

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office in
Jefferson City on the 6th day of
April, 2004.

In the Matter of Missouri-American Water Company's)	Case No. WR-2003-0500
Tariff to Revise Water and Sewer Rate Schedules.)	Tariff Nos. YW-2003-2012
)	YW-2003-2013
)	YW-2003-2014
)	YW-2003-2015
)	YS-2003-2060
)	YW-2003-2061

ORDER APPROVING STIPULATIONS AND
AGREEMENTS

Syllabus:

This order approves the settlement by the parties of Missouri-American Water Company's general rate case.

Procedural History:

On May 19, 2003, Missouri-American Water Company submitted to the Missouri Public Service Commission its proposed tariff sheets intended to implement a general rate increase for water and sewer service. The proposed tariff sheets were issued on May 19, 2003, with a requested effective date of June 18, 2003. The proposed water service tariffs are designed to produce approximately \$20 million in additional gross annual water revenues excluding gross receipts and sales taxes, about a 12.2% increase over existing water revenues. The proposed sewer service tariffs are designed to produce an additional \$1,637 in gross annual sewer revenues (excluding gross receipts and sales taxes), a 3.3% increase over existing sewer revenues. On May 29, 2003, the Commission suspended the

proposed tariff sheets for a period of 120 days plus an additional six months, until April 16, 2004.

On June 30, the Commission granted the unopposed applications to intervene of AG Processing, Inc.; the Cities of Jefferson, Joplin, Riverside, and Warrensburg; Public Water Supply Districts Nos. 1 and 2 of Andrew County and No. 1 of DeKalb County; Empire District Electric Company; the Missouri Energy Group, consisting of three hospital systems and a manufacturer;¹ the Missouri Industrial Energy Consumers, an association of six St. Louis-area manufacturers;² and the St. Joseph Water Rate Coalition, a group of twelve St. Joseph-area governmental, commercial and industrial water users.³ On July 2, the Commission also granted intervention to Local 335 of the Utility Workers Union of America, AFL-CIO.

The Commission adopted a procedural schedule on July 17. The Commission convened Local Public Hearings on the proposed rate increases at Riverside and St. Joseph on October 15; at Jefferson City on October 22; at Warrensburg on October 29; at Brunswick and Mexico on November 5; at Joplin on November 12; and at St. Charles and Chesterfield on December 3. The Commission heard the testimony of 65 witnesses and received four exhibits at the local public hearings.

In its Suspension Order of May 29, as is its practice, the Commission authorized its Staff to file an excessive earnings complaint against Missouri-American if the results of its audit suggested that the company was earning more than its authorized rate of return.

¹ Barnes-Jewish Hospital, Emerson Electric Company, SSM HealthCare System and St. Johns Mercy Health Care.

² Boeing, DaimlerChrysler, Ford Motor Company, Hussman Refrigeration, Monsanto, and Pharmacia.

³ City of St. Joseph, Buchanan County, St. Joseph School District, St. Joseph Chamber of Commerce, AG Processing, Artesian Ice & Cold Storage, Heartland Health, Hillyard Companies, Johnson Controls, Phoenix Scientific, Prime Tanning Corp., and Sara Lee.

Accordingly, Staff filed an excessive earnings complaint against Missouri-American on October 1; the complaint action was consolidated into the present case on October 2. In its complaint, Staff alleged that the Company is earning excessive water service revenues amounting to between \$19 million and \$21 million annually on a total company basis.

The Commission scheduled an evidentiary hearing on December 15 through 23, 2003, and on January 5 through January 9, 2004. The evidentiary hearing began as scheduled on December 15. However, the Commission recessed the scheduled hearings on January 5 and 6 in order to permit settlement discussions to go forward, resulting in the first of the three Stipulations and Agreements filed in this case, filed on January 7, 2004. The hearing then resumed on January 7 and continued through January 12. At the evidentiary hearing, the Commission heard testimony from 25 witnesses and received 108 exhibits.

A true-up hearing was scheduled on February 5 and 6, 2004. However, the true-up hearing was first postponed and then canceled at the request of the parties upon settlement of the remaining contested issues. That settlement is embodied in the second and third Stipulations and Agreements filed herein, on February 24 and on March 4, respectively. Staff filed suggestions in support of each of the three Stipulations and Agreements, on January 7, on March 4, and on March 9.

An on-the-record presentation was set for March 19 and was held that day as scheduled. Thereafter, the Commission requested additional information from the Company, which was provided on March 24.

