

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

In the Matter of Missouri-American)
Water Company’s Request for Authority to)
Implement a General Rate Increase for)
Water and Sewer Service Provided in)
Missouri Service Areas.)
Case No. WR-2011-0337

**THE OFFICE OF THE PUBLIC COUNSEL’S OBJECTION
TO NONUNANIMOUS STIPULATION AND AGREEMENT**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Objection to Nonunanimous Stipulation and Agreement states as follows:

1. January 19, 2012, Missouri-American Water Company (MAWC) and The Empire District Electric Company (Empire) submitted a Nonunanimous Stipulation and Agreement as to Special Contract to the Missouri Public Service Commission (Commission) intending to settle among the Signatories the issue of the appropriate rate to be applied to the interruptible water service provided to Empire. Attachment A to the Nonunanimous Stipulation and Agreement comprises an Interruptible Industrial Water Supply Agreement (Agreement) executed by MAWC and Empire.

2. 4 CSR 240-2.115 (2)(B) gives each party seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection. Therefore, per the requirements of 4 CSR 240-2.115 (2)(B), Public Counsel now objects to the Nonunanimous Stipulation and Agreement filed by MAWC and Empire.

3. The Agreement between MAWC and Empire would prematurely predetermine the method of determining the rates that Empire will pay to MAWC for interruptible water service. The proposed method would establish the rate to include a Customer Charge and a Commodity

Charge comprised of the lesser of MAWC's (a) fully loaded production costs covering the operating expenses, taxes, and capital costs of producing water for the Joplin district, or (b) rate for manufacturers, industrials and large quantity users of water, as approved by the Commission and applicable to the Joplin district. The entire subject of the current MAWC rate case is to look at the entirety of MAWC's service and determine what rates and what method of establishing rates are just and reasonable for all customer classes. The agreement between MAWC and Empire attempts to bypass the current rate case proceeding and predetermine treatment of the rate that will be paid by Empire. The result is setting the method of determining rates paid by one single user without taking into account the effect on other users and the effect on the rate case as a whole. Therefore, the Agreement is not in the public interest.

4. Additionally, the term of the Agreement between MAWC and Empire is for an initial twenty-five (25) years from the effective date of the agreement with automatic renewals for one year renewal terms. The Agreement has no provisions for review to ensure that the agreement is or will continue to be in the public interest and contains only limited conditions for reopening the agreement. The Agreement and limited testimony supporting it do not demonstrate that special treatment of Empire potentially at the expense of other customers is warranted or equitable. On its face the Agreement does not meet the criteria for an Economic Development Rider or Alternative Incentive Provisions currently contained in the Company's tariff. Public Counsel believes Commission review of any special rate, especially one of such long duration, is necessary to determine whether the rate is and will continue to be in the best interest of all customers of MAWC.

WHEREFORE, Public Counsel respectfully submits its Objection.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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By: _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 26th day of January 2012:

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