

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

In the Matter of Missouri-American)	
Water Company Contract with)	
Premium Pork, LLC (now known as)	File No. WO-2009-0303
Triumph Foods, LLC), for the Retail)	
Sale and Delivery of Potable Water)	

RESPONSE OF TRIUMPH FOODS, LLC

Pursuant to the Commission's February 25, 2009 Order, Triumph Foods, LLC ("Triumph Foods" or "Company") submits its response to the Office of the Public Counsel's Request for Review.

Triumph Foods asserts that the contract with Missouri-American Water Company ("Missouri-American") serves the public interest and that a Commission review of the contract is not necessary and premature at this time, especially since Triumph Foods has not taken water under the rates provided in the contract for the 5-year period noted in the Commission's Order approving the contract.

A. BACKGROUND OF CONTRACT WITH MISSOURI-AMERICAN

In Case No. WT-2004-0192, the Commission approved the contract between Missouri-American and Premium Pork, LLC. The Commission noted at pp. 8-9 of its November 20, 2003 Order that

The application explains that Premium Pork proposes to construct a pork-processing facility in the now-derelict Stockyards area of St. Joseph, Missouri. The Stockyards was formerly the site of an extensive animal slaughtering and processing operation that historically formed the economic core of St. Joseph. The new facility, projected at 600,000 square feet, will cost about \$130 million. Five hundred pigs will be processed there each hour.

The facility will lead to the creation of 1,000 jobs, including 800 processing jobs and 200 jobs in the associated corporate headquarters. Each of these persons will earn over \$10.00 per hour in pay and benefits, an annual impact on the St. Joseph economy of at least \$21 million.

The application further states that over 300 persons will be employed in the construction of the plant, earning over \$7 million in wages; that the facility will pay about \$1.2 million annually in local taxes; and that another 218 jobs, with an annual payroll of about \$25 million, will be created by 2005.

By 2017, Premium Pork projects that it will be paying annual salaries and wages of over \$66 million. The city and community of St. Joseph are eager to attract Premium Pork to locate there, as is evidenced by a number of exhibits attached to the application.

However, St. Joseph is only one of several locations that Premium Pork is considering. Because Premium Pork will consume large amounts of utility services, the most important factor in the plant-location decision is the level of utility rates. The application makes clear that Premium Pork will only locate in St. Joseph if rates for water service are available that are in line with the amount that Premium Pork is prepared to pay.

Missouri-American's current tariffed rates are too high, the application states. Missouri-American's General Incentive Provision rates under its EDR Tariff are also too high. Premium Pork and Missouri-American have negotiated an agreement that, if approved by the Commission, will provide water service at a competitive rate for a period in excess of ten years. Missouri-American asserts that approval of the agreement and proposed tariff sheets will impose no detriment on other ratepayers in the St. Joseph district and will, in fact, benefit them in many ways.

The Commission found that the Company was eligible for a discounted rate under the Economic Development Rider (EDR) Tariff because the Company was a new industrial customer from outside Missouri, its annual customer load factor equaled or exceeded 55%, the projected Average Annual Billing Demand was at least 0.5% of the total consumption of the St. Joseph District of Missouri American, and the new facility will create at least 50 new permanent jobs in the district.

The Commission noted that the general incentives were not sufficient because the Company had a viable competitive alternative in another area and the availability of a competitive water rate was critical to the Company's decision to locate in St. Joseph. Finally, the Commission found that the contract provided for a reasonable contribution to "all other costs

associated with the provision of service” and that this contribution provided a benefit to other customers because it served to reduce the revenue requirement of the St. Joseph district as a whole. See Order, Case No. WT-2004-0192 (Nov. 20, 2003) at 10-12.

Premium Pork, LLC changed its name to Triumph Foods, LLC in December, 2003.

B. CURRENT ECONOMIC BENEFITS TO THE ST. JOSEPH ECONOMY

Triumph Foods continues to provide economic benefits to the St. Joseph community. The Company now employs 2,700 people with 2,300 of those in production-related positions and 400 holding management and clerical positions. Total payroll for 2008 was \$83.6 million, with an hourly average wage of \$14.00. The Company has far exceeded its estimates of jobs created and annual payroll noted in its original application to the Commission, filed November 25, 2003.

As these figures indicate, Triumph Foods has already far exceeded the economic projections that it presented to the Commission in 2003. Although it estimated that payroll would not exceed \$66 million until 2017, it surpassed that level in 2008.

In addition to the impact of jobs and payroll, Triumph Foods maintains its corporate headquarters in St. Joseph, Missouri and purchases goods and services locally, pays local taxes and donates to local community organizations. The Company estimates its annual positive revenue impact to the St. Joseph community for 2008 was over \$125 million.

C. A REVIEW OF THE CONTRACT IS PREMATURE

Missouri-American’s EDR Tariff provides that the results of any review of the contract shall be implemented in a general rate proceeding. See Missouri-American P.S.C.Mo. No. 1, Sheet No. 55. Since any change to the contract must be implemented in a Missouri-American rate case and since there is no such case pending, the Company believes that any contract review is premature.

More importantly, it must be recognized that while the Commission authorized Missouri-American to perform according to the contract on November 25, 2003, the Company only began operations on January 2, 2006. Therefore, it has not purchased water under the rates provided for in the contract for the five years noted in the Commission's order. Thus, the Company suggests that any review of the contract should be delayed until the Company has purchased water under the contract for five years.

In making its decision to locate its facilities in St. Joseph, the Company specifically relied upon its ability to purchase water at the rates specified in the contract with Missouri-American. In return, the Company has brought and continues to bring jobs and revenue to St. Joseph and northwest Missouri, an area of the state which in recent years has not experienced robust economic growth. In the current economic climate, where the severe recession affecting the United States and Missouri has led to new levels of high unemployment and an unprecedented crisis in the financial markets, the Commission should allow the Company to receive the full benefits of the contract for at least a full five years of its operations before initiating any review of the agreement.

Any cancellation or modification of the terms of the contract would cause the Company to seriously consider alternatives to its current supply of water from Missouri-American. These alternatives would include a comprehensive investigation of providing its water needs through a well system or other form of self-supply.

WHEREFORE, Triumph Foods respectfully requests that the Commission decline to review the contract at this time, as requested by the Office of the Public Counsel.

Respectfully submitted,

/s/ Roger W. Steiner

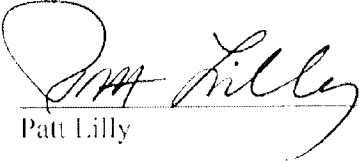
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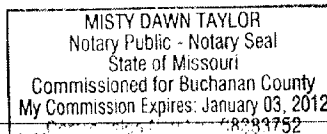
VERIFICATION

STATE OF MISSOURI)
) ss.
COUNTY OF BUCHANAN)

Patt Lilly, being of lawful age and duly sworn, states that he is the Chief Administrative Officer for Triumph Foods, LLC, that he has caused the foregoing Response of Triumph Foods, LLC to be prepared, that he has read and reviewed the Response, and that the contents thereof are true and correct to the best of his knowledge and belief.



Patt Lilly

Sworn to and subscribed before me this 27 day of March, 2009.



Notary Public

My commission expires:



CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Response was sent via e-mail on this 31st day of March, 2009, to:

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