

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

Michelle Goad,)	
)	
Complainant,)	
)	
v.)	<u>File No. WC-2023-0142</u>
)	
Missouri-American Water Company,)	
)	
Respondent)	

STAFF’S REPORT AND RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and makes the following report and recommendation.

On October 25, 2022, Michelle Goad filed a formal complaint against Missouri-American Water Company (“MAWC”). On December 8, 2022, the Commission ordered Staff to file a report on the complaint or request a deadline extension, no later than January 6, 2023 (“Order”). This deadline was extended to February 5 and then to February 21, 2023. **Staff reports that the evidence supports a conclusion that MAWC has violated the Section 393.130.1, RSMo safe and adequate service mandate. Staff recommends the Commission set the matter for hearing, weigh the evidence, and issue a decision.**

Ms. Goad’s complaint states that on May 19, 2022, MAWC’s water main burst in front of her home, hurling water and rocks into the air for nearly two hours. She states that the water and debris rained down on her own home and car and the cars of others, causing damage to her home and car. She alleges, additionally, that water entered her home, causing further serious damage to the interior.

Staff conducted an investigation as described in its Official Memorandum filed with this cover pleading, and its findings are there described in detail. Distilled to the ultimate facts material to whether MAWC violated a statute, regulation, or tariff, Staff's investigation revealed that the following facts are undisputed: MAWC's water main broke. The water main was corroded. A few months previous to the incident, the pipe in question had been excavated and exposed. The ruptured pipe resulted in a "baseball size hole." MAWC has stated that its field crew's notes indicated that the cause of the leak was corrosion.

The above facts are not disputed. The removal and then re-emplacement of a speed limit sign in the vicinity of the May 19 break during the previous excavation and its role in the incident is, however, a narrative partly in dispute. Ms. Goad's complaint states her belief that the speed limit sign caused the pipe to burst. MAWC has stated that it does not believe that the sign itself was a contributing factor. MAWC states that in the previous excavation MAWC was not working where the sign was located, but photographs indicate otherwise. MAWC has acknowledged that if it was removed, then MAWC would have put the sign back in place after removing it. The pipe was a six-inch iron main and had been installed in 1990 at a depth of approximately three feet. Staff's investigation and findings, as described in detail in its Official Memorandum, supports an inference that the sign would have been planted about three feet deep.

The Official Memorandum sets out completely and in detail the investigation and evidence that contextualize both the undisputed ultimate facts set out above and also those related to the speed limit sign's placement and possible role. Staff concludes

that as a result of the corrosion the main either spontaneously ruptured or ruptured with the sign's placement. Either scenario plausibly explains what happened.

Section 393.130.1, RSMo, requires every water corporation to furnish and provide such service instrumentalities and facilities as shall be safe and adequate. Staff concludes that on the evidence, the Commission can find that MAWC violated this mandate. MAWC has filed an answer to the Complaint denying all wrongdoing. Notably, MAWC denies that the integrity of the water line and main was severely compromised and denies that it failed to maintain the pipe.

In summary: Staff would observe that absent any other plausible, factually supported explanation, which has not been forthcoming in this case, occurrences such as those described here by the evidence do not occur absent a pipe failure; and that despite its denial that the water line and main were compromised, MAWC's position actually is that corrosion caused the pipe failure. Thus, neither that the pipe failed, nor that it was corroded nor that it was corroded badly enough to cause pipe failure is disputed.

A factual issue for the Commission to decide, however, is whether corrosion bad enough to rupture a pipe and leave a "baseball size hole" on May 19, 2022, was likely apparent when the pipe was exposed during an excavation occurring only a few months prior. The technical staff is of the opinion that the undisputed facts support such an inference. It is Staff's legal position that if the Commission finds that the corrosion was apparent in the prior excavation, then MAWC had a duty to fully inspect the pipe and remediate the hazard. Staff contends that if corrosion was apparent during the earlier excavation, then a failure to look further, a failure to see, and a failure to remediate a

hazard which looking would have revealed, violated the Section 393.130.1, RSMo, safe and adequate service mandate.

Based upon its investigation, Staff recommends that the Commission set the case for an evidentiary hearing, resolve the material issues, and issue appropriate orders.

WHEREFORE, Staff prays the Commission to accept this Report and Recommendation as compliance with its Order.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned by his signature below certifies that the foregoing pleading was served upon all persons who have entered an appearance of record in this matter on this February 21, 2023, by electronic filing in EFIS.

/s/ Paul T. Graham