

Michele Westmoreland,
Complainant,
v.
Missouri American Water Company,
Respondent.

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File No. WC-2015-0171

1. The *Joint Motion to Set Procedural Schedule* is granted.
2. The procedural schedule shall be as set forth in the body of this order.

3. Discovery.

- a. The parties shall provide all workpapers, in electronic format, whenever feasible, within two business days following the date on which the related testimony is filed.
- b. 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.
- c. 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.
- d. Data Requests:
 - i. Until direct testimony is filed on December 3, 2015, the response time for all data requests shall be 20 calendar days, with ten calendar days to object or to notify the requesting party that more than 20 calendar days will be needed to provide the requested information.
 - ii. After December 3, 2015, the response time for data requests shall be five business days to provide the requested information, and three

business days to object or to notify the requesting party that more than five business days will be needed to provide the requested information.

- iii. The parties shall not include in data request questions any information that is either highly confidential or proprietary, and the parties shall not over-designate information as either highly confidential or proprietary. If either highly confidential or proprietary information is necessary in data request questions, the party claiming such designation shall make that designation pursuant to 4 CSR 240-2.135. Other parties are entitled to rely on the presence or absence of the designation.
- iv. 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, shall 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 shall 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 be responded to timely, considering that the underlying data request has already been responded to.

e. Deadlines.

- i. 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.
- ii. 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 Commission may schedule a hearing on a motion to compel. .

f. Disputes.

- i. Discovery conferences shall be held as needed, on one week's notice to all parties. The party requesting the conference shall schedule a mutually convenient time and providing notice to all parties.
- ii. 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 set up any telephone conference bridge and provide call-in number and PIN to all parties.

- iii. Not less than two 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, and any party to a discovery dispute shall attend.
- iv. The presiding regulatory law judge may also take up and rule on any pending written discovery motion, either on the record, or in a written order.
- v. Discovery conferences shall be on the record and shall be transcribed by a court reporter.
- vi. The provision of Commission Rule 4 CSR 240-2.090, that a party must seek a telephone conference with the presiding officer before filing a discovery motion, is waived.

4. Mediation.

- a. The presiding officer will refer this matter to another Regulatory Law Judge for mediation. A mediation session shall be held as set out in the procedural schedule set forth in the body of this order. Mediation sessions will be held at

a mutually-agreed location in the St. Louis area. Each session shall begin at 10:00 a.m. unless otherwise agreed.

- b. Not less than two 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.
- c. 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.

5. Dispositive Motions.

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

6. This order is effective when issued.



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

Dated at Jefferson City, Missouri,
on this 21st day of October, 2015.

BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary