

**FILED<sup>3</sup>**

**JAN 02 2002**

**Missouri Public  
Service Commission**

**Exhibit No.:** \_\_\_\_\_

**Issues:** Tariff Language

**Witness Name:** Wendell R. Hubbs

**Type of Exhibit:** Direct Testimony

**Sponsoring Party:** MoPSC Staff

**Case No.:** WC-2002-146

**Date Testimony Prepared:** January 2, 2002

**MISSOURI PUBLIC SERVICE COMMISSION**

**UTILITY OPERATIONS DIVISION**

**WATER & SEWER DEPARTMENT**

**DIRECT TESTIMONY**

**OF**

**WENDELL R. HUBBS**

**CASE No. WC-2002-146**

**PSC STAFF**

**V.**

**ST. LOUIS COUNTY WATER COMPANY  
D/B/A MISSOURI-AMERICAN WATER COMPANY**

**Jefferson City, Missouri  
January 2002**

**DIRECT TESTIMONY**

**OF**

**WENDELL R. HUBBS**

**CASE No. WC-2002-146**

**ST. LOUIS COUNTY WATER COMPANY  
D/B/A MISSOURI - AMERICAN WATER COMPANY**

Q. Please state your name and business address.

A. My name is Wendell R. Hubbs and my business address is Governor Office Building, Room 500, 200 Madison Street, Jefferson City, Missouri 65101.

Q. By whom are you employed and in what capacity?

A. I am employed by the Missouri Public Service Commission (Commission) as a Rate and Tariff Examination Supervisor in the Water & Sewer Department (W/S Department) of the Utility Operations Division.

Q. What are your educational and experience qualifications?

A. In May 1979, I received a Bachelor of Science degree in Accounting from Lincoln University in Jefferson City, Missouri. From July 1979 to October 1981, I worked in the Accounting Department of the Commission, where my duties were to assist with the audits and examinations of the books and records of public utility companies operating within the State of Missouri. Those audits focused on proposed utility rate increases and on determining whether utility books and records were being maintained in compliance with the Uniform System of Accounts. From October 1981 to September 1983, I held the position of Rate Economist II in the Gas Department of the Commission where my duties consisted of tariff review,

1 allocations and rate design. From September 1983 to November 1990, I held the  
2 position of Assistant Manager-Rates in the Gas Department where my duties  
3 consisted of tariff review, rate design, cost of service, accounting and administrative  
4 functions. From November 1990 until May 1995, I held the position of Assistant  
5 Manager-Rates in the Energy Department where my duties were expanded to  
6 include electric and steam operations. From May 1995 until January 1998, I held  
7 the position of Regulatory Auditor IV in the Rates section of the Energy Department  
8 where my duties consisted of application analysis, tariff review, rate design, cost of  
9 service and accounting functions. In January 1998, I assumed my current position  
10 in the W/S Department where my duties consist of application analysis, tariff review,  
11 rate design, cost of service and accounting functions.

12 Q. What is the purpose of your testimony?

13 A. This testimony addresses the complaint that the Commission Staff  
14 (Staff) filed against the St. Louis County Water Company, d/b/a Missouri-American  
15 Water Company (Company) regarding the appropriateness of a tariff sheet  
16 containing a tax that is being assessed to certain residential customers.

17 Q. Please describe the general background regarding this case.

18 A. The Company filed a tariff sheet to become effective February 26,  
19 2001. This new tariff sheet (SHEET No. RT 17.0) is titled "St. Louis County Service  
20 Line Repair Program" (Program). The Program tariff sheet filing was received at the  
21 Commission's Data Center on January 25, 2001, and was assigned File No. 2001

1 00776 for processing. A copy of this filing is attached to this testimony as Schedule  
2 1. As a part of its filing transmittal letter, the Company stated that this tariff sheet  
3 was designed to have the Commission "authorize" the charge that is contained on  
4 the proposed tariff sheet. Included with the Company's filing was a copy of the  
5 CONTRACT FOR COLLECTION OF STATUTORY SERVICE LINE REPAIR  
6 CHARGES (Contract) between St. Louis County (County) and the Company, dated  
7 January 19, 2001.

8 Additionally, the Company claimed that a Missouri statute, Section 66.405,  
9 RSMo 2000, authorized the County to enact an ordinance that would require  
10 residential water customers to pay a fee into a fund that would be used to repair  
11 water service lines. The Company also claimed that the County had then enacted  
12 an ordinance, as authorized by this Missouri statute.

