

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Thirty and 141, L.P.,	)	
	)	
Complainant,	)	
	)	
v.	)	<b>File No. WC-2019-0004</b>
	)	
Missouri-American Water Company,	)	
	)	
Respondent.	)	

## ORDER GIVING NOTICE OF CONTESTED CASE AND DIRECTING ANSWER

Issue Date: July 5, 2018

Effective Date: July 5, 2018

On July 3, 2018, Thirty and 141, L.P., filed a complaint with the Missouri Public Service Commission (Commission) against Missouri American Water Company, a subsidiary of American Water Works Company, Inc. d/b/a American Water, and American Public Utility Company (Respondent). A copy of the complaint accompanies this notice. This is a contested case<sup>1</sup> pursuant to Section 386.390, RSMo 2016. This case will not proceed under the small formal complaint process.<sup>2</sup>

This 30-day notice is being given as required by Section 536.067, RSMo 2016, and the Commission will set a deadline for Respondent to file an answer. As required by Section 536.067(2)(f), RSMo 2016, the Commission informs the parties that the Commission's provisions governing procedures before the Commission, including provisions relating to discovery, are found at Commission Rule 4 CSR 240-2.090.

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<sup>1</sup> A "[c]ontested case' means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing." Section 536.010.4, RSMo 2016.

<sup>2</sup> 4 CSR 240-2.070(15).

**THE COMMISSION ORDERS THAT:**

1. The Commission's Data Center shall send, by certified mail, a copy of this notice and order and a copy of the complaint to:

Missouri-American Water Company  
Legal Department  
727 Craig Road  
St. Louis, MO 63141

2. Missouri American Water Company shall file an answer to this complaint or request for mediation no later than August 6, 2018, and serve a copy upon the Complainant. All pleadings (the answer, the notice of satisfaction of complaint, or request for mediation) shall be mailed to:

Secretary of the Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102-0360

or filed using the Commission's electronic filing and information service (EFIS).

3. This order shall be effective when issued.



**BY THE COMMISSION**

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

Morris L. Woodruff  
Secretary

Nancy Dippell, Senior Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,  
on this 5th day of July 2018.



7710 CARONDELET AVE., SUITE 516  
ST. LOUIS, MO 63105

PH 314.726.6015 / FX 314.726.6019

MPARNAS@MPARNASLAW.COM

June 25, 2018

FILED<sup>2</sup>

JUL 3 2018

Missouri Public  
Service Commission

Secretary  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102-0360

Attention: Data Processing

**RE: THIRTY AND 141, L.P. vs. MISSOURI AMERICAN WATER COMPANY**

Dear Sir or Madam:

Enclosed herewith please find my client Thirty and 141, L.P. formal complaint to be filed against the Missouri American Water Company. Attached to the complaint as Exhibit A is the Gravois Bluffs Waterfall Water Usage Report with appendices that should be considered as part the Complainant's file. It is my understanding that your office will be furnishing a copy of this report to the Respondent Missouri American Water Company. If that is not the case please let me know and I will furnish a copy to them.

Thank you for your courtesies and assistance in this regard. In the event you require anything further please do not hesitate to contact me.

Very truly yours,

  
Michael J. Parnas

Encl.

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

THIRTY AND 141, L.P.

Complainant,

Vs.

MISSOURI AMERICAN WATER  
COMPANY

Respondent.

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FILE NO:

**FILED<sup>2</sup>**

**JUL 3 2018**

**Missouri Public  
Service Commission**

**COMPLAINT**

COMES NOW Complainant, THIRTY AND 141, L.P., by and through its attorneys, The Parnas Law Firm, LLC and Michael J. Parnas, and for its Complaint against Respondent Missouri American Water Company, states to the Public Service Commission of Missouri, as follows:

1. At all times relevant herein, Complainant Thirty and 141, L.P. is a Missouri Limited Partnership, duly organized and existing pursuant to the laws of the State of Missouri and operating in St. Louis County, Missouri with a billing address located at 9109 Watson Road, Suite 400, Saint Louis, Missouri 63126-2235 and a customer of Respondent Missouri American Water Company.

