

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

In the Matter of Missouri-American	)	
Water Company's Request for Authority	)	
to Implement a General Rate Increase	)	Case No. WR-2007-0216 and
for Water Service Provided in Missouri	)	SR-2007-0217
Service Areas	)	
	)	
In the Matter of Missouri-American	)	
Water Company's Filing of Revised Sewer	)	
Tariff Sheets to Implement a Capacity	)	Case No. ST-2007-0443
Charge for Missouri-American's Warren	)	
County and Jefferson County Sewer	)	

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

COMES NOW Missouri-American Water Company (MAWC), on behalf of the Office of the Public Counsel (Public Counsel), the Staff of the Missouri Public Service Commission (Staff), City of Warrensburg (Warrensburg), Missouri Industrial Energy Consumers (MIEC), the City of Parkville (Parkville), AG Processing Inc. (AGP), Public Water Supply District Nos. 1 and 2 of Andrew County and Public Water Supply District No. 1 of DeKalb County (Water Districts), Missouri Energy Group (MEG) and the Home Builders Association of St. Louis and Eastern Missouri, Inc. (HBA), and respectfully provides the following to the Missouri Public Service Commission (Commission) as their Proposed Findings of Fact and Conclusions of Law:

**TABLE OF CONTENTS**

I. PROCEDURAL HISTORY ..... 3

    A. Procedural History of Cases No. WR-2007-0216 and SR-2007-0217 ..... 3

    B. Procedural History of Case No. ST-2007-0443 ..... 6

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW ..... 7

    A. Background ..... 7

    B. Jurisdiction ..... 8

    C. Burden of Proof ..... 8

    D. Ratemaking Standards and Practices ..... 9

    E. Presumption ..... 12

    F. Nonunanimous Stipulation and Agreement ..... 13

    G. Revenue Requirement ..... 14

    H. Rate Design ..... 17

        1. The Proper Basis for Allocating MAWC’s Corporate Expenses to the Various  
Districts, to Include Administrative and General Expenses, Customer Accounts, Depreciation  
and Other General Taxes ..... 18

        2. Payroll Tax Payment as Annualized for the Joplin District and Certain Depreciation  
Issues 23

        3. Rate Design Conclusion ..... 25

    J. Case No. ST-2007-0443 -- Capacity Charge Tariff Sheets ..... 25

    K. Miscellaneous ..... 26

        1. Additional Nonunanimous Stipulation and Agreement Items ..... 26

        2. MSD Stipulation and Agreement ..... 28

        3. UWUA Local 335 Issues ..... 29

## **I. PROCEDURAL HISTORY**

### **A. Procedural History of Cases No. WR-2007-0216 and SR-2007-0217**

On December 15, 2006, Missouri-American Water Company (MAWC or the Company) submitted to the Missouri Public Service Commission certain proposed tariff sheets designed to implement a general rate increase for water and sewer service provided by the Company, along with direct testimony in support of the proposed rates. The revised rates were designed to produce an additional \$41,387,823 in gross annual water and sewer revenues, excluding gross receipts and sales taxes. The Commission identified these tariff filings as Case Nos. WR-2007-0216 and SR-2007-0217. The two cases were later consolidated.

On January 3, 2007, the Commission issued its Suspension Order and Notice, Order Setting Hearings, and Order Directing Filing, wherein, among other things, the Commission suspended the proposed tariff sheets until November 14, 2007. Subsequently, the following parties requested, and were granted, intervention: Utility Workers Union of America Local 335 (UWUA Local 335), City of Joplin (Joplin), AG Processing Inc. (AGP), Missouri Energy Group (MEG), City of Warrensburg (Warrensburg), Public Water Supply District Nos. 1 and 2 of Andrew County and Public Water Supply District No. 1 of DeKalb County (Water Districts), Missouri Industrial Energy Consumers (MIEC), City of St. Joseph (St. Joseph), Metropolitan St. Louis Sewer District (MSD), City of Jefferson (Jefferson City), the City of Parkville (Parkville).

From June 5, 2007 through June 14, 2007, the Commission conducted eleven (11) separate local public hearings in various MAWC operating districts in order to provide the public

with the opportunity to comment. Direct, rebuttal and surrebuttal testimony was filed by numerous parties.<sup>1</sup>

On July 16, 2007, MAWC and MSD filed a Stipulation and Agreement as to MSD Rate Design Between MAWC and MSD. No party objected to this Stipulation and Agreement and it, therefore, may be treated as unanimous according to Commission rule. 4 CSR 240-2.115. The Commission has not yet issued an order concerning this stipulation.