Discussion:

As described above, the parties have presented their settlement agreement to the Commission in the form of three separate stipulations and agreements. None of these stipulations and agreements were executed by all of the parties to this case; however, under its practice rules, the Commission may treat a stipulation and agreement as a unanimous stipulation and agreement if no party requests a hearing within seven days of its filing.⁴ No party in this case responded to the filing of a stipulation and agreement with a request for hearing. Consequently, the Commission will deem the proposed settlement to be unanimous.

The stipulations and agreements each contains various standard provisions commonly included in stipulations and agreements filed with the Commission, including the parties' reservation of the right to take contradictory positions in other cases; an assertion of the interdependence of all of the terms and consequent vacation of the agreement if modified by the Commission; the parties' waiver of their rights, contingent on Commission approval of the agreement, to present testimony, to cross-examine witnesses, to present oral argument or written briefs, to a reading of the full transcript by the members of the Commission, and to seek judicial review; that prefiled testimony relating to issues resolved by the agreement shall be received into the record; that Staff shall prepare and file supporting suggestions; and that Staff may provide oral explanations of the agreement as requested by the Commission at an Agenda session.

⁴Commission Rule 4 CSR 240-2.115.

The Rate Design Stipulation and Agreement

The Rate Design Stipulation and Agreement filed on January 7 addressed, in addition to rate design, inter-district subsidies, consolidated billing, a customer class study, an interruptible industrial rate for the Joplin District, and elimination of the minimum usage amount from the Jefferson City District tariffs and some corresponding adjustments to the volumetric rates for that district. The agreed rate design is based on the current rate design, with certain adjustments. No rate adjustments will be made in the St. Louis County District, the St. Charles County District, and the Jefferson City District. Only the customer classes receiving adjustments are referred to below. A copy of the Rate Design Stipulation and Agreement is attached hereto as Attachment A.

The agreed rate design is revenue-neutral, that is, it redistributes the current revenue requirement for each district. Any increase or decrease in district-specific revenue requirements must be evenly distributed across the classes in the form of equal percentage changes to each revenue classification for each customer class and by applying a uniform change to each volumetric rate component for each revenue classification.

The Rate Design Stipulation and Agreement provides that the Brunswick District will receive a subsidy of \$213,000 from the St. Louis County District. There will be no other inter-district subsidies. Rates for Sale-for-Resale (that is, rates for sales to Public Water Supply Districts) in the Brunswick District will be reduced by 5% and the rates for Residential and Commercial customers will be increased by 3.78% in order to more accurately reflect the true cost of providing water service to these customer classes.

The Rate Design Stipulation and Agreement provides that the rates for Sale-for-Resale (Public Water Supply Districts) in Joplin will be reduced by 10% and the

rates for Residential and Commercial will be increased by 1.38% in order to more accurately reflect the true cost of providing water service to these customer classes. It also provides that an interruptible rate may be tariffed in Joplin under conditions that will effectively limit it to the Empire District Electric Company.

The Rate Design Stipulation and Agreement provides that the rates for Sale-for-Resale (Public Water Supply Districts) in Mexico will be reduced by 10% and the rates for Residential and Commercial will be increased by 2.64% in order to more accurately reflect the true cost of providing water service to these customer classes.

In the Platte County District, the Rate Design Stipulation and Agreement provides that a single, declining-block rate structure will be implemented, reducing rates for Sale-for-Resale (Public Water Supply Districts) by 26.5%, reducing rates for Other Public Authority by 8.22%, and raising Residential rates by 2.96%, Commercial rates by 4.45%, and Industrial rates by 48.09%, in order to more accurately reflect the true cost of providing water service to these customer classes.

The Rate Design Stipulation and Agreement provides that the rates for Sale-for-Resale (Public Water Supply Districts) in St. Joseph will be reduced by 14.57% and rates for Industrial customers will be reduced by 11.22%, and the rates for Residential customers will be increased by 7.7% and the rates for Commercial customers will be increased by 5.7%, in order to more accurately reflect the true cost of providing water service to these customer classes. It further provides that the property tax surcharge will remain unchanged.

The Rate Design Stipulation and Agreement provides that the rates for Sale-for-Resale (Public Water Supply Districts) in Warrensburg will be reduced by 10% and

the rates for Residential and Commercial customers will be increased by 1.77%, in order to more accurately reflect the true cost of providing water service to these customer classes.

The Rate Design Stipulation and Agreement provides that no public fire hydrant charges will be applied in any district where they don't already exist; however, they will continue in districts where they do already exist.

The Rate Design Stipulation and Agreement provides that the Company will collect data sufficient to allow a study of current customer classes and will share the data with the other parties prior to the next rate case. It provides that the Company will also perform and share with the parties a study on the reasonableness of consolidated billing for owners of contiguous, owner-operated properties.

