

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

In the Matter of the Joint Application of)
Missouri-American Water Company and)
DCM Land, LLC, for a Variance from the)
Company’s Tariff Provisions Regarding)
the Extension of Company Mains)
Case No. WE-2021-0390

RESPONSE TO THE COMMISSION’S ORDER

COMES NOW the Office of Public Counsel (Public Counsel) and, in response to the Missouri Public Service Commission’s (Commission) **Order Directing Filing** by which it directed, “No later than December 1, 2023, any party wishing to be heard on this matter shall submit a response expressing its opinion on how the Commission should proceed,” states:

1. Missouri-American Water Company (MAWC) and DCM Land, LLC (DCM Land) jointly sought for the Commission to allow MAWC to extend a water main line to a new subdivision on terms more favorable to DCM Land than MAWC’s applicable water main line extension rule in its Commission-approved tariff.

2. Over both its Staff’s and Public Counsel’s objections, the Commission granted their request.

3. On appeal the Missouri Supreme Court held that MAWC’s tariff binds the Commission,¹ and that “[b]ecause there is no language in the [main line extension] rule that allows for a variance, the Commission does not have the authority to grant a variance from the rule.”²

4. Bound by the Missouri Supreme Court’s holdings, the Commission should: (1) direct MAWC to apply the tariff line extension rule in place when the extension occurred, (2) direct MAWC to make a filing in this case that details what MAWC did to reverse the variance

¹ [Missouri-American Water Co. v. Off. Pub. Couns.](#), 673 S.W.3d 477, 481.
² Id. at 482.

and apply the appropriate line extension rule to DCM Land, and (3) after MAWC verifies how it corrected the error, the Commission should dismiss this case because it cannot grant the variance to MAWC's water main line extension rule that MAWC and DCM Land seek.

Wherefore, the Office of Public Counsel moves the Commission to ensure the applicable tariff is applied to DCM Land without variance and dismiss this case.

Respectfully,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 21st day of November 2023.

/s/ Nathan Williams