On August 1, 2007, MAWC filed a List of Issues, Order of Witnesses and Order of Cross-Examination on behalf of several parties. The List of Issues was unopposed by the other parties, except for an Amendment provided by AGP on August 2, 2007.

On August 9, 2007, the following parties filed a Nonunanimous Stipulation and Agreement (Nonunanimous Stipulation): MAWC, Staff, Public Counsel, AGP, MEG, Warrensburg, Water Districts, MIEC, MSD, Parkville, and the HBA. Joplin indicated its opposition to the Nonunanimous Stipulation and was directed to file a pleading identifying its opposition to the Nonunanimous Stipulation. The Commission further established a date by which parties were to file statements in opposition to the Nonunanimous Stipulation. No party other than Joplin filed a pleading opposing the Nonunanimous Stipulation. However, because Joplin objected to the Nonunanimous Stipulation, by Commission Rule, it is to be treated as a position of the signatory parties, or as a joint recommendation. 4 CSR 240-2.115.

On August 10, 2007, Joplin filed its List of Disputed Issues and Witness wherein it identified the issues which it desired to have heard by the Commission and the witnesses it wished to cross-examine. A hearing was held by the Commission on August 14, 2007. At the hearing, testimony was offered by the parties and admitted into the record. Cross-examination

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<sup>1</sup> UWUA Local 335 filed the Rebuttal Testimony of Alan Ratermann. The Commission struck this testimony on August 14, 2007. Tr. 433.

was conducted where parties desired such. Joplin filed its Revised List of Disputed Issues on August 17, 2007, and therein identified those issues it believed to still be in dispute after the hearing.

On August 23, 2007, the Commission issued its order providing a specific briefing schedule. Among other things, the Commission formally adopted the August 1 Issues List (as amended by AGP's pleading) and directed that the briefs follow the adopted list of issues.

Also on August 23, 2007, Jefferson City, MAWC, Public Counsel and the Staff filed a Stipulation and Agreement as to Jefferson City Issues. No party objected to this Stipulation and Agreement and the Commission, on September 6, 2007, issued its Order Approving Nonunanimous Stipulation and Agreement as to Jefferson City Issues.

On August 29, 2007, MAWC, on behalf of all of the parties except UWUA Local 335 and Warrensburg, filed an Amended List of Issues and Motion to Modify Order. Therein it was stated that those parties believed that the issues list should be amended to include only the following remaining issues from those which had been identified in Joplin's Revised List of Disputed Issues, filed on August 17, 2007:

A. The Proper basis for allocating MAWC's corporate expenses to the various districts, to include administrative and general expenses, customer accounts, depreciation, other general taxes; and,

B. Payroll tax payment as annualized for the Joplin District and certain depreciation issues.

It was further stated that none of the other issues addressed by the Nonunanimous Stipulation had been objected to or were in dispute. Accordingly, the parties requested that the Commission modify its Order Providing Specific Dates for Briefing Schedule, Directing the

Filing of a Revised Reconciliation and Further Clarifying Requirements for Proposed Findings of Fact and Conclusions of Law such that the above amended issues list was adopted by the Commission and that the briefs follow this amended list of issues.

The Commission granted this motion on August 30, 2007, in its Order Granting Motion to Modify Order and Amend Issues List. The only response to the Amended Issues List and the Commission's order was provided by UWUA Local 335, which filed its Advice to the Commission on September 4, 2007. Therein, UWUA Local 335 stated that it did not join in the amended issues list, stated that it did not object to the outcome of the case proposed by the Nonunanimous Stipulation, and identified three issues it considered to still be "live", but which it acknowledged "may not be outcome determinative."

On September 5, 2007, the Commission issued its Notice Regarding Issue List wherein it acknowledged UWUA Local 335's pleading and stated that it would "consider all record evidence on the issues identified by Local 335 when issuing its decision in this matter."

**B. Procedural History of Case No. ST-2007-0443**

On April 3, 2007, MAWC filed tariffs designed to implement a new capacity charge for Missouri-American's Warren County and Jefferson County Sewer Districts. The Public Counsel asked the Commission to suspend these tariffs and the Home Builders Association of St. Louis and Eastern Missouri, Inc. (HBA) sought to intervene in the matter. The proposed capacity charge tariff sheets were designated by the Commission as Case No. ST-2007-0443.

