

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

Michele Westmoreland,

Complainant,

v.

Missouri-American Water Company,

Respondent.

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**Case No. WC-2015-0171**

**JOINT MOTION TO ESTABLISH PROCEDURAL SCHEDULE**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and on behalf of all the parties, tenders this *Joint Motion to Establish Procedural Schedule*, stating:

***Discovery Conditions***

1. The Parties agree to provide all workpapers, in electronic format, whenever feasible, within two business days following the date on which the related testimony is filed.

2. Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly-available format where inputs or parameters may be changed to observe changes in inputs or outputs, if available in that original format, the party providing the workpaper or response shall provide this type of information in that original format.

3. All Parties shall provide copies of testimony, schedules, exhibits, and pleadings to other counsel of record by electronic means and in electronic form essentially concurrently with the filing of such testimony, schedules, exhibits, or pleadings where the information is available in electronic format. Parties shall not be

required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.

4. The Parties agree as follows with respect to Data Requests:

(A) Until direct testimony is filed on December 3, 2015, 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.

(B) After December 3, 2015, the response time for data requests shall be five (5) business days to provide the requested information, and three (3) business days to object or to notify the requesting party that more than five (5) business days will be needed to provide the requested information.

5. The Parties agree to the following provisions regarding discovery:

(A) Discovery conferences shall be held as needed, on one week's prior notice to all parties. The party requesting the conference shall be responsible for scheduling a mutually-convenient time and providing notice to all parties.

(B) Discovery conferences will be held in Room 305 at the Commission's office at the Governor's Office Building, 200 Madison Street, Jefferson City, Missouri. Each discovery conference will begin at 10:00 a.m. unless otherwise agreed. Parties may attend by telephone. The party requesting the conference shall be responsible for setting up a telephone conference bridge and providing the call in number and PIN, if any, to all parties.

(C) Not less than two (2) business days before each discovery conference, any party that has a discovery disagreement or concern involving another party shall file a brief statement describing that disagreement or concern and identifying any other parties involved. Such statement does not need to be a formal motion to compel. Any party may attend a discovery conference, but only those parties involved in an identified discovery disagreement must attend.

(D) Discovery conferences shall be on the record and shall be transcribed by a court reporter.

(E) Any pending written discovery motion may be taken up at a discovery conference and may be ruled upon by the presiding regulatory law judge either on the record, or in a written order.

(F) Commission Rule 4 CSR 240-2.090's requirement that a party must seek a telephone conference with the presiding officer before filing a discovery motion is waived.

(G) All data requests, subpoenas, or other discovery requests shall be issued no later than February 12, 2016. With respect to deposing a witness, so long as a notice of deposition is issued by February 12, 2016, the deposition may occur, notwithstanding that the deposition will take place after February 12, 2016, or that there could be other conditions that must be satisfied prior to the deposition.

(H) All motions to compel a response to any discovery request related to the direct case shall be filed no later than February 17, 2016. The moving party shall be responsible for scheduling a mutually-convenient time for the

hearing on the motion and providing notice to all parties. Parties may attend by telephone. The moving party shall be responsible for setting up a telephone conference bridge and providing the call in number and PIN, if any, to all parties.

(I) The Parties shall make an effort to not include in data request questions either highly confidential or proprietary information, and the Parties shall make an effort not to over-designate information as either highly confidential or proprietary. If either highly confidential or proprietary information must be included in data request questions, the highly confidential or proprietary information should be appropriately designated as such pursuant to 4 CSR 240-2.135. Responsibility to make this designation is upon the party claiming such. Other parties are entitled to rely on the presence or absence of such designation.

(J) Any data requests issued by or to Staff shall be submitted and responded to in the Commission's Electronic Filing and Information System (EFIS). All data requests other than those issued by or to Staff, as well as all objections to data requests, or notifications of the need for additional time to respond, shall be sent by e-mail to counsel for the other parties. Counsel may designate other counsel to be added to the certified service list and shall assume responsibility for compliance with any restrictions on confidentiality. If any party responds to a data request in EFIS, the response is available in EFIS to all counsel on the certified service list. Data request responses, other than responses to data requests issued by or to Staff, will be served on counsel for the requesting party's employee or representative who submitted the data request and shall be served electronically, if feasible and not voluminous as

defined by Commission rule. If a party desires the response to a data request that has been served on another party, the party desiring a copy of the response must request in writing a copy of the responses from the party answering the data request; thereby providing the responding party the opportunity to object. If a data request has been responded to, a party's request for a copy of the response shall timely be responded to, considering that the underlying data request has already been responded to.

### ***Mediation***

6. The presiding officer shall refer this matter to another Regulatory Law Judge for mediation. A mediation session shall be held as set out in the proposed procedural schedule below. Mediation sessions will be held in at a mutually-agreed location in the St. Louis area. Each session will begin at 10:00 a.m. unless otherwise agreed.

7. Not less than two (2) business days before any mediation session, each party shall provide to the Mediator, with a copy to each party, a brief position statement. The position statements SHALL NOT BE FILED IN EFIS, but shall be emailed to counsel and to the Mediator.

8. On November 30, 2015, the mediation shall end. The Mediator shall submit a report to the Presiding Officer simply stating whether or not the mediation has been successful.

### ***Dispositive Motions***

9. Any party may file a dispositive motion not later than January 29, 2016. The requirement of Rule 4 CSR 240-2.117(1)(A) is waived.

10. If a dispositive motion is filed, any response shall be due by February 12, 2016. The requirement of Rule 4 CSR 240-2.117(1)(C) is waived.

***Proposed Procedural Schedule***

11. The Parties recommend that the Commission adopt the following Procedural Schedule:

<b><u>Item</u></b>	<b><u>Date</u></b>
Mediation Session	November 10, 2015
Report of Mediator to Presiding Officer	November 30, 2015
Direct Testimony	December 3, 2016
Dispositive Motions	January 29, 2016
Rebuttal Testimony	January 29, 2016
Responses to Dispositive Motions	February 12, 2016
Surrebuttal Testimony	February 12, 2016
List of Issues, List and Order of Witnesses, Order of Opening, and Order of Cross-Examination	February 19, 2016
Statements of Positions	February 26, 2016
Evidentiary Hearing	March 8, 2016

**WHEREFORE,** Staff and the other Parties pray that the Commission will establish the Procedural Schedule and conditions as set out herein.

Respectfully submitted,

**/s/ Kevin A. Thompson**

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Chief Staff Counsel  
Missouri Bar Number 36288

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Attorney for the Staff of the  
Missouri Public Service Commission

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing has been served, by hand delivery, electronic mail, or First Class United States Mail, postage prepaid, to all parties of record on the Service List maintained for this case by the Data Center of the Missouri Public Service Commission, on this 15<sup>th</sup> day of October, 2015.

**/s/ Kevin A. Thompson**