The Rate Design Stipulation and Agreement provides that the volumetric rates in Jefferson City will be adjusted to eliminate the minimum usage amount presently contained in the monthly service charge.

The Rate Design Stipulation and Agreement provides that the Company may implement the connection fees for new service proposed in its initial filing. These are an increase for a 3/4-inch single meter line from \$425 to \$552 and an increase for a 3/4-inch dual service line from \$600 to \$778. These charges had not changed since 1993.

The Revenue Requirement Stipulation and Agreement

The Revenue Requirement Stipulation and Agreement was filed on February 24. The Revenue Requirement Stipulation and Agreement resolves many of the 31 issues relating to revenue requirement and to miscellaneous matters defined by the parties. In addition to revenue requirement, the agreement resolves issues relating to depreciation, reporting of data to Staff and Public Counsel, infrastructure replacement, and customer

service. A copy of the Revenue Requirement Stipulation and Agreement is attached hereto as Attachment B.

The Revenue Requirement Stipulation and Agreement does not provide for an increased revenue requirement in any district; however, it does provide for a decrease of \$350,000, exclusive of taxes, in the Joplin District. Thus, the agreed revenue requirement has a neutral impact in every district except Joplin, where there is a decrease. In addition to Joplin, some customer classes in other districts will experience increases or decreases due to cost shifts contained in the Rate Design Stipulation and Agreement, discussed above.

The Revenue Requirement Stipulation and Agreement provides that, as of January 1, 2004, the Company will implement new depreciation rates as set out in Appendix 1 to the Revenue Requirement Stipulation and Agreement. It further provides that Staff and the Company will collaborate to develop new district-specific historical databases for use in future rate cases. It also provides that, as of January 1, 2004, the Company will begin expensing cost of removal and salvage and will discontinue the reserve deficiency amortizations currently in effect.

The Revenue Requirement Stipulation and Agreement provides that the current Infrastructure Replacement Surcharge (ISRS) will be set to Zero on April 16, 2004. It provides that the Company will not file a tariff seeking a new ISRS prior to December 16, 2005. It also provides that, in any ISRS filing after December 16, 2005, the Company will use a specified weighted cost of capital (Common Equity 3.91%, Preferred Equity 0.39%, Debt 3.40%, Total: 7.70%). The parties' agreement restricts any ISRS filing after December 15, 2005, to only include investments made after November 30, 2003, and,

further, may not include any investments with respect to Rate J customers until after the date rates become effective in the Company's *next* rate case. In addition, the Company may not seek to recover the foregone Rate J investments from any other customer class, either by an ISRS or in a rate case.

The Revenue Requirement Stipulation and Agreement provides that the Company will spend at least the following amounts in the St. Louis District for infrastructure replacement for water utility plant projects:

2004: 12 million dollars
2005: 18 million dollars
2006: 25 million dollars

It provides that neither the Company, Staff nor Public Counsel may file a general rate increase or decrease case for Missouri-American before December 31, 2005, unless a significant and unusual event occurs that has a major impact on the Company.

It also provides that the Company, Staff and the Public Counsel will cooperate to obtain promulgation of a Commission rule on affiliate transactions applicable to Company and its affiliates by April 16, 2005. The Company will provide copies to Staff and Public Counsel of all statutes and rules relating to affiliate transactions now in effect in any state in which American Water Works or a subsidiary operates.

The Revenue Requirement Stipulation and Agreement provides that the Company will provide its updated Cost Allocation Manual (CAM) to Staff and Public Counsel by March 16 each year, including various monthly and annual reports. The Company will provide monthly/quarterly billing aggregates data to Staff. The Company will respond to inquiries from the Commission's Consumer Services Department within three business days, except that it will respond within 24 hours in cases involving service

interruption. The Company will continue, and will also expand, its Call Center performance reporting. The Company will include bill consolidation in the St. Louis District in the tariffs it files in its next general rate case.

The Company explained, in its filing of March 24, that a strong inducement for accepting the settlement, that includes a slight rate decrease, is the beneficial effect on earnings produced by the agreed reduction in depreciation expense.

The Fire Suppression Stipulation and Agreement

The Fire Suppression Stipulation and Agreement was filed on March 4. It resolves a single issue relating only to the Jefferson City District. A copy of the Fire Suppression Stipulation and Agreement is attached hereto as Attachment C.

The Fire Suppression Stipulation and Agreement provides that the Company, Staff and Jefferson City will cooperate in making a fire suppression study of Missouri-American's Jefferson City District facilities, commencing within 30 days of the effective date of the final order in this case. Jointly, if possible, and separately if necessary, the parties to the study will report their findings to the Commission within twelve months of the effective date of the final order in this case.