The Commission ultimately suspended the capacity charge tariff sheets until November 14, 2007, and consolidated Case No. ST-2007-0443 with Case No. WR-2007-0216. A separate procedural schedule was established related to the capacity charge tariffs and on July 13, 2007, MAWC filed its direct testimony in support of those tariff sheets. On August 9, 2007, the

Nonunanimous Stipulation was filed in Case No. WR-2007-0216. Among other things, that Nonunanimous Stipulation would resolve the issues related to ST-2007-0443. On August 10, 2007, the procedural schedule in Case No. ST-2007-0443 was suspended, pending the Commission's consideration of the Nonunanimous Stipulation.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **A. Background**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

In making its Findings of Fact and Conclusions of Law, the Commission is mindful that it is required, after a hearing, to “make a report in writing in respect thereto, which shall state the conclusion of the commission, together with its decision, order or requirement in the premises.”<sup>2</sup> Because Section 386.420 does not explain what constitutes adequate findings of fact, Missouri courts have turned to Section 536.090, which applies to “every decision and order in a contested case,” to fill in the gaps of Section 386.420.<sup>3</sup> Section 536.090 provides, in pertinent part:

Every decision and order in a contested case shall be in writing, and . . . the decision . . . shall include or be accompanied by findings of fact and conclusions of law. The findings of fact shall be stated separately from the conclusions of law and shall include a concise statement of the findings on which the agency bases its order.

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<sup>2</sup> Section 386.420.2, RSMo 2000. All further statutory references, unless otherwise specified, are to the Revised Statutes of Missouri (RSMo), revision of 2000.

<sup>3</sup> *St. ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n of Mo.*, 103 S.W.3d 813, 816 (Mo. App., W.D. 2003); *St. ex rel. Noranda Aluminum, Inc. v. Pub. Serv. Comm'n*, 24 S.W.3d 243, 245 (Mo. App., W.D. 2000).

Missouri courts have not adopted a bright-line standard for determining the adequacy of findings of fact.<sup>4</sup> Nonetheless, the following formulation is often cited:

The most reasonable and practical standard is to require that the findings of fact be sufficiently definite and certain or specific under the circumstances of the particular case to enable the court to review the decision intelligently and ascertain if the facts afford a reasonable basis for the order without resorting to the evidence.<sup>5</sup>

Findings of fact are inadequate when they “leave the reviewing court to speculate as to what part of the evidence the [Commission] believed and found to be true and what part it rejected.”<sup>6</sup> Findings of fact are also inadequate that “provide no insight into how controlling issues were resolved” or that are “completely conclusory.”<sup>7</sup>

## **B. Jurisdiction**

MAWC is a public utility, a sewer corporation, and a water corporation, as those terms are defined in Section 386.020(42), (48) and (58), RSMo 2000. As such, MAWC is subject to the Commission’s jurisdiction pursuant to Chapters 386 and 393, RSMo.

## **C. Burden of Proof**

Section 393.150.2 provides in part, “At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the . . . water corporation or sewer corporation, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.”

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<sup>4</sup> *Glasnapp v. Stat Banking Bd.*, 545 S.W.2d 382, 387 (Mo. App. 1976).

<sup>5</sup> *Id.* (quoting 2 Am.Jur.2d Administrative Law § 455, at 268).

<sup>6</sup> *St. ex rel. Int’l. Telecharge, Inc. v. Mo. Pub. Serv. Comm’n*, 806 S.W.2d 680, 684 (Mo. App., W.D. 1991) (quoting *St. ex rel. Am. Tel. & Tel. Co. v. Pub. Serv. Comm’n*, 701 S.W.2d 745, 754 (Mo. App., W.D. 1985)).

<sup>7</sup> *St. ex rel. Monsanto Co. v. Pub. Serv. Comm’n*, 716 S.W.2d 791, 795 (Mo. Banc 1986) (relying on *St. ex rel. Rice v. Pub. Serv. Comm’n*, 359 Mo. 109, 220 S.W.2d 61 (1949)).



#### D. Ratemaking Standards and Practices

The Commission is vested with the state's police power to set “just and reasonable” rates for public utility services,<sup>8</sup> subject to judicial review of the question of reasonableness.<sup>9</sup> A “just and reasonable” rate is one that is fair to both the utility and its customers;<sup>10</sup> it is no more than is sufficient to “keep public utility plants in proper repair for effective public service, [and] . . . to insure to the investors a reasonable return upon funds invested.”<sup>11</sup> In 1925, the Missouri Supreme Court stated:<sup>12</sup>

The enactment of the Public Service Act marked a new era in the history of public utilities. Its purpose is to require the general public not only to pay rates which will keep public utility plants in proper repair for effective public service, but further to insure to the investors a reasonable return upon funds invested. The police power of the state demands as much. We can never have efficient service, unless there is a reasonable guaranty of fair returns for capital invested. \* \* \* These instrumentalities are a part of the very life blood of the state, and of its people, and a fair administration of the act is mandatory. When we say "fair," we mean fair to the public, and fair to the investors.