13 Q. What supporting information did you request from the Company?

14 A. I requested a copy of Section 66.405, RSMo 2000, which authorized  
15 the County to enact the above-referenced ordinance. A copy of the "Statute" is  
16 attached to this testimony as Schedule 2. I also requested a copy of St. Louis  
17 County Ordinance No. 20,299, 2000. A copy of this "Ordinance" is attached to this  
18 testimony as Schedule 3. The Company claimed that the Statute and the  
19 Ordinance were the documents that support the validity of the filing.

20 The Statute provides, among other things, that the County may, if the voters  
21 approve, enter into a contract with any provider of water service in the County to bill

1 and collect certain service line replacement fees. The Contract, as mentioned  
2 above, was provided with the Company's tariff filing (see Schedule 1, attached.)

3 Q. Please explain the events that led to the Program tariff sheet  
4 becoming effective.

5 A. I discussed the Staff's concerns about the tariff filing, which are set out  
6 later in this testimony, with Company personnel early last year, at the time of the  
7 hearings before the Commission in the Company's general rate case proceeding.  
8 In discussions with Company personnel, I told Mr. Richard T. Ciottone that the Staff  
9 had concerns about the proposed tariff sheet and would most likely recommend that  
10 the tariff sheet be suspended.

11 Later that same day, Mr. Jim Jenkins, the Vice President and Treasurer of  
12 the Company, informed Mr. Dale Johansen, the Manager of the Commission's  
13 Water and Sewer Department, and me that he would have the Program tariff filing  
14 withdrawn, and that we would meet regarding the issue soon after the conclusion of  
15 the hearings in the rate case.

16 On February 27, 2001, the Staff received an e-mail message from Mr. Rich  
17 Ciottone, questioning whether the Commission had suspended the proposed  
18 Program tariff, and asking whether the tariff was effective by "operation of law."

19 I then contacted Mr. Jenkins to inquire about the Program tariff filing, and  
20 also about another tariff sheet filing Mr. Jenkins had told me he would withdraw. Mr.  
21 Jenkins informed me that he remembered the promise to withdraw the one tariff

1 filing, but that he did not remember discussing the withdrawal of the Program tariff  
2 sheet.

3 Mr. Jenkins said he would discuss the problems with the Company's  
4 attorneys. Mr. Jenkins and Mr. David Abernathy subsequently called to inform me  
5 that they would work through the problem, but that they would not agree to withdraw  
6 the Program tariff sheet.

7 I understand that the Program tariff sheet become effective by "operation of  
8 law" on the proposed effective date of February 26, 2001.

9 At that time, I contacted the Commission's legal department to ask what  
10 actions were available to rectify the Staff's concerns regarding the Program tariff  
11 sheet.

12 Q. What was the legal department's response to the Program tariff filing?

13 A. The legal department believed that the Statute and Ordinance called  
14 for the imposition of the ordinance fee on the owners of the applicable water service  
15 lines. They read the statute as stating that the ordinance fee is to be imposed on  
16 the water service lines (the property), and that the owners of the property, upon  
17 which the water service lines are located, are the ones upon whom the tax should  
18 be imposed.

19 Q. Did the County approve another ordinance whereby the County  
20 Executive was authorized to execute contracts with water service providers for the  
21 billing and collection of these taxes?

1           A.     Yes. Ordinance No. 20,299, St. Louis County Title V, Chapter 502,  
2     "LEVY AND COLLECTION OF TAXES" (Collection Ordinance), as amended,  
3     provided for this.

4           Q.     Is the wording of the Contract and the tariff sheet consistent with the  
5     Statute and Ordinance?

6           A.     No, it is not.

7           The Contract quotes the Statute and Ordinance on its first page, but on the  
8     second page it changes the wording so that the fee is imposed upon certain  
9     residential customers of the utility, instead of on the owner of the property on which  
10    the service line is located.

11          In the Company's transmittal letter to the Commission, in which it requested  
12    approval of the tariff sheet, the Company states: "Pursuant to the recently enacted  
13    provision of Section 66.405 RSMo, St. Louis County enacted an ordinance, Section  
14    502.195 SLCRO 1974 as amended, requiring the Company to charge residential  
15    customers having four or fewer dwelling units a charge of...". In reviewing the  
16    Ordinance, the Staff can see no language that requires "the Company to charge  
17    residential customers..." the charge. It appears that this statement in the transmittal  
18    letter is in error.

19          Q.     Why is this a problem?

20          A.     The residential customers of the utility are not necessarily the owners  
21    of the service lines. This situation exists where the property, including the service

1 lines, is being leased or rented by a third party. The lessees or renters would be the  
2 customers of the Company, and the Company would be assessing this property-  
3 type tax upon the lessees or renters instead of upon the owners of the property.

