

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

Charles Harter,)	
)	
Complainant,)	
)	Case No. WC-2013-0468
v.)	SMALL FORMAL COMPLAINT
)	
Missouri-American Water Company,)	
)	
Respondent.)	

MISSOURI-AMERICAN WATER COMPANY’S POST-HEARING BRIEF

COMES now Respondent Missouri-American Water Company (“MAWC”), by and through the undersigned counsel, and for its Post-Hearing Brief, states the following:

Introduction

Charles Harter (“Harter”) filed this formal complaint before the Public Service Commission on April 25, 2013, alleging that MAWC “employs improper and illegal disconnection procedures,” breached a “budget payment agreement”, and that it employs third party contractors to perform disconnections¹.

Statement of Facts

In October 2012, Harter had a delinquent balance of \$***². In order to avoid disconnection, Harter contacted MAWC and was granted a payment agreement. The October 18, 2012 agreement set forth that Harter was to pay an initial \$*** payment and thereafter make two payments of \$***³. As long as payments were made in a timely manner, he would

¹ Harter abandoned his third party contractor complaint at pre-hearing conference when he realized that he had MAWC mixed up with some other utility. MAWC does not use third party contractors to perform shut-offs for non-payment.

² See Tr. 88:21-25.

³ See Tr. 90:25-91:4.

avoid the disconnection process. Harter made the initial \$*** payment to his account, but failed to make the subsequent payment of \$*** that was due on November 17, 2012⁴. As a result of the breach of that October 2012 payment agreement, Harter received a discontinuation notice with a disconnection date set for December 4, 2012⁵. The notice detailed what steps need to be taken by the customer to avoid disconnection. Harter requested assistance from Community Action Agency of St. Louis County, Inc. (“CAASTL”) to see if it could provide any money to go to his delinquent bill⁶. Harter made a partial \$*** payment on his account on December 4, 2012 which left a bill of \$***. Nevertheless, MAWC halted the disconnection of Harter’s water service.

On December 7, 2012 MAWC billed Harter \$*** for service from August 31, 2012 to December 3, 2012. When combined with Harter’s past due balance, the total amount due and owing to MAWC was up to \$***⁷. On January 9, 2013 Harter called MAWC to request another payment agreement in order to avoid shutoff. Harter’s request was denied due to his breach of recent October 2012 agreement⁸. On January 14, 2013 CAASTL paid \$*** towards Harter’s account, leaving a balance of \$*** due⁹. Thereafter, MAWC sent Harter a discontinuance notice on January 22, 2013 for the delinquent balance of \$*** on his account¹⁰. The notice stated that there would be a \$*** restoration charge applied to reconnect his water service, as it had appeared on prior discontinuation notices sent to Harter’s home. On January 24, 2013,

⁴ See Tr. 91:4-5.

⁵ See Tr. 91:6-8.

⁶ See Tr. 91:9-11.

⁷ See Tr. 91:12-15.

⁸ See Tr. 91:18-20.

⁹ See Tr. 91:21-23.

¹⁰ See Tr. 92:1-2.

Harter called MAWC again to request a payment agreement, and he was denied due to his failure to abide by the October 2012 payment agreement¹¹.

On January 30, 2013 MAWC sent Harter a final discontinuance notice advising him that his water service would be disconnected on February 4, 2013¹². The notice detailed what steps Harter would need to take in order to avoid disconnection. Subsequently, Harter made a \$*** payment on February 4, 2013, bringing his balance due and owing to \$***¹³. Since Harter still had an unpaid balance of \$***, his water service was disconnected on February 6, 2013. MAWC's technician knocked on Harter's door and spoke with Harter prior to the disconnection.¹⁴ Harter advised that he had a payment agreement with MAWC, he had made a payment on February 4th, and therefore his services should not be disconnected. The technician verified that Harter had made a \$*** payment on February 4, 2013; however, he did not have a payment agreement in place with MAWC for his delinquent balance of \$***¹⁵. Accordingly, he was still subject to disconnection. Harter then called MAWC on February 6, 2013 regarding the fact that his water service had been disconnected, and once again stated that he was on a payment plan and should not have been eligible for disconnection. MAWC advised Harter that he did not have a payment agreement with MAWC due to prior broken agreements and that his service was disconnected because he had a delinquent balance of \$***.

¹¹ See Tr. 92:2-5.

¹² See Tr. 92:6-7.

¹³ See Tr. 92:8-9.

¹⁴ In his Complaint, Harter alleges that MAWC did not knock on his door. This is in direct contravention to his testimony in the evidentiary hearing where he stated that an MAWC employee knocked on his door and he had a conversation with that employee. See Tr. 64:19.

¹⁵ See Tr. 81:7:14.

Harter's water service was restored on February 6, 2013, and the \$*** restoration charge was applied to his account pursuant to MAWC's current approved tariff. Further, MAWC agreed to grant Harter another payment agreement so that he could get back on track with his water bill. The agreement provided that Harter would pay \$*** in two payments of \$***, and a final payment of \$***. Harter paid \$*** on February 14, 2013 which was his current balance minus the \$*** reconnection fee which he disputed.