The Commission’s guiding purpose in setting rates is to protect the consumer against the natural monopoly of the public utility, generally the sole provider of a public necessity.<sup>13</sup> “[T]he dominant thought and purpose of the policy is the protection of the public . . . [and] the

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<sup>8</sup> Section 393.130, in pertinent part, requires a utility’s charges to be “just and reasonable” and not in excess of charges allowed by law or by order of the commission. Section 393.140 authorizes the Commission to determine “just and reasonable” rates.

<sup>9</sup> *St. ex rel. City of Harrisonville v. Pub. Serv. Comm’n of Missouri*, 291 Mo. 432, 236 S.W. 852 (1922); *City of Fulton v. Pub. Serv. Comm’n*, 275 Mo. 67, 204 S.W. 386 (1918), error dis’d, 251 U.S. 546, 40 S.Ct. 342, 64 L.Ed. 408; *City of St. Louis v. Pub. Serv. Comm’n of Missouri*, 276 Mo. 509, 207 S.W. 799 (1919); *Kansas City v. Pub. Serv. Comm’n of Missouri*, 276 Mo. 539, 210 S.W. 381 (1919), error dis’d, 250 U.S. 652, 40 S.Ct. 54, 63 L.Ed. 1190; *Lightfoot v. City of Springfield*, 361 Mo. 659, 236 S.W.2d 348 (1951).

<sup>10</sup> *St. ex rel. Valley Sewage Co. v. Pub. Serv. Comm’n*, 515 S.W.2d 845 (Mo. App., K.C.D. 1974).

<sup>11</sup> *St. ex rel. Washington University et al. v. Pub. Serv. Comm’n*, 308 Mo. 328, 344-45, 272 S.W. 971, 973 (banc 1925).

<sup>12</sup> *Id.*

<sup>13</sup> *May Dep’t Stores Co. v. Union Elec. Light & Power Co.*, 341 Mo. 299, 107 S.W.2d 41, 48 (1937).

protection given the utility is merely incidental.”<sup>14</sup> However, the Commission must also afford the utility an opportunity to recover a reasonable return on the assets it has devoted to the public service.<sup>15</sup> “There can be no argument but that the Company and its stockholders have a constitutional right to a fair and reasonable return upon their investment.”<sup>16</sup>

The Commission has exclusive jurisdiction to establish public utility rates,<sup>17</sup> and the rates it sets have the force and effect of law.<sup>18</sup> A public utility has no right to fix its own rates and cannot charge or collect rates that have not been approved by the Commission;<sup>19</sup> neither can a public utility change its rates without first seeking authority from the Commission.<sup>20</sup> A public utility may submit rate schedules or “tariffs,” and thereby suggest to the Commission rates and classifications which it believes are just and reasonable, but the final decision is the Commission’s.<sup>21</sup> Thus, “[r]atemaking is a balancing process.”<sup>22</sup>

Ratemaking involves two successive processes:<sup>23</sup> first, the determination of the “revenue requirement,” that is, the amount of revenue the utility must receive to pay the costs of producing the utility service while yielding a reasonable rate of return to the investors.<sup>24</sup> The second

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<sup>14</sup> *St. ex rel. Crown Coach Co. v. Pub. Serv. Comm’n*, 179 S.W.2d 123, 126 (1944).

<sup>15</sup> *St. ex rel. Utility Consumers Council, Inc. v. Pub. Serv. Comm’n*, 585 S.W.2d 41, 49 (Mo. Banc 1979).

<sup>16</sup> *St. ex rel. Missouri Public Service Co. v. Fraas*, 627 S.W.2d 882, 886 (Mo. App., W.D. 1981).

<sup>17</sup> *May Dep’t Stores*, *supra*, 107 S.W.2d at 57.

<sup>18</sup> *Utility Consumers Council*, *supra*, 585 S.W.2d at 49.

<sup>19</sup> *Id.*

<sup>20</sup> *Deaconess Manor Ass’n v. Pub. Serv. Comm’n*, 994 S.W.2d 602, 610 (Mo. App., W.D. 1999).

<sup>21</sup> *May Dep’t Stores*, *supra*, 107 S.W.2d at 50.

<sup>22</sup> *St. ex rel. Union Elec. Co. v. Pub. Serv. Comm’n*, 765 S.W.2d 618, 622 (Mo. App., W.D. 1988).

<sup>23</sup> It is worth noting here that Missouri recognizes two distinct ratemaking methods: the “file-and-suspend” method and the complaint method. The former is initiated when a utility files a tariff implementing a general rate increase and the second by the filing of a complaint alleging that the subject utility’s rates are not just and reasonable. See *utility Consumers Council*, *supra*, 585 S.W.2d at 48-49; *St. ex rel. Jackson County v. Pub. Serv. Comm’n*, 532 S.W.2d 20, 28-29 (Mo. Banc 1975), *cert. denied*, 429 U.S. 822, 50 L.Ed.2d 84, 97 S.Ct. 73 (1976).