2. At all times relevant herein, Respondent Missouri American Water Company, is a subsidiary of American Water Works Company, Inc. d/b/a American Water, and American Public Utility Company, headquartered in Voorhees, New Jersey and operating its subsidiary in the State of Missouri.

3. Respondent Missouri American Water Company at all times relevant herein provides water service to Complainant at a service address known and numbered as 714 Gravois

Road, Saint Louis, Missouri. Complainant has been assigned Account Number: 1017-210015186154. The meter in question is numbered 93009785.

4. Respondent Missouri American Water Company at all times relevant herein generates billing from its offices located at P.O. Box 94551, Palatine, Illinois 60094-4551.

5. Respondent Missouri American Water is at all times relevant herein a public utility and as such subject to the jurisdiction of the Missouri Public Service Commission and specifically section §386.010 et seq. of the Revised States of Missouri.

6. Complainant Thirty and 141, L.P. brings this Complaint against Respondent Missouri American Water Company pursuant to §386.390 RSMO and 4 CSR 240-2.070(4).

7. The amount in dispute involves certain water charges of approximately \$49,971.23 from a certain bill dated July 19, 2017 as set forth in Appendix E of Complainant's Exhibit 1 attached hereto and incorporated herein by reference.

#### **FACTUAL BACKGROUND CONCERNING DISPUTE**

8. Complainant Thirty and 141, L.P. is the record owner of certain land that is part of large commercial retail shopping center known as Gravois Bluffs located just south of the intersection of Gravois Road (Missouri State highway 30) and Missouri State Highway Route 141, located in southwest Saint Louis County Missouri (Fenton area). The shopping center actually occupies two very large tracts of land on both the east and west sides of Route 141.

9. The dispute involves a very large water fall feature that is part of the shopping center that sits at the southwest corner of Route 141 and Gravois Road. The waterfall feature has been part of the shopping center since the late 1990s.

10. Although there are a number of Missouri American Water Company accounts concerning the Gravois Bluff's Shopping Centers, at issue is one particular meter and

specifically the waterfall feature. The waterfall feature is a separately metered account that is billed to the Complainant.

11. Since the waterfall feature has been operating for some 20 years, Complainant has a very good understanding of the normal water usage for the waterfall. Attached hereto as Exhibit 1 is Gravois Bluffs Waterfall Usage Report which shows the historical water usage from December 2009 through June 2017. The data obtained for this report comes from Respondent's records.

12. While the water usage for the waterfall (in gallons) varies from year to year the usage indicated in 2017 by Respondent indicates 10,646,284 gallons. Complainant alleges that this is a mistake and cannot possibly be accurate. For instance the water usage for 2016 was just under 3 million gallons (i.e. 2,967,316). The water usage for all of 2015 was 1,354,628 gallons. A typical year of usage in the preceding years fluctuates around 1.3 million gallons to 2.5 million gallons. The variation in usage is due in part to weather and other factors. In hotter years for instance the evaporation factor is greater and therefore the water usage might likely be higher. But to spike up more than 8 million gallons in one year indicates to Complainant that there is a serious error. See the Executive Summary of Plaintiff's Exhibit 1.

13. Complainant Thirty and 141, L.P. routinely has maintenance performed on the waterfall to make sure that it is properly functioning. It has had the waterfall thoroughly inspected to see if there were any leaks or something that could account for 8 million gallons of water. There is nothing to indicate that 8 million gallons of water was consumed by this feature. If there was a major pipe break or some other type of malfunction that magnitude of water would have been visibly observable by tenants of the shopping center that about the waterfall feature or the shopping center's maintenance personnel that are out on the premises daily.