On March 11, 2013 MAWC sent Harter a bill for \$*** for water service from December 3, 2012 through March 6, 2013, which included the \$*** reconnection fee¹⁶. The bill was due on March 21, 2013 and considered delinquent on if not received by March 27, 2013. However, Harter did not pay his bill, and on April 25, 2013 Harter filed his complaint in this matter with the Commission alleging that MAWC had breached a "budget payment agreement."

On May 1, 2013 MAWC granted Harter another payment agreement for the delinquent amount of \$***. The terms of Harter's new payment agreement were as follows: an initial payment of \$*** was due on May 5, 2013, and was to be followed by three payments of \$***, and a final payment of \$***. Harter made his first installment payment of \$*** on May 1, 2013, however he did not make his second payment under the terms of the agreement¹⁷. On August 12, 2013 MAWC sent Harter a bill for \$***, which included a past due balance of \$*** and \$*** in current charges¹⁸. On September 5, 2013 MAWC sent Harter a bill for \$***, which included a past due balance of \$*** and \$*** in current charges¹⁹.

¹⁶ See Tr. 92:17.

¹⁷ See Tr. 92:23-93:2.

¹⁸ See Tr. 93:3-5.

¹⁹ See Tr. 93:6-8.

This matter was set for an evidentiary hearing on October 18, 2013. On the evening before the hearing, Harter made a \$*** payment on his account²⁰. \$*** was his current amount of charges for water service from June 7, 2013 to September 4, 2013. However after Harter's \$*** payment, he still had an outstanding past due balance of \$***. A check of MAWC's records as of November 1, 2013 shows that no additional payments have been made, nor have any new payment arrangements been granted to Harter.

Issue

The issue before the Commission is whether MAWC violated any Commission statute, rule, order or Commission-approved Company tariff when it disconnected Harter's water service on February 6, 2013?

Analysis

Harter's complaint is that he should not have been disconnected on February 6, 2013. He maintains that he had a payment agreement in place for his overdue balance and that prevented him from being disconnected. The evidence is that Harter did not have a payment agreement at the time he was shut off. He contacted the company on February 6 ***after*** the disconnection and at that time was granted another payment installment arrangement to pay his outstanding \$*** balance, which he ended up paying in full on February 14, 2013.

MAWC complied with all of the requirements of 4 CSR 240-13.050(5) regarding *Billing and Payment Standards* when Harter received bills and the proper discontinuation notices that contained all the required information by Rule 4 CSR 240-13.050(4), including the reason for the discontinuance, total account balance due, date on or after that service will be discontinued

²⁰ See Tr. 93:20-22.

and how Harter could have prevented discontinuance. In addition, Rule 4 CSR 240-13.050(1)(D) allows a customer's service to be discontinued by a Company for failure to comply with the terms of a settlement agreement. Accordingly, MAWC did not violate any Commission statute, rule, order or Commission-approved tariff when it disconnected Harter's water service on February 6, 2013.

Conclusion

Harter is a lawyer in good standing with the Missouri Bar who has practiced law for 35 years. He has a history of utilizing the complaint process as means to avoid disconnection by bringing claims without merit. He has filed informal and formal complaints against every utility that serves his home and has also filed suit against the Missouri Public Service Commission directly.²¹

MAWC has repeatedly tried to work with Harter by granting him several installment payment arrangements.²² Harter fails to honor the agreements, and then files both informal and formal complaints with baseless allegations to avoid disconnection. Missouri utilities spend countless hours addressing his complaints. Such time would be much better served addressing legitimate concerns of their customers.

The evidence presented at the hearing demonstrates that MAWC has complied with all applicable statutes, rules, and orders in its dealings with Harter, and the Commission should enter an order denying Harter's Complaint on the merits and authorize MAWC to proceed with disconnection of water service by providing notice as required by 4 CSR 240-130.050.

²¹ ***Charles A. Harter vs. Union Electric Company, d/b/a Ameren Missouri*** Case Numbers EC-2013-0491; EC9987XXXXXX; EC97299XXXXX , ***Charles Harter vs. AT&T***, Case No. TC97454; ***Charles A. Harter vs. Laclede Gas Company***, Case No. GC-2010-0217 ***Charles Harter vs. Missouri Public Service Commission, MSD vs. Charles A. Harter***, Cause No. 13SL-AC24335 St. Louis County Circuit Court.

²² In the last twelve months alone, MAWC has offered him three separate payment agreements.

Respectfully submitted,

MISSOURI-AMERICAN WATER COMPANY

By: /s/ Timothy W. Luft
Timothy W. Luft, MO Bar 40506
727 Craig Road
St. Louis, MO 63141
timothy.luft@amwater.com
(314) 996-2279

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed electronically and served this 1st day of November, 2013 by: US Mail, postage prepaid to Charles Harter, 827 S. Sappington Rd, St. Louis, MO 63126; Electronically to Charles Harter at harleycharter@sbcglobal.net; electronically to the Office of the Public Counsel at opcservice@ded.mo.gov, and electronically to Staff at staffcounsel@psc.mo.gov and jennifer.hernandez@psc.mo.gov.

/s/ Timothy W. Luft