



Commissioners  
KELVIN L. SIMMONS  
Chair  
CONNIE MURRAY  
SHEILA LUMPE  
STEVE GAW

## Missouri Public Service Commission

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September 13, 2001

WESS A. HENDERSON  
Director, Utility Operations  
ROBERT SCHALLENBERG  
Director, Utility Services  
DONNA M. KOLILIS  
Director, Administration  
DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge  
DANA K. JOYCE  
General Counsel

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

RE: Case No. WC-2002-146

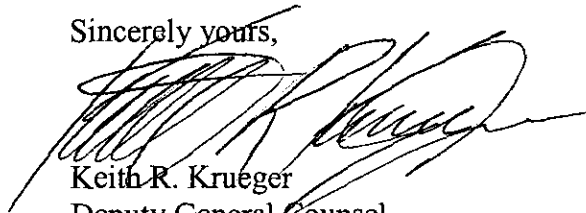
Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **COMPLAINT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

  
Keith R. Krueger  
Deputy General Counsel  
(573) 751-4140  
(573) 751-9285 (Fax)

KRK/lb  
Enclosure  
cc: Counsel of Record

**FILED**  
SEP 13 2001  
Missouri Public  
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
SEP 13 2001  
Missouri Public  
Service Commission

Staff of the Missouri Public Service  
Commission, )  
 )  
Complainant, )  
 )  
v. )  
 )  
St. Louis County Water Company, )  
d/b/a Missouri-American Water Company, )  
 )  
Respondent. )

Case No. WC-2002-146

**COMPLAINT**

**COMES NOW** the Staff of the Missouri Public Service Commission, pursuant to §§ 386.240 and 386.390, RSMo 2000<sup>1</sup> and 4 CSR 240-2.070, and for its Complaint states to the Missouri Public Service Commission as follows:

1. St. Louis County Water Company, d/b/a Missouri-American Water Company (“County Water”) is a Missouri corporation with its principal office and place of business located at 535 N. New Ballas Road, St. Louis, MO 63141.
2. County Water is a “water corporation” and a “public utility” as those terms are defined in § 386.020 (58) and § 386.020 (42), respectively, and provides water service to customers in its certificated area in Missouri.
3. County Water is subject to the jurisdiction, regulation, supervision and control of the Commission pursuant to Chapters 386 and 393.

<sup>1</sup> All statutory references are to RSMo 2000, unless otherwise indicated.

4. Section 386.240 provides: "The commission may authorize any person employed by it to do or perform any act, matter or thing which the commission is authorized by this chapter to do or perform; provided, that no order, rule or regulation of any person employed by the commission shall be binding on any public utility or any person unless expressly authorized or approved by the commission."

5. Section 386.390.1 provides, in part: "Complaint may be made by the commission of its own motion ... by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission ..."

6. Rule 4 CSR 240-2.070 (1) provides, in part: "The commission on its own motion, the commission staff through the general counsel, or any person or public utility who feels aggrieved by a violation of any statute, rule, order or decision within the commission's jurisdiction may file a complaint."

7. Section 66.405 provides, in part, as follows:

1. If approved by a majority of the voters voting on the proposal, [St. Louis County] may, by ordinance, levy and impose annually, upon water service lines providing water service to residential property having four or fewer dwelling units, on a countywide basis, including both the incorporated and unincorporated areas of such county, a fee not to exceed one dollar per month or an equivalent rate collected at some other interval.

...

4. If a majority of the voters voting thereon approve the proposal authorized in subsection 1 of this section, the governing body of the county may enact an ordinance for the collection of such fee...

5. The county may contract with any provider of water service in the county to bill and collect such fees along with bills for water service and to pursue collection of such

amounts through discontinuance of service as may be directed by the county. ... The county may administer the program or may contract with one or more persons, through a competitive process, to provide for administration of any portion of implementation activities of any ordinance adopted and approved pursuant to this section, and reasonable costs of administering the program may be paid from the special account established pursuant to this section.

8. Pursuant to the provisions of § 66.405, St. Louis County enacted an ordinance which was designated as § 502.195, SCLRO 1974 as amended, and which reads in part as follows:

**502.195 Water Service Line Repair Fee.** – 1. A fee of One Dollar (\$1.00) per month is imposed upon all water service lines providing water service within the county to residential property having four or fewer dwelling units, to provide funds to pay for repair or replacement commencing July 1, 2001, of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation.

...