4 Q. What effect does this have upon the Contract and the Program tariff  
5 sheet?

6 A. This means that the Contract and Program tariff sheet are inconsistent  
7 with the Statute and Ordinance. It also means that the Company is imposing the  
8 tax on renters and lessees , instead of on the property owners.

9  
10 **Staff's Original Concerns Regarding the Program Tariff Filing**

11 Q. Please explain the Staff's original concerns regarding the Program  
12 tariff filing.

13 A. The Commission's technical Staff first viewed this ordinance fee as it  
14 does any other tax or fee that is charged to the Company by a political subdivision.  
15 When I first reviewed the filing, I had reservations regarding the tariff sheet,  
16 including whether there was any need for the proposed tariff sheet. I questioned  
17 this need because of the Company's then-existing tax recovery authorization, which  
18 is contained on the Company's tariff sheet, Sheet No. RT 11, titled: BILLING OF  
19 EVERY LICENSE, OCCUPATION, GROSS RECEIPTS, OR OTHER SIMILAR TAX,  
20 CHARGE, FEE, EXACTION OR PAYMENT. A copy of "Sheet No. RT 11" is  
21 attached to this testimony as Schedule 4.



1 I initially believed that the Company already had Commission authorization to  
2 bill the County ordinance fee pursuant to Sheet No. RT 11. But during my  
3 investigation of the Program tariff sheet, a Company attorney told me that the  
4 Company did not believe that the County ordinance fee was covered by the tax  
5 recovery language that is included in Sheet No. RT 11.

6 Additionally, if the Commission determined that the ordinance fee did need  
7 separate tariff provisions, I also had problems with some of the other language in  
8 the tariff sheet as filed.

9 First, Staff's initial review revealed problems with the title of the tariff sheet –  
10 "St. Louis County Service Line Repair Program." The title implies that this is a  
11 Commission-approved program, but it is not. If a separate tariff sheet is needed to  
12 authorize the collection of the ordinance fee from the political subdivision, the title  
13 should read something like "St Louis County Ordinance Fee." The Commission  
14 should not be represented as authorizing the Program, only as authorizing the pass-  
15 through of the ordinance fee. The approval of the Program came through the  
16 legislative passage of the Statute and the voter approval of the Ordinance. I am of  
17 the opinion that the Commission should only be authorizing the Company to bill  
18 appropriate ordinance fees. As presented on the tariff sheet it appears that this  
19 ordinance fee is being made available to customers through some program that the  
20 Commission has authorized. Additionally, the Commission does not set the level of  
21 the ordinance fee (the tax pass-through); the County does. The legislature and

1 voters approved this program and the government of St. Louis County regulates the  
2 "program."

3 The next problem the Staff had with the proposed tariff sheet is in the first  
4 paragraph. This paragraph is titled "Availability." The Company's customers do not  
5 have a choice about whether this tax will be available to them; the tax is "applicable"  
6 to certain customers, not "available." The ordinance fee is to be applied to certain  
7 customers pursuant to the application of the terms of the Ordinance. This wording  
8 is misleading and confusing, and it should be changed.

9 The second paragraph of the tariff sheet contains a section titled "RATE."  
10 This ordinance fee is not a Commission-determined rate; it is simply the pass-  
11 through of a tax. The Commission should not authorize the collection of this  
12 "Ordinance Fee" as a "RATE." The presentation in the tariff sheet as filed would be  
13 confusing to the users of the tariff sheets. It appears as if the Commission is setting  
14 a rate for service. The Company should present in its tariff what this actually is - -  
15 an "Ordinance Fee" or tax.

16 The second line of the second paragraph of the tariff sheet states: "This tariff  
17 sheet authorizes a reduction in the rate, if and to the extent authorized by lawful  
18 action of St. Louis County, but this tariff shall not authorize any increase without  
19 further filing with the approval by the Commission." If the County decides to reduce  
20 the ordinance fee at some time in the future, this provision would allow the "Rate" to  
21 be incorrectly stated on the tariff sheet. It would also require another filing if the

1 County subsequently increases the ordinance fee. If the Commission determines a  
2 separate tariff sheet is needed for the Company to recover the ordinance fee for the  
3 County, the tariff sheet should be written to authorize the Company to collect from  
4 the applicable customers any ordinance fee lawfully set by the County. As written,  
5 the tariff provision stating a "rate" might be inaccurate and misleading to tariff users,  
6 and it would result in a waste of time if there are future increases in this tax.

