

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

Michele Goad,)	
Complainant)	
v.)	Case No. WC-2023-0142
)	
Missouri-American Water Company,)	
Respondent)	

**Response in Opposition to Motion to Dismiss, and
Recommendation Regarding the Proposed List of Issues**

COMES NOW the Office of the Public Counsel (“OPC”), pursuant to its authority under § 386.710 RSMo, an offers this response in opposition to Missouri American Water Company’s (“MAWC”) motion to dismiss. The OPC further provides an additional recommendation regarding the proposed issue before the Commission. In support, the OPC states as follows:

1. On October 24, 2022, Ms. Michele Goad filed a small formal complaint against MAWC alleging MAWC acted negligently in its response to a main break that damaged Ms. Goad’s property.

Response in Opposition to Motion to Dismiss

2. On October 20, 2023, MAWC filed its Motion to Dismiss, claiming Ms. Goad “does not allege any violation of a statute, rule, or Commission Order, and requests only monetary relief.”

3. The OPC files this response to defend and preserve the rights of residential public utility customers to file complaints, as they are lawfully entitled to do under Sections 386.390 and 386.400 RSMo, without a

regulatory attorney's understanding of the applicable laws, orders or tariffs. Even if a complainant does not cite to a particular law or tariff, residential customers should still have their cases heard when a complaint adequately explains in practical terms the basis for the complaint.

4. The Complaint explicitly identifies MAWC's tariff provision regarding company liability towards customers. Moreover, the Complaint refutes MAWC's claim that the Complainant seeks monetary relief from the Commission. The Complainant states, "*I have been told that the Commission is not able to award monetary damages, but that I must have a decision from the Commission before I can proceed in court to sue the company for damages.*" It appears the Complainant seeks a decision interpreting whether MAWC's response to the main break was just and reasonable, and otherwise in accordance with laws, rules, tariffs and orders.

5. For these reasons, the Commission should deny the Company's request to dismiss this case.

Recommendation to Modify the Issue

6. In addition, the OPC recommends the Commission expand the wording of the issue of this case to include the question of whether MAWC violated any Missouri statute in its response to the ruptured main.

7. The issue as currently proposed asks, "Did MAWC violate any tariff, rule or order related to the water main break that is the cause of this Complaint?" This language does not include the question of whether MAWC's

actions were unjust or unreasonable under Missouri statute, and in particular, Section 393.130, which requires every water company “shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable...”

8. The Staff’s testimony evidence specifically concludes that MAWC failed to provide safe and adequate service in response to the main break.¹ Moreover, in a very similar case running almost parallel to this case, the wording of the proposed issue includes the question of whether MAWC violated any statute.² For these reasons, the OPC recommends the Commission consider statutory violations as an issue before the Commission in this case as well.

WHEREFORE, the Office of the Public Counsel respectfully urges the Commission to reject MAWC’s request to dismiss; and further recommends the Commission modify the proposed issue to permit the consideration of violations of statutes.

¹ Rebuttal Testimony of David Spratt, WC-2022-0142, September 22, 2023, p. 3.

² Case No. WC-2023-0273, List of Issues, October 24, 2023, proposes the issue as follows: “Did MAWC violate any statute, tariff, rule or order related to the water main break (“main break”) described in the Complaint?”

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the Complainant and all counsel of record this 27th day of October 2023.

/s/ Marc Poston