff objects that this DR seeks documents that, if they exist at all, are already in the possession of the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome.

11. The City's DR No. 6 states:

6. In Relation to any tariff increases exceeding seven percent (7%) that the Commission granted MAWC on MAWC's sale of water to the residents of Houston Lake from January 1, 1986 to and through the date of your answers herein, did MAWC provide to the Commission a list of all cities and counties within its certificate areas which implies a business license tax on MAWC gross receipts, together with the name, mailing address and title (that is, collector, treasurer, clerk) of the official responsible for administration of gross receipts tax or business license tax in each of the listed cities and counties, as required pursuant to 4 CSR 240-10.060(1)(A)?

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome. Subject to this objection, Staff will provide a response.

12. The City's DR No. 7 states:

7. If your answer to the preceding Data Request is Yes, list the following:

a. Each date MAWC provided said information to the Commission as required pursuant to 4 CSR 240-10.060(1)(A); and

b. A complete description of the Communication or Document used to convey said information to the Commission, including the following information:

(1) The method of Communication used on each date above to provide said information to the Commission as required pursuant to 4 CSR 240-10.060(1)(A) (i.e. written notice, email correspondence, telephone conversation);

(2) Identify the Person who gave or prepared the Communication or Document;

(3) The date the Communication or Document was given or prepared;

(4) Identify whether the Commission has a copy of the Communication or Document, and if Yes, identify the Person who presently has care, custody and control of the copy of the Communication or Document.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have

provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome.

13. The City's DR No. 8 states:

8. In Relation to any tariff increases exceeding seven percent (7%) that the Commission granted MAWC on MAWC's sale of water to the residents of Houston Lake from January 1, 1986 to and through the date of your answers herein, did MAWC provide to the Commission a reasonable estimate of the resulting annual increase in MAWC's annual gross receipts in each affected city and county, as required pursuant to 4 CSR 240-10.060(1)(B)?

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome. Subject to this objection, Staff will provide a response.

14. The City's DR No. 9 states:

9. If your answer to the preceding Data Request is Yes, list the following:

a. Each date MAWC provided said information to the Commission as required pursuant to 4CSR 240-10.060(l)(B); and

b. A complete description of the Communication or Document used to convey said information to the Commission, including the following information:

- (1) The method of Communication used on each date above to provide said information to the Commission as required pursuant to 4CSR 240-1 0.060(1)(B) (i.e. written notice, email correspondence, telephone conversation);
- (2) Identify the Person who gave or prepared the Communication or Document;
- (3) The date the Communication or Document was given or prepared;
- (4) Identify whether the Commission has a copy of the Communication or Document, and if Yes, identify the Person who presently has care, custody and control of the copy of the Communication or Document.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome.

15. The City's DR No. 10 states:

10. In Relation to any tariff increases exceeding seven percent (7%) that the Commission granted MAWC on MAWC's sale of water to the residents of Houston Lake from January 1, 1986 to and through the date of your answers herein, did MAWC provide to the Commission an explanation of the methods used in developing the estimates (as referenced in Data Request number 8), as required pursuant to 4 CSR 240-10.060(1)(C)?

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome. Subject to this objection, Staff will provide a response.

16. The City's DR No. 11 states:

If your answer to the preceding Data Request is Yes, list the following:

- a. Each date MAWC provided said information to the Commission as required pursuant to 4CSR 240-10.060(I)(C); and
- b. A complete description of the Communication or Document used to convey said information to the Commission, including the following information:

- (1) The method of Communication used on each date above to provide said information to the Commission as required pursuant to 4CSR 240-10.060(1)(C) (i.e. written notice, email correspondence, telephone conversation);
- (2) Identify the Person who gave or prepared the Communication or Document;
- (3) The date the Communication or Document was given or prepared;
- (4) Identify whether the Commission has a copy of the Communication or Document, and if Yes, identify the Person who presently has care, custody and control of the copy of the Communication or Document.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome.

17. The City's DR No. 12 states:

12. Provide a copy of all Communications and Documents that contain information regarding each tariff increase that exceeded seven percent (7%) that was approved by the Commission in Relation to MAWC's sale of water to the

residents of Houston Lake from January 1, 1986 through the date of your answers herein.

OBJECTION:

Staff objects that this DR is overly broad and burdensome. The Commission's records are voluminous and are in the custody of other components of the Commission. Staff's own records within the scope of this DR consists of attorneys' working files, case papers, research notes and the like, many of which have been archived and none of which are relevant. Staff further objects that while it is a component of the Missouri Public Service Commission, it has no access to the records of other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR is overly broad and burdensome in that respect, as well.

18. The City's DR 13 states:

13. Provide a copy of all Communications and Documents which contain information provided by you in your answer to paragraph 2 of these Data Requests.

OBJECTION:

Staff objects that the information requested is publicly available in the records of the Commission and is thus equally available to the City as to Staff and that this request is therefore overly broad and burdensome. With respect to subparts b and d of DR No. 2, Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what actions other components, such as the Adjudication Division or the Data Center, may have taken. Staff has no access to the records of other components except to the extent that they

are public and thus equally available to the City. Staff therefore objects that this DR is overly broad and burdensome in that respect, as well.

19. The City's DR no. 14 states:

14. Provide a copy of all Communications and Documents which contain information provided by you in our answer to paragraph 4 of these Data Requests.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what actions other components, such as the Adjudication Division or the Data Center, may have taken. This extends to and includes information or knowledge as to why other components of the Public Service Commission took a particular action or did not act, on any particular occasion. Staff has no access to the records of other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR is overly broad and burdensome.

20. The City's DR No. 15 states:

15. Provide a copy of all Communications and Documents which contain information provided by you in your answer to paragraph 5 of these Data Requests.

OBJECTION:

Staff objects that this DR seeks documents that, if they exist at all, are already in the possession of the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome.

21. The City's DR No. 16 states:

16. Provide a copy of all Communications and Documents which contain information provided by you in your answer to paragraph 7 of these Data Requests.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome.

22. The City's DR No. 17 states:

17. Provide a copy of all Communications and Documents which contain information provided by you in your answer to paragraph 9 of these Data Requests.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome.

23. The City's DR No. 18 states:

18. Provide a copy of all Communications and Documents which contain information provided by you in your answer to paragraph 11 of these Data Requests.

OBJECTION:

Staff objects that while it is a component of the Missouri Public Service Commission, it has no information or knowledge concerning what MAWC may have provided to other components, such as the Adjudication Division or the Data Center, and that it has no access to the records of those other components except to the extent that they are public and thus equally available to the City. Staff therefore objects that this DR and its subparts is overly broad and burdensome.

24. Staff notes that the City provided a form for a notarial affidavit with its DRs. Rule 4 CSR 240-2.090(2)(B) provides "(B) **Answers to data requests need not be under oath** or be in any particular format, but shall be signed by a person who is able to attest to the truthfulness and correctness of the answers." Staff therefore declines to execute any affidavit in connection with DR responses.

Motion for Protective Order

25. In addition to the foregoing objections, Staff also moves for a protective order herein, stating that, to the extent that the Commission directs Staff to respond to any of the City's DRs to which Staff has herein objected, Staff moves for a *Protective Order* requiring that the time for response be extended and that the City be required to pay the expense incurred by Staff in retrieving and examining the records requested by

the City in order to discover any such that may be within the scope of the City's requests.

WHEREFORE, Staff prays that the Commission will sustain its objections and grant the *Protective Order* herein requested; and grant such other and further relief as is just in the premises.

Respectfully submitted,

/s/ Kevin A. Thompson

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Missouri Bar No. 36288

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Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first-class postage, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this **20th day of November, 2014**.

/s/ Kevin A. Thompson