7 Q. Did you have another concern with the Program tariff filing?

8 A. Yes, I did. I am of the opinion that the Commission should not  
9 approve the Contract between the Company and the County. I cannot find any  
10 mention in the Company's letter of transmittal that the Company is asking the  
11 Commission to approve the Contract.

12 What the letter of transmittal does state is as follows:

13 *Included with this tariff for filing with the Commission is a copy*  
14 *of the Contract between St. Louis County and the Company,*  
15 *dated January 19, 2001 which subjects the Company's*  
16 *obligation to the County to the jurisdiction of the Commission.*

17  
18 It is my understanding that any of the Company's contractual obligations  
19 using regulated assets are subject to the jurisdiction of the Commission, with or  
20 without the inclusion of a contract with the County in this Program tariff filing. I  
21 understand that a tariff filing is not required to subject the Company's contractual  
22 obligations to the jurisdiction of the Commission. Pursuant to its ANSWER TO  
23 COMPLAINT in this proceeding, it appears that the Company is assuming that the

1     Commission will effectively approve the Contract if the tariff sheet is approved.  
2     However, the Staff cannot find where the Company sought any such Commission  
3     approval of this Contract, nor where it brought to the Commission's attention the fact  
4     that it considers approval of a tariff sheet to amount to effective approval of a  
5     contract that is submitted with the tariff sheet.

6             I recommend that the Commission explicitly state in its order that no approval  
7     of the Contract has been effected, and that any contract for services performed by  
8     the Company will be reviewed for its prudence and for ratemaking in future rate  
9     proceedings.

10  
11     **Staff's Subsequent Concerns Regarding the Program Tariff Filing**

12             Q.     Please explain what transpired after the Company refused to withdraw  
13     the tariff.

14             A.     The Water and Sewer Department Staff consulted the Staff's General  
15     Counsel's Office. Upon legal review of the tariff sheet and documents supporting  
16     the filing, the General Counsel's Office informed me that it interprets the Statute and  
17     the Ordinance as providing for the fee to be imposed on the affected property  
18     owners instead of utility customers.

19             Q.     Did this change the way that you viewed the changes that needed to  
20     be effected in regard to the filing?

1           A.     Yes, it did. In the context of this new interpretation, my concerns were  
2     modified. First, the tariff, which provided for charging certain residential customers  
3     the fee when they did not own the service lines, was now plainly incorrect because it  
4     is inconsistent with the Statute and Ordinance. The tariff, if one is needed to allow  
5     the Company to collect the tax, should contain language that results in the tax being  
6     collected from the owners of the property upon which affected service lines are  
7     located. In many situations, where the owner of the property and the service line is  
8     the utility customer, the billing of the customer would have recovered the tax from  
9     those from whom the Statute was designed to recover it.

10           Since it appears as if the Contract between the Company and the County is  
11     inconsistent with the Statute, I am not sure as to the proper disposition of taxes  
12     collected under this inconsistent recovery mechanism (the program tariff sheet.)  
13     The Company has collected the tax from some customers in a manner that is  
14     consistent with the design of the Statute (those utility customers who own the  
15     service lines), but such recovery was pursuant to a Contract inconsistent with the  
16     Statute. Also, the Company has collected the tax from other utility customers in a  
17     manner that is inconsistent with the design of the Statute (those customers who do  
18     not own the service lines).

19           Q.     Was there another modification to the Staff position caused by the  
20     new legal interpretation of the Statute?

1           A.     Yes, there was. With the property owners, rather than utility  
2 customers, being responsible for the tax, the tracking of property ownership and  
3 billing of not only the applicable residential utility customers but also the billing of the  
4 owners of such service lines will be extremely costly. There is, however, nothing  
5 built into the Contract that provides for the Company to recover the extremely costly  
6 administrative costs of such tax collection services. Any contract that provides for  
7 such tax collection services, should contain appropriate recovery for all such costs.

8           Q.     Was there another modification to the Staff position caused by the  
9 legal department's interpretation of the Statute?

10          A.     Yes, there was. I could see that the existing tax recovery mechanism  
11 would not be appropriate or adequate to recover the ordinance fee authorized by  
12 the Statute. The existing tax recovery mechanism called for the recovery of  
13 ordinance fees from the utility's customers. There is no currently tariffed provision  
14 for the recovery of ordinance fees from entities that are not customers of the utility.

15          Q.     Has the concept of a service line replacement program been promoted  
16 by certain Staff members?

17          A.     Yes, it has. It has been viewed as a very beneficial program for  
18 property owners. Without it, property owners could find themselves in situations  
19 where the Company would bill them very large amounts of money related to the  
20 repair or replacement of service lines that they own and for which they are

1 responsible. Who really benefits from this type of tax program are the residential  
2 customers and landlords that own service lines in need of repair or replacement.

