

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

Rhonda Martin,	)	
	)	
Complainant,	)	
	)	
v.	)	File No. WC-2016-0079
	)	
Missouri-American Water Company,	)	
	)	
Respondent.	)	

**ORDER DENYING MOTION FOR DEFAULT, AND GRANTING  
EXTENSIONS OF TIME TO FILE ANSWER AND REPORT**

Issue Date: November 9, 2015

Effective Date: November 9, 2015

Missouri-American Water Company (“MAWC”) failed to file its answer within the time set by Commission order.<sup>1</sup> The Commission’s staff (“Staff”) filed a motion for default.<sup>2</sup> MAWC filed a response, seeking to file the answer out of time, with the proposed answer.<sup>3</sup> Staff filed a reply seeking an extension of time to file its report.<sup>4</sup>

The Commission’s default regulation provides that MAWC’s failure to timely file an answer supports a decision against respondent.

If the respondent in a complaint case fails to file a timely answer, the complainant’s averments may be deemed admitted and an order granting default entered. [<sup>5</sup>]

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<sup>1</sup> EFIS No. 2 (October 2, 2015) *Notice of Contested Case and Order Directing Filings*.

<sup>2</sup> EFIS No. 8 (November 5, 2015) *Motion for Default Determination*.

<sup>3</sup> EFIS No. 9 (November 6, 2015) *Motion for Leave to Late File Answer, Response to Motion for Default, and Answer*.

<sup>4</sup> EFIS No. 10 (November 9, 2015) *Staff’s Motion for an Extension of Time Within Which to Complete Investigation*.

<sup>5</sup> 4 CSR 240-2.070(1).

But the Commission's regulations also allow an extension of time to file the answer:

When an act is required or allowed to be done by order or rule of the commission at or within a specified time, the commission may—

\* \* \*

(B) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect or for other **good cause** shown. [<sup>6</sup>]

And, even if the Commission had entered a default, the default would be subject to an order setting it aside under the same standard:

The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds **good cause**. [<sup>7</sup>]

Good cause means a substantial reason.<sup>8</sup>

In support of the motion, MAWC cites the press of other actions before the Commission and the absence of prejudice to the other parties. In reply, implicitly acknowledging the good cause shown in MAWC's response, Staff seeks an extension of time to file its report on the complaint. The Commission will grant both extensions of time and deny the motion for default.

#### **THE COMMISSION ORDERS THAT:**

1. The *Motion for Default Determination* is denied.
2. The *Motion for Leave to Late File Answer* is granted and the Commission's Data

Center shall record the answer as filed on the date of this order.

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<sup>6</sup> 4 CSR 240-2.050(3).

<sup>7</sup> 4 CSR 240-2.070(1).

<sup>8</sup> *State v. Latall*, 271 S.W.3d 561, 563 (Mo. banc 2008).

3. *Staff's Motion for an Extension of Time within which to Complete Investigation* is granted and Staff's report shall be filed no later than November 30, 2015.

4. This order shall be effective when issued.



**BY THE COMMISSION**

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

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

Dated at Jefferson City, Missouri,  
on this 9<sup>th</sup> day of November, 2015.