<sup>24</sup> *St. ex rel. Capital City Water Co. v. Missouri Pub. Serv. Comm’n*, 850 S.W.2d 903, 916 n. 1 (Mo. App., W.D. 1993).

process is rate design, that is, the construction of tariffs that will collect the necessary revenue requirement from the ratepayers. Revenue requirement is usually established based upon a historical test year that focuses on four factors: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be earned; (3) the depreciation costs of plant and equipment; and (4) allowable operating expenses.<sup>25</sup> The calculation of revenue requirement from these four factors is expressed in the following formula:

$$RR = C + (V - D) R$$

where: RR = Revenue Requirement;  
C = Prudent Operating Costs, including Depreciation Expense and Taxes;  
V = Gross Value of Utility Plant in Service;  
D = Accumulated Depreciation; and  
R = Overall Rate of Return or Weighted Cost of Capital.

The return on the rate base is calculated by applying a rate of return, that is, the weighted cost of capital, to the original cost of the assets dedicated to public service less accumulated depreciation.<sup>26</sup> The Public Service Commission Act vests the Commission with the necessary authority to perform these functions. Section 393.140(4) authorizes the Commission to prescribe uniform methods of accounting for utilities and Section 393.140(8) authorizes the Commission to examine a utility's books and records and, after hearing, to determine the accounting treatment of any particular transaction. In this way, the Commission can determine the utility's prudent operating costs. Section 393.230 authorizes the Commission to value the property of electric

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<sup>25</sup> *Id. citing Colton*, "Excess Capacity: Who Gets the Charge From the Power Plant?," 34 Hastings L.J. 1133, 1134 & 1149-50 (1983).

<sup>26</sup> *See St. ex. rel. Union Elec. Co. v. Pub. Serv. Comm'n, supra.*

utilities operating in Missouri, that is, to determine the rate base.<sup>27</sup> Section 393.240 authorizes the Commission to set depreciation rates and to adjust a utility's depreciation reserve from time-to-time as may be necessary.

The Revenue Requirement is the sum of two components: first, the utility's prudent operating expenses, and second, an amount calculated by multiplying the fair value of the utility's depreciated assets by a Rate of Return. For any utility, its fair Rate of Return is simply its composite cost of capital. The composite cost of capital is the sum of the weighted cost of each component of the utility's capital structure. The weighted cost of each capital component is calculated by multiplying its cost by a percentage expressing its proportion in the capital structure. Where possible, the cost used is the "embedded" or historical cost; however, in the case of Common Equity, the cost used is its estimated cost.

#### **E. Presumption**

While a utility has the burden of proof, there is initially a presumption that its expenditures are prudent. The Commission has previously cited the following description of this process as found to apply to the Federal Energy Regulatory Commission:

The Federal Power Act imposes on the Company the "burden of proof to show that the increased rate or charge is just and reasonable." Edison relies on Supreme Court precedent for the proposition that a utility's cost are [sic] presumed to be prudently incurred. However, the presumption does not survive "a showing of inefficiency or improvidence." As the Commission has explained, "utilities seeking a rate increase are not required to demonstrate in their cases-in-chief that all expenditures were prudent . . . However, where some other participant in the proceeding creates a serious doubt as to the prudence of an expenditure, then the applicant has the burden of dispelling these doubts and proving the questioned expenditure to have been prudent."

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<sup>27</sup> Section 393.135 expressly prohibits the inclusion in electric rates of costs pertaining to property that is not "used and useful."

*In the Matter of Union Electric Company*, 27 Mo.P.S.C. (N.S.) 183, 193 (1985) (quoting *Anaheim, Riverside, etc. v. Federal Energy Regulatory Commission*, 669 F.2d 779, (D.C. Cir. 1981)) (citations omitted).

The Commission has interpreted this process as follows:

“In the context of a rate case, the parties challenging the conduct, decision, transaction, or expenditures of a utility have the initial burden of showing inefficiency or improvidence, thereby defeating the presumption of prudence accorded the utility. The utility then has the burden of showing that the challenged items were indeed prudent. Prudence is measured by the standard of reasonable care requiring due diligence, based on the circumstances that existed at the time the challenged item occurred, including what the utility’s management knew or should have known. In making this analysis, the Commission is mindful that “[t]he company has a lawful right to manage its own affairs and conduct its business in any way it may choose, provided that in so doing it does not injuriously affect the public.”