3 Q. Does this conclude your pre-filed direct testimony in this case?

4 A. Yes, it does.

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

Staff of the Missouri Public Service Commission )

Complainant, )

Case No. WC-2002-146

v. )

St. Louis County Water Company, )

D/b/a Missouri-American Water Company, )

Respondent. )

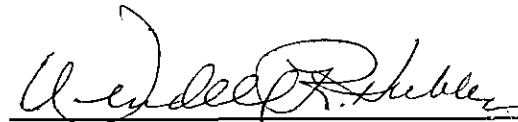
**AFFIDAVIT OF WENDELL R. HUBBS**

STATE OF MISSOURI )

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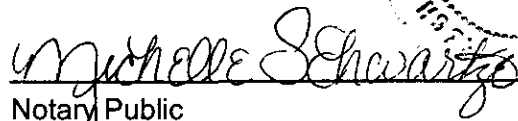
COUNTY OF COLE )

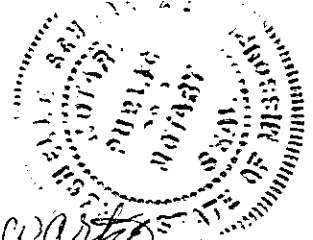
Wendell R. Hubbs, of lawful age, on his oath states: that he has participated in the preparation of the foregoing written testimony in question and answer form; consisting of 14 pages and 4 schedules, to be presented in this case; that the answers in the foregoing testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.



Wendell R. Hubbs

Subscribed and sworn to before me this 31<sup>st</sup> day of December 2001.

  
Notary Public



My commission expires

MICHELLE SCHWARTZE  
NOTARY PUBLIC STATE OF MISSOURI  
COLE COUNTY  
MY COMMISSION EXP. APR. 25, 2005



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Jefferson City, MO 65102-0360

*RECEIVED*  
JAN 25 2001  
*Records*  
*Public Service Commission*

**LETTER OF TRANSMITTAL**  
St. Louis County Water Company d/b/a  
Missouri-American Water Company  
January 25, 2001

Dear Secretary Roberts:

Pursuant to 4 CSR 240-50.010, accompanying schedule issued by the St. Louis County Water Company is sent you for filing in compliance with the requirements of the Public Service Commission Law:

P.S.C. Mo. No 6 ..... 6<sup>th</sup> Revised SHEET No. IN 3.0  
Cancelling P.S.C. Mo. No 6 ..... 5<sup>th</sup> Revised SHEET No. IN 3.0  
Effective February 26, 2001

P.S.C. Mo. No 6 ..... Original SHEET No. RT 17.0  
Effective February 26, 2001

Pursuant to 4 CSR 240-50.010 (5) the effect of the proposed change on the Company's customers is:

Pursuant to the recently enacted provisions of Section 66.405 RSMo, St. Louis County enacted an ordinance, Section 502.195 SLCRO 1974 as amended, requiring the Company to charge residential customers having four or fewer dwelling units a charge of one dollar per month or three dollars per quarter (whichever is applicable to the customer's billing schedule) to pay into a fund to provide for water service line repair or replacement, all as described in the County Ordinance. This tariff authorizes that charge. *to*

Schedule 1 - 1

200100776

FORM NO. 13 P.S.C. MO. No. 6 Original Revised SHEET No. RT 17.0  
Cancelling P.S.C. MO. No. 6 Revised SHEET No.  
ST. LOUIS COUNTY WATER COMPANY d/b/a For ST. LOUIS COUNTY, MISSOURI  
MISSOURI-AMERICAN WATER COMPANY

ST. LOUIS COUNTY SERVICE LINE  
REPAIR PROGRAM

AVAILABILITY - This rate is applicable from and after March 1, 2001 to residential customers in St. Louis County having four or fewer dwelling units, and only to the extent such charge shall continue to be authorized by and provided for in Chapter 502, Section 502.195, Title V of the St. Louis County Revised Ordinances 1974 as amended, and Section 66.405 RSMo 2000, and a contract between the Company and St. Louis County, Missouri heretofore filed with the Commission which governs the payment of amounts collected for St. Louis County for its Water Service Line Repair program.

