

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

Roman Dzhurinskiy,	)	
	)	
Complainant,	)	
	)	Case No. WC-2010-0215
v.	)	
	)	
Missouri-American Water Company,	)	
	)	
Respondent.	)	

**MAWC'S REPLY TO COMPLAINANT'S MOTION IN OPPOSITION  
TO SUMMARY DETERMINATION**

COMES NOW Respondent Missouri-American Water Company (MAWC) and for its Reply to Complainant's Motion in Opposition to Summary Determination, states as follows:

Complainant has failed to comply with the Missouri Public Service Commission's regulations regarding responses to motions for summary determination. 4 CSR 240-2.117(1)(C) provides:

Not more than thirty (30) days after a motion for summary determination is served, any party may file and serve on all parties a response in opposition to the motion for summary determination. Attached thereto shall be any testimony, discovery or affidavits not previously filed that are relied on in the response. ***The response shall admit or deny each of movant's factual statements in numbered paragraphs corresponding to the numbered paragraphs in the motion for summary determination, shall state the reason for each denial, shall set out each additional material fact that remains in dispute, and shall support each factual assertion with specific references to the pleadings, testimony, discovery, or affidavits.***

It is difficult to discern in Complainant's response whether he: admits or denies each of MAWC's factual statements; states any reason for each denial; sets out each additional material fact that remains in dispute; or supports each factual assertion with specific references to the pleadings, testimony, discovery, or affidavits.

What is clear, however, is that Complainant fails to refute or even address the issue set forth in MAWC's Motion for Summary Determination – that Complainant asserts that water in his residential plumbing system is flowing back through the water meter, and that it is Complainant's responsibility to prevent that from occurring.

Nowhere does Complainant cite any regulation, statute, case law or other authority imposing on MAWC the duty to install a device on a resident's plumbing system to prevent water from flowing back through the meter.

Nor does Complainant cite any regulation, statute, case law or other authority imposing on MAWC the duty to keep pressure at a constant level; in fact, Missouri law requires that water systems "must maintain a minimum positive pressure of twenty pounds per square inch (20 psi) throughout the distribution system under all normal operating conditions." 10 CSR 60-4.080(9). As the graphic previously provided to Complainant shows, the evidence shows that the pressure was well above 20 psi on December 4, 2009.

Also contrary to Complainant's assertion, there was no "prehearing agreement to share responsibility to install the [backflow] device." MAWC agreed to investigate whether it was practicable and, as reported in Staff's July 26, 2010 Status Report, determined that it was not.

Other statements that Complainant makes in his Motion in Opposition, and in his Memorandum in Support of his Motion in Opposition are difficult to understand in many other respects. MAWC reserves the right to further respond if the specific issues become clear and call for a response. MAWC further rejects any assertions by Complainant that it is in violation of 4 CSR 240-10(5), (36), (37), (43) or any other regulation.

In summary, Complainant has failed to show that there is any dispute of material fact, and MAWC is entitled to judgment as a matter of law on its Motion for Summary Determination.

Respectfully submitted,

MISSOURI-AMERICAN WATER COMPANY

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed electronically and mailed postage prepaid the 15th day of October, 2010, to:

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