14. Despite Complainant's best efforts to resolve this matter amicably with the Respondent, the Respondent Missouri American Water Company has failed and refused and continues to fail and refuse to issue Complainant a credit despite all of Respondent's water data usage that suggests a faulty meter or some sort of internal error. There is nothing that can account for an 8 million gallon spike in water usage, if there are no leaks, busted pipes or other malfunction of the pumps or other mechanical devices of the waterfall feature. On the contrary the waterfall is holding water, pumping water properly and appears in all other respects to be functioning correctly.

15. Counsel for the Complainant has had several discussions with Respondent Missouri American Water and the local personnel appear to be without the authority to issue a large credit back to Complainant Thirty and 141, L.P.

16. The actions of the Respondent in refusing to issue a credit in light of its own data that clearly evidences some sort of billing error is violative of the service and billing practices for commercial and industrial customers of electric, gas, water and steam heat utilities as set forth in 4 CSR 240-10.040 as well as other Missouri state regulations and statutes.

WHEREFORE, Complainant Thirty and 141, L.P. requests that this honorable Commission investigate the claims of overbilling by Respondent concerning the meter known and numbered as 93009785, that said meter be properly tested in the presence of all interested parties, that a credit be issued to Complainant for the overbilled charges, that Complainant recover its reasonably costs of bringing this action including but not limited to its attorney's fees and for such further and other relief as this Commission deems just and proper in the premises.

Respectfully submitted,

June 25, 2018

THE PARNAS LAW FIRM, LLC

By: /s/ Michael J. Parnas  
Michael J. Parnas Mo Bar #36905  
7710 Carondelet Avenue, Suite 516  
Saint Louis, Missouri 63105  
(314) 726-6015  
(314) 726-6019 Fax  
[mparnas@mparnaslaw.com](mailto:mparnas@mparnaslaw.com)

Attorney for Complainant-Thirty and 141, L.P.





**Commissioners**

**DANIEL Y. HALL**  
Chairman

**WILLIAM P. KENNEY**

**SCOTT T. RUPP**

**MAIDA J. COLEMAN**

**RYAN A. SILVEY**

***Missouri Public Service Commission***

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://psc.mo.gov>

**SHELLEY BRUEGGEMANN**  
General Counsel

**MORRIS WOODRUFF**  
Secretary

**LOYD WILSON**  
Director of Administration

**NATELLE DIETRICH**  
Staff Director

**Information Sheet Regarding Mediation of Commission Formal Complaint Cases**

Mediation is a process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as “facilitated negotiation.” The mediator’s role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who “wins.” Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. The Regulatory Law Judges at the Public Service Commission are trained mediators and this service is offered to parties who have formal complaints pending before the Public Service Commission at no charge. In addition, the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a “winner” and a “loser” although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as “win-win” agreement.

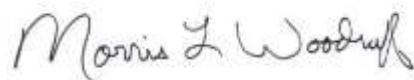
The traditional mediator’s role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant’s perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9)

occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The Judge assigned to be the mediator will not be the same Judge assigned to the contested complaint.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case. If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

A handwritten signature in dark ink, reading "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff  
Secretary

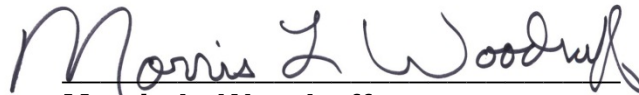
**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 5<sup>th</sup> day of July 2018.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**July 5, 2018**

**File/Case No. WC-2019-0004**

**Missouri Public Service  
Commission**

Staff Counsel Department  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounsel@psc.mo.gov

**Office of the Public Counsel**

Hampton Williams  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opcservice@ded.mo.gov

**Missouri-American Water  
Company**

Legal Department  
727 Craig Road  
St. Louis, MO 63141

**Thirty and 141, L.P.**

Michael J Parnas  
7710 Carondelet Ave., St. 516  
St. Louis, MO 63105  
mparnas@mparnaslaw.com

***Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).***

***Sincerely,***



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.