

OCT 7 2010

Before The Public Service Commission  
of the State of Missouri

Missouri Public  
Service Commission

Roman Dzurniaski,  
Complainant

Case No. WC-2010-0215

Missouri American Water Company  
Respondent

Complainant's motion in opposition to the motion for summary  
determination filed by the MAWC - and states as follows:

1. On September 14, 2009 I had an old leaking water heater replaced with a new one, including installation of the expansion tank. The job was performed by a licensed plumber and after all inspected (twice) by the St. Louis County Plumbing department inspectors to comply with the local plumbing code adopted recently. No problems were found to fix. (A label of the inspection is attached to the water heater).
2. I have never ever stated in writing or orally, "since installation of the new water heater." I noticed the rotation in November, 2009, before the water company took its regular meter reading and immediately informed company. (I usually check the water meter before the company takes its regular quarterly readings in order to control water usage, check for leaks, and see if it was properly taken by the company to match my real usage. A couple of years ago the company took incorrect reading about 5 times more than actual one and argued it was right, until I filed a complaint with the MPSC to credit my account for a proper usage, what the company did. As it was confirmed later, I was right with the reading and since that the company replaced a water meter.
3. The fact is a fact and it's true. The test was performed by the MAWC own 2 (the second crew employees, not me, to determine there was no leak in my system, and saying "I am not the first person with the same issue. It's the company problem..." Please, note the company doesn't raise anymore issue of the leak, what they tried before, even their own employees reported otherwise. Also, no party involved (MAWC, staff, St. Louis County Inspe) could answer why, when inlet is not shut off, the water flow indicator doesn't move at night and differently in intervals during a daytime. It indicates the water flow fluctuation in the main pipes.

It took me a lot of efforts, including time, financial, emotional, to prepare a lot of document to confirm that I have never had a leak in my system. That is why my complaint was about. I don't have to prove if I have no leak or use water, and prove

- other causes, why their water meter doesn't register backflow water (origin of the complaint).
4. I have never ever either in writing or orally made this statement. That it's why was my original complaint about. I had everything legally and properly installed, inspected twice by the St. Louis County independent plumbers - there are no problems exist whatsoever. No one, even the staff, could indicate what the problem exactly is. No connection with the water heater and water meter directly. The inlet to the water heater shut off doesn't indicate directly plumbing problems by itself and not allowing the company's water meter to register water properly coming through.
5. As I had already been served with the same document before the Staff's March, 2010 report who insisted I had a broken backflow valve installed, and later dismissed by the St. Louis County inspector and me, I already denied in my previous motion that this rule doesn't apply to me, because no devices at all (not mention broken, were found on my property by the MAWC employees, staff, St. Louis County inspectors and my plumbers.
6. As the company presented its water meter test conducted in December, 2009, they still didn't show the second test requested by the Staff and made in March, 2010. The Staff raised some issue how it works under certain conditions (if even not required by the MPSC rules) but may indicate improper readings from the retching effect, not registering water in the backflow movements. The company tries to be mum about this, but a recently obtained information from a credible source indicate otherwise, and will be submitted at the hearing. I can't submit it right now because of the hearing strategy. But I will prove the company always was aware of this. (Some of the Staff was given this information by me.)
7. If the MAWC can physically and scientifically prove that my water heater can push their water at about 40-50 psi into their main, it will clearly indicate they don't maintain a proper pressure or it collapses often enough (fluctuates badly) to let water backward. They don't know how much and how often water goes backward because their water meter doesn't register it, and how they already confirmed previously in their response to the MPSC they neither monitor nor measure pressure in their mains. My recordings will prove otherwise, even they don't completely show a 24-hour-spin of the water fluctuation. Also, by challenging me that my water goes into their main, entitles company so far by any means to be nominated for the Nobel Prize, because it's the 8<sup>th</sup> wonder of the world, trying to contradict some laws of physics, including gravity, connecting vessels and Osmosis effect (Van't Hoff's law)

8. As the MAWC made their own statement in May, 2010 on my property after learning from the St. Louis County no backflow devices installed on all St. Louis County properties and they are not pleased with customer's water going into their system, they are the only one who breached our prehearing agreement to share responsibility to install the device, without explaining why, even they admitted it could be installed. Even their own employees stated they couldn't guarantee it will work, including staff and St. Louis County inspector. In asking MPSC to order me to install the device without facts how much water flows backward and if it's dangerous (by their own account) they must also ask on behalf of all 400,000 customers in St. Louis County, whose water from their water heaters directly or indirectly flows into mains (very easy to prove). Also, they need to petition the St. Louis County Plumbing Dep. and St. Louis County Council to adopt a new plumbing code for all the customers. In fact, they need to inform about this MO Department of Health and MO Department of Natural Resources (what I did). They ignored my request because they said it's the water company's responsibility to maintain a proper pressure in the mains to the level to which customer's water can't freely flow into main, apart from proving it's dangerous.

As the company in violation of the Rules - 4 CSR 240-10(36), (37), (43). The MPSC should order MAWC to install (regarding rule (5), a suitable water meter which will prevent, by the company account, backflow water from my system into theirs if it's ever exists or properly register backflow water, retching. If after that that the meter will register backflow from my system into theirs, as they insist, the company will own me money each month as a permanent main supplier of the pure water to the customers. And I will register a new business with the Secretary of State Office. Or the company can drop a request for installing a backflow device and agree to make adjustments to my bills, as I indicated in my original complaint.

Wherefore, I ask for an order entering judgment against MAWC and in my favor, and for such relief indicating in my complaint as is just and proper.

Respectfully,

Roman Dzhuinskij

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10-01-2010

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