*State ex rel. City of St. Joseph v. Public Service Commission*, 325 Mo. 209, 223, 30 S.W.2d 8, 14 (banc 1930).” *In the Matter of Missouri-American Water Company’s Tariff Sheets*, Report and Order, Case No. WR-2000-281 (August 31, 2000).

#### **F. Nonunanimous Stipulation and Agreement**

Commission Rule 4 CSR 240-2.115(1)(B) states that the Commission “may resolve all or any part of a contested case on the basis of a stipulation and agreement.”

When a stipulation is filed that has been entered into by something less than all parties to a case, it is deemed to be a nonunanimous stipulation and agreement. Each party is given seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. 4 CSR 240-2.115(2)(B).

“A nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position, except that no party shall be bound by it. All issues shall remain for determination

after hearing.” 4 CSR 240-2.115(2)(D). This being said, the rule further states that a “party may indicate that it does not oppose all or part of a nonunanimous stipulation and agreement.” 4 CSR 240-2.115(2)(E).

In this case, the Nonunanimous Stipulation filed by several of the parties was objected to by only Joplin. Joplin clarified in its Revised List of Disputed Issues, the Amended List of Issues and Joplin’s Post-Hearing Brief that it objected to the Nonunanimous Stipulation only in part. *See* Joplin’s Post-Hearing Brief, filed September 7, 2007, p. 3, Fn 1 (“All other issues addressed in the Non-Unanimous Stipulation and Agreement, except the two remaining issues, are unobjected to by Joplin and thus unopposed.”).

Joplin was given the opportunity to identify the issues it believed to be in dispute, the witnesses it desired to call in regard to those issues and the witnesses it desired to cross-examine. Thereafter, Joplin identified the issues it believed to be in dispute, the witness it sought to present (Ms. Leslie Jones) and the witnesses it desired to cross-examine (Staff witnesses Steve Rackers, Roberta Grissum and Lisa Hanneken and MAWC witnesses Ed Grubb Don Petry and Greg Weeks) and a full hearing was held on all issues for which a hearing was requested. Cross-examination was waived by all parties as to the remaining witnesses and their testimony was admitted into evidence.

In accordance with its rule, the Commission will treat the Nonunanimous Stipulation as a Joint Recommendation only as to those specific issues identified by Joplin. The remainder of the Nonunanimous Stipulation may be considered as unanimous.

#### **G. Revenue Requirement**

As stated above, the first question for the Commission is to establish the amount of revenue MAWC must receive to pay the costs of producing the utility service while yielding a

reasonable rate of return for its investors. Revenue requirement is usually established based upon a historical test year that focuses on rate of return, rate base, depreciation costs of plant and equipment; and allowable operating expenses.

MAWC proposed a net overall increase in water and sewer revenue requirement of \$41,387,823. (Exh. MAWC-13, Jenkins Dir., p. 3) This proposal is supported by evidence in the record as to rate of return, rate base, depreciation rates and operating expenses. (Exhs. MAWC-4 through 27)

The only other party to make a recommendation as to overall revenue requirement was the Staff. As of its true-up filing, Staff recommended an increase to revenue requirement of \$21,751,661, at the high end of Staff's recommended range of return on equity (9.6%). (Exh. Staff-29, True-Up Direct Staff Accounting Schedules) Staff's proposal was also supported by evidence in the record as to rate of return, rate base, depreciation rates and operating expenses. (Exhs. Staff-1 through 32)

In the context of a rate case, the parties challenging the conduct, decision, transaction, or expenditures of a utility have the initial burden of showing inefficiency or improvidence, thereby defeating the presumption of prudence accorded the utility. The utility then has the burden of showing that the challenged items were indeed prudent.

Here, MAWC has compromised its requested revenue requirement by entering into the Nonunanimous Stipulation and recommending to the Commission that its authorized revenue requirement in this case represent an increase of \$28.7 million in revenues associated with its water and sewer service. This recommendation is joined by Staff, Public Counsel, AGP, MEG, Warrensburg, Water Districts, MIEC, MSD, Parkville, and the HBA. These parties further recommend that the current Infrastructure System Replacement Surcharge (ISRS) in the St.

