

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

In the Matter of Missouri-American Water Company's ) **File No. WR-2010-0131**  
Request for Authority to Implement a ) Tracking No. YW-2010-0310  
General Rate Increase for Water Service ) YS-2010-0311, YS-2010-0312,  
Provided in Missouri Service Areas ) YS-2010-0313, YS-2010-0314

**CONCURRING OPINION OF CHAIRMAN ROBERT M. CLAYTON III**

While this Commissioner concurs in the Commission's Order Approving Unanimous Disposition Agreements and Approving Tariffs, these matters are representative of the most difficult decisions that face this Commission. During a time of difficult economic circumstances, increasing energy costs and significant instances of unemployment and underemployment, it is not a good time for any rate increase. Additionally, the increases in this order raise rates for some of Missouri American Water Company's (MAWC's) customers to some of the highest rates in the state for water or sewer service. The Commission has before it a unanimous agreement addressing the appropriateness of these rate increases and no party, including the Public Counsel, has raised any objection to its approval. The Commission must do a better job explaining why the Commission approves the request, what steps the Commission may be taking with regard to improving service for customers and why there is a great disparity of rates among the different service territories of MAWC.

First, the Commission has before it a Unanimous Stipulation and Agreement in which nearly all parties in the case have agreed. The parties that have signed the agreement include Missouri American Water Company, Office of the Public Counsel, MOPSC Staff, AG Processing Inc., Missouri Energy Group, Triumph Foods, LLC, Missouri Industrial Energy Consumers, Water District Intervenors, Metropolitan St. Louis Sewer District, City of Riverside, St. Louis Fire Sprinkler Association, and City of St. Joseph. Additionally, other parties who refused to sign have

chosen to not object to the agreement, as is their right, which means that the agreement can be treated as unanimous. The fact that all parties agree or fail to object illustrates the fairness of the result and that the rates are based on fully audited and approved expenses and investments. The PSC staff conducted the audit and, having the most intimate knowledge of MAWC's books, has supported the varying increases among customers. Customers can have confidence that expenses have been deemed prudent, the expenses are necessary to provide safe and adequate service and the infrastructure investments are appropriate under the circumstances.

Secondly, the Commission undertook the challenge of revamping and reformulating its policies associated with Local Public Hearings in the service territories of MAWC. It has become a challenge in difficult economic times explaining the role of the Commission, its staff and the parties that appear before the Commission. In the past, customers have attended Local Public Hearings to express frustration and anger and leave the meetings without any additional understanding of the process or the personnel involved in decisions. In fact, customers regularly confuse the PSC with the company and question how the parties are in a conspiracy together with substantial rate increases in mind. The Commission, during this case, implemented new methods of communicating what role the PSC plays in the process. Customers were made aware that decisions are based on facts that come before us at evidentiary hearing and are not to be made arbitrarily or by simply estimating what the public can handle or tolerate. The Commission is in part a political entity but as an administrative tribunal must make its decisions on the evidentiary record.

For the first time in this Commissioner's tenure, PSC staff now provide comprehensive, east-to-understand explanations of the role of the Commission, the process and the parties. Customers are now formally introduced to Company leaders as well as customers' representative, the Office of Public Counsel. Customers are invited to ask questions directly of the parties to understand their role, their positions and their policies. It has been this Commissioner's goal that customers leave the

Local Public Hearings with the knowledge that it is from among the positions stated by the parties, from which the Commission must choose in setting rates and regulatory policy. These decisions come from the evidentiary hearing or settlement and illustrate that the Commission is the unbiased arbiter and fair decision-maker. This process has best been described as not preventing customers from being angry, but rather, making sure that they fully understand why they are angry when they leave.

The Commission's Staff has investigated all customer complaints and concerns that have been brought to their attention and the Commission will be continually monitoring the quality of MAWC's services. In the event that customers feel that their specific concerns have not been addressed, they are invited to contact my office for further inquiry.

Lastly, this Commission is compelled to note the disparity in rates paid among the different service territories of MAWC. Monthly rates for water range from \$22.75 per month (Warrensburg Water) to \$65.86 per month (Parkville Water) based on comparable residential usage. Through filings in this case, those disparities were highlighted by the varying filings of the Company, the PSC staff and the Office of Public Counsel. Additionally, a number of communities engaged legal representation to ensure their fair treatment in the allocation of costs and corresponding rates. Many customers face increases of 35% while one community experiences a decrease in rates. This concept can be difficult to explain as to why customers using the same amount of water in varying parts of the state should be pay starkly different utility rates. The reason for those differences relates to differences in underlying costs for each system. The Commission is continuing the practice of each community paying its own way, for the most part, in terms of its cost of service and the rates that pay that cost. Systems that have fewer customers, have newer systems or greater challenges in procuring clean, potable water may have higher costs. Systems with large numbers of customers, older depreciated systems or easily attainable water have lower costs. While the parties refuse to

acknowledge any subsidy paid by some districts to support smaller or costly districts, it is clear that there are several districts paying lower than their costs including Brunswick and Warren County Sewer.

All parties have agreed that the costs for each district have been verified and approved. The primary answer as to why rates are different is simple: The costs for the districts are different and higher costs produce higher rates. However, we must do better in explaining why the costs vary. It is for this reason that the Commission will ask the PSC staff, MAWC and OPC to compile a report in laymen's terms explaining the basic factual differences among MAWC's districts so that the Commission can publish a guide to MAWC ratepayers. Customers have a right to know the reasons for the differences in rates and the general nature of the system serving each community. The guide will address past actions, present conditions as well as estimates for future investment that will have a future impact on rates. Lastly, the report will include an estimate of the monthly rate for water or sewer service if all districts were combined into a single district and everyone paid the same rate.

The Commission recognizes the difficult economic times that customers face, but the alternatives in this situation are extremely limited. The Commission's mandate is to make sure that investor-owned utilities offer "safe and adequate" service at "just and reasonable rates. While rates are increased in this case and, in some cases, are high, they are based on prudent expenses and investments in plant and the Commission believes that the new rates are "just and reasonable."

For the foregoing reasons, this Commissioner concurs.

Respectfully submitted,



Robert M. Clayton III  
Chairman

Dated at Jefferson City, Missouri  
on this 16<sup>th</sup> day of June 2010.