3. The County Executive is authorized to execute contracts with providers of water service in St. Louis County to bill and collect such fees along with bills for water service and to pursue collection of such amounts through discontinuance of service. All such contracts shall be approved by the Accounting Officer and shall contain such terms and conditions as are approved by the County Counselor.

9. On January 19, 2001, County Water entered into a written agreement with St. Louis County entitled "Contract for Collection of Statutory Service Line Repair Charges," a true and complete copy of which is attached hereto as Exhibit A. The said Contract provides, in part, as follows:

1. Beginning on March 1, 2001, [County Water] shall add to the bill of each residential customer having four or fewer dwelling units a separate and clearly described fee to be paid in advance, of one dollar (\$1.00) per month or three dollars (\$3.00) per quarter (and not pro-rata for periods of time less than one month, or quarter, whichever is applicable) during which service is provided, which such amount may be billed and collected monthly, quarterly or otherwise in the due course of [County Water's] usual and ordinary approved billing practices.

2. Amounts collected shall be accounted for on a calendar month basis and shall be remitted by the fifteenth (15<sup>th</sup>) of each month to S. Louis County. ...

3. [County Water] may reduce the amount of total remittance to St. Louis County by the amount deemed uncollectible from a prior billing period.

...

7. The parties hereto understand and agree that this Contract does not seek to invade, bypass or supersede the jurisdiction of the Missouri Public Service Commission, and accordingly this Contract shall be submitted to the Missouri Public Service Commission for its information, and if deemed necessary by such Commission, for its approval. This Contract shall at all times be subject to the actions of such Commission.

10. On January 25, 2001, pursuant to the aforementioned statute, ordinance and contract, County Water filed with the Commission a tariff sheet, to become effective February 26, 2001. The tariff sheet was entitled "ST. LOUIS COUNTY SERVICE LINE REPAIR PROGRAM," and was designated as P.S.C. MO No. 6 Original Revised SHEET No. RT 17.0." A true copy of the said tariff sheet is attached hereto as Exhibit B. The said tariff sheet provides, in part:

AVAILABILITY – This rate is applicable from and after March 1, 2001 to residential customers in St. Louis County having four or fewer dwelling units, and only to the extent such charge shall continue to be authorized by and provided for in [the ordinance, statute and contract].

RATE – One dollar (\$1.00) per month or three dollars (\$3.00) per quarter (and not pro-rata for periods of time less than one month or one quarter whichever is applicable) during which service is provided, to be billed and collected monthly, quarterly or otherwise in the due course of approved billing practices applicable to the customer.

...

The Commission assigned File No. 2001 00776 to the said tariff sheet for purposes of processing.

11. Prior to the effective date of the tariff sheet, members of the Staff informed County Water personnel that Staff was concerned about the contents of the subject tariff sheet and would probably recommend that it be suspended. In response, the Company informed the Staff that the Company would withdraw the subject tariff sheet. In reliance upon this

representation, the Staff took no action to suspend the tariff sheet. However County Water failed to withdraw the subject tariff sheet, which then went into effect by operation of law on February 26, 2001.

12. The statute, § 66.405, authorizes St. Louis County to impose *a fee upon water service lines* providing water service to certain residential property – that is, upon the owners of the said water service lines. Likewise, the ordinance, § 502.195, SLCRO, imposes *a fee upon all water service lines* providing water service to certain residential property – that is, upon the owners of the said water service lines – *commencing July 1, 2001*.

13. The Contract, however, provides that County Water shall add *a fee to the bill of each residential customer* in certain dwelling units, *beginning on March 1, 2001*. Likewise, the tariff sheet is applicable to *residential customers* in certain dwelling units, *from and after March 1, 2001*.

14. The terms of the Contract and the tariff sheet are thus different from, and inconsistent with the terms of the statute and the ordinance, in two respects:

- a. They impose the fee upon residential customers, instead of upon the owners of lines that serve residential property. In many cases, the owner of the service line is, in fact, the customer, but in other cases, the customer does not own the service line.
- b. They impose the fee commencing March 1, 2001, instead of July 1, 2001, as authorized by the statute and the ordinance.

The Contract and tariff sheet are therefore unauthorized and unlawful. In addition, it would be costly and impracticable for County Water to collect the fees from property owners who are not customers of the Company.