RATE - One dollar (\$1.00) per month or three dollars (\$3.00) per quarter (and not pro-rata for periods of time less than one month or one quarter whichever is applicable) during which service is provided, to be billed and collected monthly, quarterly or otherwise in the due course of approved billing practices applicable to the customer. This tariff authorizes a reduction in this rate if and to the extent authorized by lawful action of St. Louis County, but this tariff shall not authorize any increase without further filing with and approval by the Commission. (1)

PAYMENT TERMS - Bills are due and payable in the manner and at times applicable to bills for water service as provided in the Company's approved Rules and Regulations and 4 CSR-240-13, and discontinuance for non-payment shall be enforced to the extent and in the manner provided by such Rules.

(1) Exclusive of every tax or payment imposed upon the Company by political subdivisions of the State of Missouri, for the right to do business in such political subdivision. See tariff sheet No. RT 11.0.

\*Indicates new rate or text  
+Indicates change

DATE OF ISSUE January 25, 2001 DATE EFFECTIVE February 26, 2001  
ISSUED BY D.P. Abernathy, 535 N. New Ballas Road  
V. P., Corporate Counsel St. Louis, MO 63141

**CONTRACT FOR COLLECTION OF STATUTORY  
SERVICE LINE REPAIR CHARGES**

**AGREEMENT**, this 19<sup>th</sup> day of January, 2001, by and between St. Louis County Water Company, d/b/a Missouri-American Water Company, a Missouri Corporation and public utility regulated by the Missouri Public Service Commission providing water service within St. Louis County, Missouri ("Water Company") and St. Louis County, Missouri, being a duly organized first class County in the State of Missouri operating pursuant to a duly adopted and approved Charter ("St. Louis County").

**WHEREAS**, section 66.405 RSMo 2000 authorizes St. Louis County, after obtaining approval of voters and compliance with other prerequisites as described therein, to impose a fee upon water service lines providing water service to residential property having four or fewer dwelling units in an amount not to exceed one dollar per month or an equivalent rate collected at some other interval; and

**WHEREAS**, pursuant to Ordinance No. 20,110, an election was held in St. Louis County on November 7, 2000 and the qualified voters of St. Louis County approved the imposition of a One Dollar (\$1.00) per month fee to provide funds to pay for repair or replacement commencing July 1, 2001, of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation; and,

**WHEREAS**, pursuant to Ordinance No. 20,299, St. Louis County Title V, Chapter 502, "Levy and Collection of Taxes," as amended, passed to implement and administer such charge and to authorize the County Executive to execute contracts with providers of water service in St. Louis County to bill and collect such fees along with bills for water service and to pursue collection of such amounts through discontinuance of service; and,

**WHEREAS**, although some of the Water Company's customers affected by the legislation put forth herein are billed monthly, a vast majority are billed on a quarterly basis; and,

**WHEREAS**, it is the intent of St. Louis County and Water Company to herewith enter into such a contract for billing and collection of such fees.

**NOW THEREFORE**, for and in consideration of the payment of one dollar from each to the other paid, the receipt of which is herewith acknowledged, St. Louis County and Water Company agree as follows:

1. Beginning on March 1, 2001, Water Company shall add to the bill of each residential customer having four or fewer dwelling units a separate and clearly described fee to be paid in advance, of one dollar (\$1.00) per month or three dollars (\$3.00) per quarter (and not pro-rata for periods of time less than one month, or quarter, whichever is applicable) during which service is provided, which such amount may be billed and collected monthly, quarterly or otherwise in the due course of Water Company's usual and ordinary approved billing practices.
2. Amounts collected shall be accounted for on a calendar month basis and shall be remitted by the fifteenth (15<sup>th</sup>) of each month to St. Louis County. Payments shall be made to the St. Louis County Treasurer and may be made by check or electronic (ACH) deposit.
- ✓ 3. Water Company may reduce the amount of total remittance to St. Louis County by the amount deemed uncollectible from a prior billing period. Such collection reduction will cover those accounts which were billed during prior months but remain uncollected. Any uncollected amounts, which are later recovered, shall be remitted to St. Louis County on the next monthly remittance date.
4. Water Company shall provide to St. Louis County a database report in electronic form, on a quarterly basis, containing all that information compiled by Water Company in the ordinary course of its business from which St. Louis County can reasonably ascertain those customers who have been duly billed for such fees. St.

Louis County may request and Water Company will provide, on a case by case basis, information on specific customers relating to unpaid balances remaining on an account by phone, fax, or e-mail.

