

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

Nizama Junuzovic,	)	
	)	
Complainant	)	
	)	
vs.	)	Case No. WC-2026-0028
	)	
Missouri-American Water Company,	)	
	)	
Respondent	)	
	)	

THE OFFICE OF THE PUBLIC COUNSEL’S RESPONSE TO COMMISSION ORDER
COMES NOW the Office of the Public Counsel (“OPC” or “Public Counsel”) and for its Response to Commission Order, states as follows:

1. On July 24, 2025, Complainant filed a formal complaint to the Missouri Public Service Commission (“PSC” or “Commission”) that flooding had caused personal property damage to her home. Claimant further asserted that there had been multiple ruptures of Missouri-American Water Company’s (“MAWC’s” or “Company’s”) water main on her street over the past year.¹
2. As part of this formal complaint, Claimant provided a letter from Constitution State Services: A Travelers Company (“CSS”) that stated, in relevant part, the following:

¹ *Formal Complaint*, p. 1, Case No. WC-2026-0028, EFIS Item No. 1 (July 30, 2025).

“[W]e have found the following Missouri Public Service Commission – Rules and Regulations Governing the Rendering of Water Service applies to this loss:

Rule 3: Liability of the company

E. The company shall not be liable for damages resulting to customer or to third persons, unless due to contributory negligence on the part of the company, and without any contributory negligence on the part of the customer or such third party.

3. Public Service Commission Staff (“Staff”) witness David Spratt addressed this specific provision in MAWC’s rate case, WR-2024-0320. Mr. Spratt testified, “[b]ased on advice from Staff Counsel, it is Staff’s position that ‘contributory negligence’ is no longer a legal defense to a damage claim in Missouri, and it should not be allowed to be used as a defense through a tariff sheet.”²

4. One source of law that supports Staff’s belief is the opinion in *PSC v. Mo. Gas Energy* which states, in relevant part:

We find no statute, and the Commission and MGE do not direct us to any such statute, that grants the Commission the authority to limit a public utility’s negligence liability involving personal injury or property damage.³

5. Moreover, because the Company filed a *Request for Mediation in Lieu of Filing Answer*⁴ (emphasis added), there is not a set of facts on the record to which both parties agree to begin this mediation process.

6. The OPC takes issue with MAWC’s agent, CSS, asserting a defunct, and arguably unenforceable, provision of MAWC’s tariff to assert the Company has a

² Ex. 213 *Direct/Rebuttal Testimony of David A. Spratt*, p. 2, Case No. WR-2024-0320, EFIS Item No. 224 (Mar. 26, 2025).

³ *PSC v. Mo. Gas Energy*, 388 S.W.3d 221, 230 (Mo. W. D. Oct. 23, 2012).

⁴ *Request for Mediation in Lieu of Filing Answer*, Case No. WC-2026-0028, EFIS Item No. 5 (Sept. 29, 2025).

protection from liability that does not exist. Further, the OPC takes issue with the Company failing to assert the facts in this case with which it agrees or disagrees.

7. Therefore, Public Counsel requests that the Commission require MAWC to provide an answer to Complainant's formal complaint prior to the parties' mediation. Further, the OPC requests the Commission address the unenforceable tariff provision that CSS, acting as MAWC's agent, cited to protect MAWC from potential liability against any damage to this customer's property.

WHEREFORE, the OPC respectfully submits this response to *Order Directing Response to Mediation Request* for Commission consideration.

By: /s/ Anna Kathryn Martin

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this Ninth (9th) day of September, 2025.

/s/ Anna Martin