Louis District be reset to zero and the property tax surcharge in the St. Joseph District be terminated for service rendered on and after the effective date of rates in this case

### **Correction of the Amount of Chemical Expense Attributable to the Joplin District**

This requested revenue requirement has been further compromised by MAWC in regard to chemical expenses. Initially, Joplin questioned the amount of chemical expense attributable to the Joplin District. Upon further review, the Company discovered an error in its calculation of the annualized level of chemical expense for the Joplin District. In annualizing the amount of chemical expense, the Company determined the annual amount of water it expects to treat and multiplies it by the usage (per million gallons) of chemicals needed to treat the water. Then, that product is multiplied by the price per pound of the chemical, which price is based upon contracts with chemical suppliers. (Tr. 150)

In annualizing the amount of chemical expense for the Joplin District, the Company found that the number of pounds needed to treat an annualized level of water for three of the eleven chemicals used in the Joplin District was overstated. As a result, the annualized chemical expense for the Joplin District was overstated by \$236,416. (Tr. 150) In order to correct for this error, Company proposed to take the amount of revenue increase attributable to Joplin, pursuant to the Nonunanimous Stipulation and reduce it by \$236,416. (Tr. 151) This has the additional impact of reducing the overall revenue requirement sought by MAWC by \$236,416, or reducing the overall increase to \$28,463,584. No party objects to or opposes this corrected increase in revenues.



## **H. Rate Design**

As stated above, rate design, is the construction of tariffs that will collect the necessary revenue requirement from the ratepayers. The issues raised by Joplin fit generally into this category. Those issues are as follows:

1. The Proper basis for allocating MAWC's corporate expenses to the various districts, to include administrative and general expenses, customer accounts, depreciation, and other general taxes; and,
2. Payroll tax payment as annualized for the Joplin District and certain depreciation issues.

Neither of these issues will impact the revenue requirement increase (the total amount of revenue the utility must receive to pay the costs of producing the utility service while yielding a reasonable rate of return to the investors). Joplin's issues relate solely to the way in which those increased revenues are recovered from Joplin and the other districts. Thus, if Joplin is successful in decreasing costs allocated to its district, it will have the resulting effect of increasing costs and, therefore, revenues required from other districts.

It should further be noted that once the amount of the increase is spread to a district, there is a further question as to how that district-specific increase should be spread to the various classes of customers. No party has objected to the recommendation contained in the Nonunanimous Stipulation as to how to spread the increases among the classes.

The Nonunanimous Stipulation originally proposed an overall (*i.e.*, statewide) increase in revenues for MAWC of \$28,700,000, and that the Joplin District be responsible for \$4,856,240 of that total. After adjusting for the chemical expense error previously discussed, the

Nonunanimous Stipulation now proposes that Joplin be responsible for \$4,619,824 of a total increase of \$28,463,584 (*i.e.*, \$28,700,000 less \$236,416).

**1. The Proper Basis for Allocating MAWC's Corporate Expenses to the Various Districts, to Include Administrative and General Expenses, Customer Accounts, Depreciation and Other General Taxes**

In determining the revenue requirements for each operating district, there are certain costs which are directly attributable to the district (e.g., employees, office space, vehicles, etc.) and thus directly assigned to that district and there are general corporate costs which are not directly attributable to a specific district(s) and therefore must be allocated to the districts. Examples of these general corporate costs include management fees charged by the American Water Works Service Company (Service Company) to the operating subsidiaries (such as MAWC). (Tr. 160) Examples of those functions provided by the Service Company include financial services, accounts payable, human resources and purchasing. (Tr. 160, 164)

These costs are consolidated at the Service Company level to achieve economies of scale. (Tr. 164) They are then allocated by the Service Company to the operating subsidiaries based on the number of customers served by the operating subsidiary as a percentage of total customers served by all operating subsidiaries. (Tr. 160, 161) In addition to Service Company costs, MAWC incurs its own administrative and general expenses, such as corporate employees' salaries, collection agency fees, customer billing expense, postage, rents, office supplies, and janitorial expenses. These administrative and general costs are recorded in a corporate business unit so they can be identified and controlled and are then allocated to the districts for recovery in a rate case. (Tr. 162, 163)

The issue raised by Joplin concerns whether the costs have been allocated appropriately to MAWC's various operating districts and, in particular, whether they have been allocated appropriately to the Joplin district.

Allocation of costs is not an exact science or a process that has only a single correct answer. The Missouri Supreme Court has stated that it is "the province and duty of the commission, in determining the questions of reasonable rates, to allocate and treat costs . . . in the way in which, in the commission's judgment, the most sound result is reached." *State ex rel. City of West Plains v. Public Service Commission*, 310 S.W.2d 925, 933 (Mo.banc 1958).

