

**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 ) **File No. WE-2021-0390**  
Tariff Provisions Regarding the Extension of )  
Company Mains. )

**DCM LAND, LLC’S RESPONSE TO ORDER DIRECTING FILING**

**COMES NOW** DCM Land, LLC (“DCM”) and, as its *Response to Order Directing Filing*, states as follows to the Missouri Public Service Commission (“Commission”):

1. On March 16, 2022 (effective March 26, 2022), the Commission issued its *Revised Order Granting Variances and Granting Waiver (“Revised Order”)* in this matter. That Order was subsequently appealed to the Missouri Court of Appeals, Western District. On December 27, 2022, the Court of Appeals affirmed the Commission’s Order. The Office of the Public Counsel (“OPC”) appealed the matter to the Missouri Supreme Court. The Supreme Court issued an order reversing and remanding the Commission’s Order on August 15, 2023.

2. The Missouri Supreme Court found and directed as follows: “For the foregoing reasons, the Commission's order is reversed and remanded to the Commission to enter a new order consistent with this opinion.”<sup>1</sup>

3. On November 17, 2023, the Commission issued its *Order Directing Filing*, directing that no later than December 1, 2023, “any party wishing to be heard on this matter” “submit a response expressing its opinion on how the Commission should proceed.” DCM responds herein.

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<sup>1</sup> *In the Matter of the Joint Application of Missouri-American Water Company and DCM Land, LLC v. Office of Public Counsel*, Case No. SC99978, p. 9 (Mo. 2023).

4. The Office of Public Counsel (“OPC”) filed a response on November 21, 2023 suggesting that the Commission include in its next Order matters as to ramifications of this new order. OPC suggested:

. . . the Commission should: (1) direct [Missouri-American Water Company (“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 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.

(OPC Response, para. 4).

5. DCM concurs with OPC; and notes that a 25% cost share was agreed in a stipulation approved by the Commission on May 15, 2023. The first homes did not take service in the Cottleville Trails development, until October 30, 2023, so that 25% is the appropriate cost share to be applied, with no further reimbursement for homes as they are connected.

6. To date, based on the then current Order of this Commission, MAWC has issued checks, dated May 25, 2023, to DCM, in the amount of 14% of the cost of construction of the main extensions (being \$217,294.59 for Phase 1; and \$106,781.99 for Phase 2). No reimbursement based on connection of homes has been made by MAWC.

7. Based on the tariff in effect at the time the extensions were complete and the homes taking service, DCM should be reimbursed an additional 11% of the costs, being an additional \$170,731.46 for Phase 1; and an additional \$83,900.13 for Phase 2.

8. Thus, in answer to the question posed by the Commission, the Commission should proceed to enter an amended order denying the waiver and variances, consistent with the Supreme Court’s findings; and directing MAWC to issue additional reimbursement to DCM in the aggregate amount of \$254,631.59.

**WHEREFORE**, DCM Land, LLC respectfully requests the Commission consider this *Response* and issue an order directing reimbursement in accordance with the stipulation adopted in MAWC's current tariff.

SANDBERG PHOENIX & von GONTARD P.C.

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**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 1<sup>st</sup> day of December 2023, to:

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