15. The Contract requires the Company to remit all “amounts collected” to St. Louis County by the 15th day of each month. There is no provision in the Contract or anywhere else that would authorize the Company to retain any portion of the fees collected for the purpose of

paying the administrative cost and expense it incurs in collecting, accounting for and remitting these fees. Consequently, the Company is using ratepayer-supplied resources for the collection of the fee at no cost to St. Louis County, and without recovering any of the costs related to collecting the fee. The Contract thus requires an imprudent use of ratepayer-supplied resources.

16. The tariff sheet is misleading and confusing to ratepayers in the following respects:

- a. It refers to the "Availability" of the fee, as if the ratepayer has a choice as to whether or not to pay the fee, when in fact the ratepayer has no such choice.
- b. It implies that the "Service Line Repair Program," and the Contract with St. Louis County, and the amount of the fee that is charged for the program have been approved by the Commission, when in fact they have not.
- c. It authorizes a reduction of the fee, if approved by the lawful action of St. Louis County; however if St. Louis County acts to reduce the fee, it would result in the rate shown on the tariff sheet being inaccurately stated.

17. Although the tariff sheet went into effect by operation of law on February 26, 2001, this only occurred because the Company stated that it would withdraw the tariff sheet, but then failed to do so.

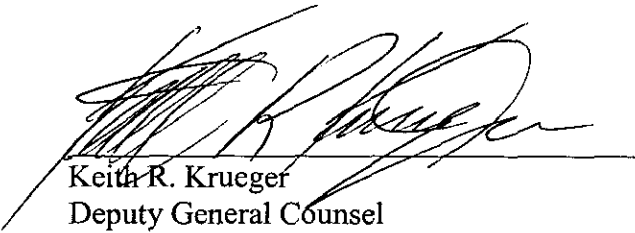
18. Members of the Staff have spoken to Company personnel, stating their objections to the tariff sheet and their concerns about it on several occasions since the tariff sheet became effective on February 16, 2001. On May 14, 2001, the Staff sent the Company a four-page memorandum, in which it specifically outlined its concerns about the tariff sheet and requested that the Company withdraw the tariff sheet. The Company responded in writing, stating that it could not agree to withdraw the tariff.

**WHEREFORE**, the Staff requests that the Commission order County Water to immediately cease charging its customers the fee specified in the Company's contract with St. Louis County, that it order County Water to refund fees heretofore collected from its customers,

and that it order the Company to rescind P.S.C. MO No. 6 Original Revised SHEET No. RT  
17.0.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

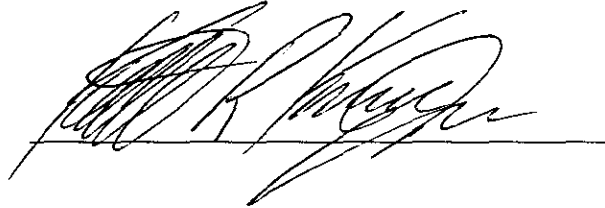


Keith R. Krueger  
Deputy General Counsel  
Missouri Bar No. 23857

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Missouri Public Service Commission  
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[kkruveg01@mail.state.mo.us](mailto:kkruveg01@mail.state.mo.us) (e-mail)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 13<sup>th</sup> day of September 2001.





**CONTRACT FOR COLLECTION OF STATUTORY  
SERVICE LINE REPAIR CHARGES**

**AGREEMENT**, this 19<sup>th</sup> day of January, 2001, by and between St. Louis County Water Company, d/b/a Missouri-American Water Company, a Missouri Corporation and public utility regulated by the Missouri Public Service Commission providing water service within St. Louis County, Missouri ("Water Company") and St. Louis County, Missouri, being a duly organized first class County in the State of Missouri operating pursuant to a duly adopted and approved Charter ("St. Louis County").

**WHEREAS**, section 66.405 RSMo 2000 authorizes St. Louis County, after obtaining approval of voters and compliance with other prerequisites as described therein, to impose a fee upon water service lines providing water service to residential property having four or fewer dwelling units in an amount not to exceed one dollar per month or an equivalent rate collected at some other interval; and

**WHEREAS**, pursuant to Ordinance No. 20,110, an election was held in St. Louis County on November 7, 2000 and the qualified voters of St. Louis County approved the imposition of a One Dollar (\$1.00) per month fee to provide funds to pay for repair or replacement commencing July 1, 2001, of water lines extending from the water main to a residential dwelling due to failure of the line or for road relocation; and,

**WHEREAS**, pursuant to Ordinance No. 20,299, St. Louis County Title V, Chapter 502, "Levy and Collection of Taxes," as amended, passed to implement and administer such charge and to authorize the County Executive to execute contracts with providers of water service in St. Louis County to bill and collect such fees along with bills for water service and to pursue collection of such amounts through discontinuance of service; and,

**WHEREAS**, although some of the Water Company's customers affected by the legislation put forth herein are billed monthly, a vast majority are billed on a quarterly basis; and,

**WHEREAS**, it is the intent of St. Louis County and Water Company to herewith enter into such a contract for billing and collection of such fees.