Staff's Suggestions

As noted, Staff filed Suggestions in Support of each of the three Stipulations and Agreements. Staff noted that each of the three includes important concessions from the Company to the benefit of ratepayers and the public in general. Staff further pointed out that the Stipulations and Agreements resulted from extensive negotiations among the parties. Each of the Stipulations and Agreements states that its terms are interdependent and the Commission must approve it in its entirety. It is Staff's opinion, with respect to each

Stipulation and Agreement, that the settlement is in the public interest and should be approved.

The parties urge the Commission to approve the settlement contained in the three Stipulations and Agreements herein described. The Commission has the legal authority to accept a stipulation and agreement as offered by the parties as a resolution of issues raised in this case.⁵ In reviewing the various stipulations submitted by the parties, the Commission notes that⁶

Every decision and order in a contested case shall be in writing, and, except in default cases disposed of by stipulation, consent order or agreed settlement, the decision, including orders refusing licenses, shall include or be accompanied by findings of fact and conclusions of law. * * *

Consequently, the Commission need not make either findings of fact or conclusions of law in this order. Additionally, the Commission makes no findings or conclusions concerning any ratemaking or procedural principle or any methodology adopted in the stipulations and agreements.

The Commission has considered the settlement agreement of the parties as contained in the three Stipulations and Agreements filed herein, together with Staff's suggestions, the Company's filing of March 24, and the comments made at the on-the-record presentation, and concludes that the settlement agreement is just and reasonable and should be approved.

⁵Section 536.060, RSMo Supp. 2001.

⁶Section 536.090, RSMo Supp. 2001. This provision applies to the Public Service Commission. *State ex rel. Midwest Gas Users' Association v. Public Service Commission of the State of Missouri*, 976 S.W.2d 485, 496 (Mo. App., W.D. 1998).

IT IS THEREFORE ORDERED:

1. That the settlement reached by the parties, as contained in the Rate Design Stipulation and Agreement filed on January 7, 2004 (Attachment A), the Revenue Requirement Stipulation and Agreement filed on February 24, 2004 (Attachment B), and the Fire Suppression Stipulation and Agreement filed on March 4, 2004 (Attachment C), is hereby approved as a resolution of this case.

2. That the parties are ordered to comply with the terms of the settlement agreement of the parties as contained in the Rate Design Stipulation and Agreement filed on January 7, 2004 (Attachment A), the Revenue Requirement Stipulation and Agreement filed on February 24, 2004 (Attachment B), and the Fire Suppression Stipulation and Agreement filed on March 4, 2004 (Attachment C).

3. That the proposed water and sewer service tariff sheets submitted under tariff numbers YW-2003-2012, YW-2003-2013, YW-2003-2014, YW-2003-2015, YS-2003-2060, and YW-2003-2061 on May 19, 2003, by Missouri-American Water Company for the purpose of increasing rates for water and sewer service to customers are hereby rejected. The specific sheets rejected are:

- P.S.C. MO. NO. 2, 8th Revised Sheet No. A-1, Canceling 7th Revised Sheet No. A-1
- P.S.C. MO. NO. 2, 6th Revised Sheet No. A-2, Canceling 5th Revised Sheet No. A-2
- P.S.C. MO. NO. 2, 6th Revised Sheet No. A-3, Canceling 5th Revised Sheet No. A-3
- P.S.C. MO. No. 2, Original Sheet No. A-4
- P.S.C. MO. NO. 3, 9th Revised Sheet No. 1, Canceling, 8th Revised Sheet No. 1
- P.S.C. MO. NO. 3, Original Sheet No. 1a
- P.S.C. MO. NO. 3, 7th Revised Sheet No. 2, Canceling 6th Revised Sheet No. 2
- P.S.C. MO. NO. 3, 4th Revised Sheet No. 2A, Canceling 3rd Revised Sheet No. 2A
- P.S.C. MO. NO. 3, 8th Revised Sheet No. 3, Canceling 7th Revised Sheet No. 3
- P.S.C. MO. NO. 3, 9th Revised Sheet No. 4, Canceling 8th Revised Sheet No. 4
- P.S.C. MO. NO. 3, 4th Revised Sheet No. 5, Canceling 3rd Revised Sheet No. 5
- P.S.C. MO. No. 2, Original Sheet No. 6
- P.S.C. MO. NO. 2, 11th Revised Sheet No. 3, Canceling 10th Revised Sheet No. 3
- P.S.C. MO. NO. 2, 2nd Revised Sheet No. 21, Canceling 1st Revised Sheet No. 21
- P.S.C. MO. No. 2, Original Sheet No. 6

