

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 24<sup>th</sup> day of January, 2024.

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

**ORDER ON REMAND DENYING VARIANCES**

Issue Date: January 24, 2024

Effective Date: February 23, 2024

On May 6, 2021, Missouri-American Water Company (MAWC) and DCM Land, LLC (collectively referred to as the “Joint Applicants”) filed an application for variances from provisions of MAWC’s then in-effect tariffs<sup>1</sup> with regard to the connection time limit and funding percentage for an extension of MAWC’s water main into the Cottleville Trails development (“Joint Application”).

On October 14, 2021, the Commission issued an order granting the variances requested by DCM Land and MAWC in its *Order Granting Variances, Granting Waiver, and Granting Expedited Treatment*. The Office of the Public Counsel (OPC) filed an application for rehearing, which the Commission granted.

On March 16, 2022, the Commission issued its *Revised Order Granting Variances and Granting Waiver*. OPC filed its application for rehearing, which the Commission denied.

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<sup>1</sup> PSC MO No. 13, 1<sup>st</sup> Revised Sheet No. R 48, Rule 23A.2. and 3; and 1<sup>st</sup> Revised Sheet No. R 51, Rule 23C.6

On April 27, 2022, OPC filed a Notice of Appeal to the Missouri Court of Appeals for the Western District. On December 27, 2022, the court issued its opinion affirming the *Revised Order*.<sup>2</sup>

On February 15, 2023, OPC filed an application for transfer of its appeal to the Missouri Supreme Court. On April 4, 2023, the Missouri Supreme Court sustained OPC's application for transfer.

On August 15, 2023, the Missouri Supreme Court issued its opinion reversing the Commission's *Revised Order*, ruling that there was no language in Rule 23 of MAWC's tariff that allows for a variance from that rule.<sup>3</sup> The Court then concluded that "[b]ecause there is no language in the rule that allows for a variance, the Commission does not have the authority to grant a variance from the rule."<sup>4</sup> The Court remanded the matter to the Commission "to enter a new order consistent with this opinion."<sup>5</sup>

In accordance with the Missouri Supreme Court's opinion, the Commission will deny Joint Applicants' request for variances.

**THE COMMISSION ORDERS THAT:**

1. The Joint Application is denied.
2. This order shall become effective on February 23, 2024.

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<sup>2</sup> *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 v. Office of Public Counsel*, WD85352 (Mo. App. 2022).

<sup>3</sup> *Mo.-Am. Water v. Office of Pub. Counsel*, 673 S.W.3d 477, 482 (Mo. 2023).

<sup>4</sup> *Mo.-Am. Water v. Office of Pub. Counsel*, 673 S.W.3d 477, 482 (Mo. 2023).

<sup>5</sup> *Mo.-Am. Water v. Office of Pub. Counsel*, 673 S.W.3d 477, 482 (Mo. 2023).



**BY THE COMMISSION**

*Nancy Dippell*

Nancy Dippell  
Secretary

Rupp, Chm., Coleman, Holsman, Kolkmeier  
and Hahn CC., concur.

Seyer, Regulatory Law Judge

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 24<sup>th</sup> day of January 2024.**



*Nancy Dippell*  
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**Nancy Dippell**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**January 24, 2024**

**File/Case No. WE-2021-0390**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

**Sincerely,**



**Nancy Dippell  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.