**NOW THEREFORE**, for and in consideration of the payment of one dollar from each to the other paid, the receipt of which is herewith acknowledged, St. Louis County and Water Company agree as follows:


1. Beginning on March 1, 2001, Water Company shall add to the bill of each residential customer having four or fewer dwelling units a separate and clearly described fee to be paid in advance, of one dollar (\$1.00) per month or three dollars (\$3.00) per quarter (and not pro-rata for periods of time less than one month, or quarter, whichever is applicable) during which service is provided, which such amount may be billed and collected monthly, quarterly or otherwise in the due course of Water Company's usual and ordinary approved billing practices.
2. Amounts collected shall be accounted for on a calendar month basis and shall be remitted by the fifteenth (15<sup>th</sup>) of each month to St. Louis County. Payments shall be made to the St. Louis County Treasurer and may be made by check or electronic (ACH) deposit.
- ✓ 3. Water Company may reduce the amount of total remittance to St. Louis County by the amount deemed uncollectible from a prior billing period. Such collection reduction will cover those accounts which were billed during prior months but remain uncollected. Any uncollected amounts, which are later recovered, shall be remitted to St. Louis County on the next monthly remittance date.
4. Water Company shall provide to St. Louis County a database report in electronic form, on a quarterly basis, containing all that information compiled by Water Company in the ordinary course of its business from which St. Louis County can reasonably ascertain those customers who have been duly billed for such fees. St.

Louis County may request and Water Company will provide, on a case by case basis, information on specific customers relating to unpaid balances remaining on an account by phone, fax, or e-mail.

5. Pursuant to the provisions of 4 CSR 240-13.020 (11), partial payments by any customer shall first be credited to balances outstanding for water charges.
6. Water Company will pursue collection of unpaid amounts in the ordinary course of its business in accordance with rules and regulations on file with and approved by the Missouri Public Service Commission, including discontinuance of water service, if necessary.
7. The parties hereto understand and agree that this Contract does not seek to invade, bypass or supersede the jurisdiction of the Missouri Public Service Commission, and accordingly this Contract shall be submitted to the Missouri Public Service Commission for its information, and if deemed necessary by such Commission, for its approval. This Contract shall at all times be subject to the actions of such Commission.
8. St. Louis County will provide Water Company with a contact and telephone number within St. Louis County government to whom Water Company may refer any and all customer questions, challenges or complaints regarding the fees being collected pursuant to this Contract.
9. This contract shall be effective on the day and date first above written and shall be in effect for one year and from year-to-year thereafter unless and until terminated by either party upon not less than 120 days written notice from one party to the other.

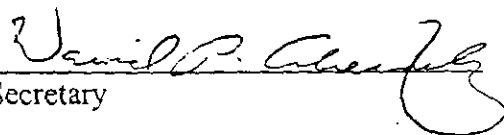
**WHEREFORE**, this agreement has been duly executed on the day and date first above written.

ST. LOUIS COUNT WATER COMPANY,  
d/b/a Missouri-American Water Company

  
By: Eric W. Thornburg  
President

(SEAL)

ATTEST:

  
Secretary

ST. LOUIS COUNTY, MISSOURI

  
By: Bruce Westfall  
County Executive

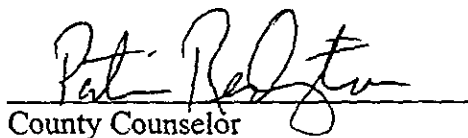
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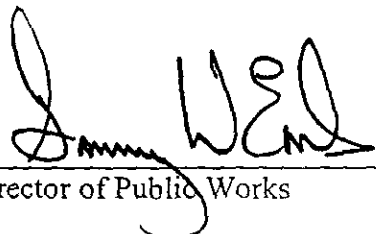
  
Administrative Director

Approved:

  
Accounting Officer

Approved as to legal form:

  
County Counselor

  
Director of Public Works

**Service List for  
WC-2002-\_\_\_\_  
September 13, 2001 (lb)**

**Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102**

**David Abernathy  
535 North Ballas Road  
St. Louis, MO 63141**