P.S.C. MO. NO. 2, 7th Revised Sheet No. 5, Canceling 6th Revised Sheet No. 5
 P.S.C. MO. NO. 2, 8th Revised Sheet No. B-1, Canceling 7th Revised Sheet No. B-1
 P.S.C. MO. NO. 2, 6th Revised Sheet No. B-2, Canceling 5th Revised Sheet No. B-2
 P.S.C. MO. NO. 2, 6th Revised Sheet No. B-3, Canceling 5th Revised Sheet No. B-3
 P.S.C. MO. No. 2, Original Sheet No. B-8
 P.S.C. MO. NO. 2, 8th Revised Sheet No. C-1, Canceling 7th Revised Sheet No. C-1
 P.S.C. MO. NO. 2, 6th Revised Sheet No. C-2, Canceling 5th Revised Sheet No. C-2
 P.S.C. MO. NO. 2, 6th Revised Sheet No. C-3, Canceling 5th Revised Sheet No. C-3
 P.S.C. MO. No. 2, Original Sheet No. C-9
 P.S.C. MO. NO. 2, 8th Revised Sheet No. E-1, Canceling 7th Revised Sheet No. E-1
 P.S.C. MO. NO. 2, 6th Revised Sheet No. E-2, Canceling 5th Revised Sheet No. E-2
 P.S.C. MO. NO. 2, 6th Revised Sheet No. E-3, Canceling 5th Revised Sheet No. E-3
 P.S.C. MO. No. 2, Original Sheet No. E-10
 P.S.C. MO. NO. 1, 11th Revised Sheet No. 1, Canceling 10th Revised Sheet No. 1
 P.S.C. MO. NO. 1, 1st Revised Sheet No. 1b, Canceling Original Sheet No. 1b
 P.S.C. MO. NO. 1, 9th Revised Sheet No. 2, Canceling 8th Revised Sheet No. 2
 P.S.C. MO. NO. 1, 1st Revised Sheet No. 17A, Canceling Original Sheet No. 17A
 P.S.C. MO. No. 2, Original Sheet No. 2B
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT1.0,
 Canceling Twelfth Revised Sheet No. RT1.0
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT2.0,
 Canceling Twelfth Revised Sheet No. RT2.0
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT2.1,
 Canceling Twelfth Revised Sheet No. RT2.1
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT2.2,
 Canceling Twelfth Revised Sheet No. RT2.2
 P.S.C. MO. No. 6, Tenth Revised Sheet No. RT2.3,
 Canceling Ninth Revised Sheet No. RT2.3
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT2.6,
 Canceling Twelfth Revised Sheet No. RT2.6
 P.S.C. MO. No. 6, Eleventh Revised Sheet No. RT4.0,
 Canceling Tenth Revised Sheet No. RT4.0
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT5.2,
 Canceling Twelfth Revised Sheet No. RT5.2
 P.S.C. MO. No. 6, Twelfth Revised Sheet No. RT6.0,
 Canceling Eleventh Revised Sheet No. RT6.0
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT7.0,
 Canceling Twelfth Revised Sheet No. RT7.0
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT8.0,
 Canceling Twelfth Revised Sheet No. RT8.0
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT9.0,
 Canceling Twelfth Revised Sheet No. RT9.0
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT5.1,
 Canceling Twelfth Revised Sheet No. RT5.1
 P.S.C. MO. No. 6, Thirteenth Revised Sheet No. RT5.0,
 Canceling Twelfth Revised Sheet No. RT5.0
 P.S.C. MO. No. 2, 9th Revised Sheet No. D-1,

Canceling 8th Revised Sheet No. D-1
P.S.C. MO. No. 2, 6th Revised Sheet No. D-2,
Canceling 5th Revised Sheet No. D-2
P.S.C. MO. No. 2, 6th Revised Sheet No. D-3, Canceling 5th Revised Sheet No. D-3
P.S.C. MO. No. 2, Original Sheet No. D-9
P.S.C. MO. No. 2, 4th Revised Sheet No. 12, Canceling 3rd Revised Sheet No. 12
P.S.C. MO. No. 2, 3rd Revised Sheet No. 4, Canceling 2nd Revised Sheet No. 4

4. That Missouri-American Water Company shall file as soon as practicable, but in no case later than the 15th day after the issue date of this Order, proposed tariff sheets in compliance with the settlement agreement of the parties approved herein.

5. That this order shall become effective on April 16, 2004.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Gaw, Ch., and Clayton, C., concur;
Murray, C., concurs, with separate
concurring opinion attached.

Thompson, Deputy Chief Regulatory Law Judge