5. Pursuant to the provisions of 4 CSR 240-13.020 (11), partial payments by any customer shall first be credited to balances outstanding for water charges.
6. Water Company will pursue collection of unpaid amounts in the ordinary course of its business in accordance with rules and regulations on file with and approved by the Missouri Public Service Commission, including discontinuance of water service, if necessary.
7. The parties hereto understand and agree that this Contract does not seek to invade, bypass or supersede the jurisdiction of the Missouri Public Service Commission, and accordingly this Contract shall be submitted to the Missouri Public Service Commission for its information, and if deemed necessary by such Commission, for its approval. This Contract shall at all times be subject to the actions of such Commission.
8. St. Louis County will provide Water Company with a contact and telephone number within St. Louis County government to whom Water Company may refer any and all customer questions, challenges or complaints regarding the fees being collected pursuant to this Contract.
9. This contract shall be effective on the day and date first above written and shall be in effect for one year and from year-to-year thereafter unless and until terminated by either party upon not less than 120 days written notice from one party to the other.

**WHEREFORE**, this agreement has been duly executed on the day and date first above written.

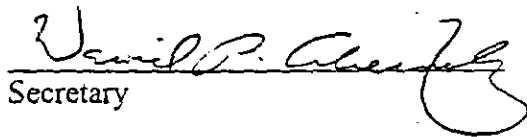
ST. LOUIS COUNT WATER COMPANY,  
d/b/a Missouri-American Water Company



By: Eric W. Thornburg  
President

(SEAL)

ATTEST:

  
Secretary

ST. LOUIS COUNTY, MISSOURI

  
By: Bruce Westfall  
County Executive

ATTEST:

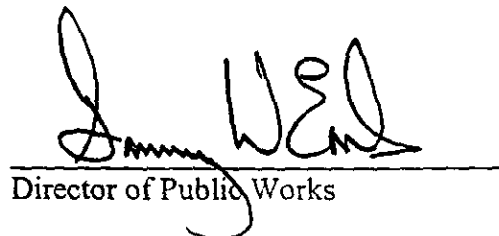
  
Administrative Director

Approved:

  
Accounting Officer

Approved as to legal form:

  
County Counselor

  
Director of Public Works

# *Missouri Revised Statutes*

## **Chapter 66 Constitutional Charter Counties, Miscellaneous Provisions Section 66.405**

August 28, 2000

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### **Water service line fee--voter approval required--administration (including St. Louis County).**

66.405. 1. If approved by a majority of the voters voting on the proposal, a county of the first classification having a population of over nine hundred thousand inhabitants may, by ordinance, levy and impose annually, upon water service lines providing water service to residential property having four or fewer dwelling units, on a countywide basis, including both the incorporated and unincorporated areas of such county, a fee not to exceed one dollar per month or an equivalent rate collected at some other interval.

2. The ballot of submission shall be in substantially \* the following form:

For the purpose of repair or replacement of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation, shall ..... County be authorized to impose a fee not to exceed one dollar per month or an equivalent rate collected at some other interval upon all water service lines providing water service within the county to residential property having four or fewer dwelling units for the purpose of paying for the costs of necessary water service line repairs, replacements or relocations caused by improvements to public right-of-way?

Yes No

3. For the purpose of this section, a water service line may be defined by local ordinance, but may not include the water meter or exceed that portion of water piping and related valves and connectors which extends from the water mains owned by the utility or municipality distributing public water supply to the first opportunity for a connection or joint beyond the point of entry into the premises receiving water service, and may not include facilities owned by the utility or municipality distributing public water supply. For purposes of this section, repair may be defined and limited by local ordinance, and may include replacement, repairs or relocation when made necessary by improvements to public right-of-way.

4. If a majority of the voters voting thereon approve the proposal authorized in subsection 1 of this section, the governing body of the county may enact an ordinance for the collection of such fee. The funds collected pursuant to such ordinance shall be deposited in a special account to be used solely for the purpose of paying for the reasonable costs associated with and necessary to administer and carry out the water service line repairs as defined in the ordinance and, if sufficient revenues are available, to reimburse the necessary costs of water service line repair, replacement or relocation made necessary by public right-of-way improvements.

5. The county may contract with any provider of water service in the county to bill and collect such fees along with bills for water service and to pursue collection of such amounts through discontinuance of service as may be directed by the county. The county may establish, as provided in the ordinance, regulations necessary for the administration of collections, claims, repairs, relocations, replacements and all other activities necessary and convenient for the implementation of any ordinance adopted and approved pursuant to this section. The county may administer the program or may contract with one or more persons, through a competitive process, to provide for administration of any portion of implementation activities of any ordinance adopted and approved pursuant to this section, and reasonable costs of administering the program may be paid from the special account established pursuant to this section.

(L. 1999 H.B. 450 merged with S.B. 160 & 82)

Effective 6-14-99 (S.B. 160 & 82) 6-29-99 (H.B. 450)

\*Word "of" appears here in H.B. 450, 1999



Missouri General Assembly



BILL NO. 501, 2000ORDINANCE NO. 20,299, 2000Introduced by Councilman O'Mara

## AN ORDINANCE

AMENDING CHAPTER 502, TITLE V SLCRO 1974 AS AMENDED, "LEVY AND COLLECTION AND TAXES," BY ENACTING AND ADDING THERETO ONE NEW SECTION TO BE KNOWN AS SECTION 502.195 IMPOSING A FEE ON CERTAIN RESIDENTIAL PROPERTY TO FUND REPAIR OR REPLACEMENT OF WATER LINES EXTENDING FROM THE WATER MAIN TO A RESIDENTIAL DWELLING DUE TO FAILURE OF THE LINE OR FOR ROAD RELOCATION, AND AUTHORIZING THE COUNTY EXECUTIVE TO ENTER INTO CONTRACTS WITH WATER SERVICE PROVIDERS FOR COLLECTION OF THE FEE .

WHEREAS, Article II, Section 2.180(3) of the Charter of St. Louis County authorizes the County Council, by ordinance, to levy taxes authorized by the Constitution or by law; and

WHEREAS, the County is authorized by law to impose a fee for the purpose of repair or replacement of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation upon approval by the qualified voters of the County; and

WHEREAS, pursuant to Ordinance No. 20,110, an election was held in St. Louis County on November 7, 2000 and the qualified voters of St. Louis County approved the imposition of a One Dollar (\$1.00) per month fee to provide funds to pay for repair or replacement commencing July 1, 2001, of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation;

BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 502, Title V SLCRO 1974 as amended, "Levy and Collection of Taxes," is amended by enacting and adding thereto one new section as follows:

502.195 Water Service Line Repair Fee.-1. A fee of One Dollar (\$1.00) per month is imposed upon all water service lines providing water service within the county to residential property having four or fewer dwelling units, to provide funds to pay for repair or replacement commencing July 1, 2001, of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation.

Schedule 3 - 1

ST. LOUIS COUNTY WATER COMPANY

Name of Issuing Corporation

For ST. LOUIS COUNTY, MISSOURI and

Community, Town or City

JEFFERSON COUNTY, MISSOURIBILLING OF EVERY LICENSE, OCCUPATION, GROSS RECEIPTS, OR OTHER  
SIMILAR TAX, CHARGE, FEE, EXACTION OR PAYMENT

APPLICABILITY - This schedule is applicable to all water and service sold by the Company under every rate filed with the Public Service Commission of the State of Missouri.

Public Service Commission

There shall be added to each customer's bill, whether a retail or a whole-sale customer, as a separate item, an amount equal to every tax, charge, fee, exaction, or payment, now or hereafter imposed upon the Company by any political subdivision of the State of Missouri, whether by ordinance, franchise, or otherwise, for the license, privilege or right to do business in such political subdivision (hereinafter called "license tax"), applicable to water and service sold by the Company to such customer.

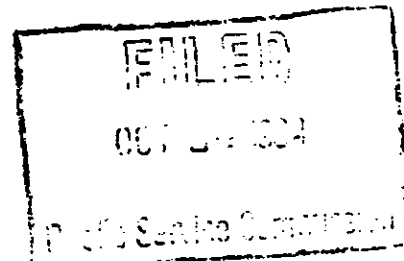
In the event that such license tax is imposed as a percentage of receipts or revenues received by the Company in a political subdivision, the rate imposed by such political subdivision shall be applied against the receipts or revenues, including license tax, received from each customer located within such political subdivision in determining the amount of license tax to be added to each customer's bill.

In the event that a political subdivision imposes a license tax in the form of a flat sum rather than as a percentage of Company's receipts or revenues within such political subdivision, the Company's receipts or revenues in such political subdivision for the year preceding the year of payment of such flat sum shall be used for the purpose of computing the percentage of which the aggregate amount of all such license taxes paid to such political subdivision is of the receipts or revenues obtained by the Company within such political subdivision. The percentage so obtained shall be applied against the receipts or revenues, including license tax, received from each customer located within such political subdivision in determining the amount of license tax to be added to each customer's bill.

Where more than one such license tax is imposed by a political subdivision, the total of such license taxes applicable to a customer shall be billed the customer as a single amount.

\*Indicates new rate or text

+Indicates change

DATE OF ISSUE SEP 24 1984  
month day yearDATE EFFECTIVE OCT 24 1984  
month day yearISSUED BY H. E. Mallen, V.P., Comp., 535 N. New Ballas Rd., St. Louis, MO 63141  
name of officer title address