MAWC, Staff and Joplin have all proposed methods of allocating costs to the operating districts. For purposes of its filed case, MAWC proposed to allocate these general corporate costs to the various districts primarily on the number of customers served in each district as a percentage of total customers served statewide. (Tr. 155) Exceptions to this general allocation factor include workers compensation expense which is allocated based on payroll (Tr. 216); transportation expense which is allocated based on vehicles (Tr. 159, 160); and corporate depreciation expense which is allocated based on plant-in-service. (Tr. 217, 218)

The Staff primarily allocated general corporate costs based on the total payroll expense directly attributable to a district as a percentage of the total payroll attributable to all districts. In fact, of the approximately thirty (30) different categories of administrative and general expense at the corporate level, Staff used payroll as its allocation factor on all but one expense. (Tr. 311, 312)

Joplin's initial proposal in this case was to allocate all corporate costs on "length of mains" (*i.e.*, the linear feet of mains in a district as a percentage of the total linear feet of mains statewide). (Tr. 359) Joplin's new position was to allocate all expenses under customer

accounts based on the Company's customer allocation factor; corporate benefits, workers compensation, OPEBs and pension expenses based on Staff's payroll allocation factor; other general taxes based on the Company's customer allocation factor; and Belleville Labs based on Staff's "per test" allocation factor. (Tr. 342, 353-354) Only corporate depreciation expense would be allocated using length of mains. (Tr. 342, 354) In essence, Joplin's new position was to adopt, for all but one of the corporate expense items, the same allocation factors proposed by the Company or Staff (i.e., customers or payroll). (Tr. 411-413)

Each District's increase as proposed by the Non-Unanimous Stipulation is based on an allocation of general corporate costs using Staff's allocation factors. Although Staff used different allocation factors than Company, the end result of Staff's allocation was reasonable in the opinion of the Company. (Tr. 191) For example, under the Company's method of allocating costs, 5.03% of the total, per book corporate costs were allocated to the Joplin District. Under Staff's method of allocating costs, 5.11% of total, per book corporate costs were allocated to the Joplin District. (Tr. 155-156) Thus, the end result of Staff's allocations was very similar to that of Company and within the realm of reasonableness. (Tr. 181, 189) This is not surprising because, as Company witness Grubb explained, the amount of payroll in a district is a function of the amount of customers served by that district. (Tr. 157)

Staff witness Rackers testified that the use of payroll as a primary allocator is most appropriate because costs incurred at the corporate level are primarily incurred for the benefit and support of the employees in the field or districts. (Tr. 285-286, 296, 329) Furthermore, Staff has consistently used payroll as an allocation factor in previous MAWC rate cases. (Tr. 321) Staff has also traditionally used payroll as an allocation factor for other corporate type expenses in other utility rate cases. (Tr. 320)

Staff's position is also consistent with the Commission's decision in a 1985 rate case involving Union Electric Company. In that case, the Commission was required to determine, among other things, the appropriate allocation of administrative and general (A & G) expenses for purposes of assigning costs to various classes of customers. Noting that "allocation factors are used to allocate those costs which cannot be directly assigned to a particular customer class" the Commission found that the proper method for allocating A& G expenses is on the basis of direct payroll (*i.e.*, labor)(*In Re: Union Electric*, 27 Mo.P.S.C.(N.S.) 183, 275 & 290.) In adopting Union Electric's position, the Commission stated ". . . that it is through its [Union Electric's] employees that the coordination and management of all facets of its operations are conducted, and that therefore the proper method to allocate costs associated with those employees' expenses is by direct labor." (27 Mo.P.S.C.(N.S.) at 290)

The use of the Staff approach to the allocation of corporate expenses is a sound and rational treatment of those expenses. The costs of corporate employees, as well as other costs incurred at the corporate level, are incurred to support the employees at the district level. (Tr. 307, 308, 310) There is also a correlation between payroll and customers. (Tr. 157) The amount of employees assigned to a particular district is a function of the number of customers that those employees are required to serve.

Because the Nonunanimous Stipulation utilizes that Staff approach to corporate allocations, the Commission further finds that its approach is appropriate.

The evidence and history of Joplin's position as to allocations hampers the creditability of the approach it now proposes and renders it unpersuasive. Joplin's approach to this issue appears to be targeted exclusively at the goal of minimizing the allocation of costs to the Joplin

District rather than an attempt to rationally allocate costs to the district based upon the nature of the function being performed.

Joplin's strongest testimony in terms of justification of approach is in support of the "length of mains" approach, something that Joplin now does not support. Joplin filed the rebuttal testimony that unequivocally stated that "there are several factors that would be more appropriate than Staff's Corporate Income Distribution Allocation Factors, the most appropriate factor being "length of mains." (Joplin Exh. 1, p. 2, lines 5-7) The City of Joplin continued its support of length of mains as an appropriate allocation factor in its Pre-Hearing Brief stating, "The proper allocation of the corporate administrative and general expenses is by linear feet of pipe within each district." (Prehearing Brief of Intervenors/City of Joplin, p. 2) As late as three (3) days before the hearing, the City of Joplin steadfastly maintained its position that corporate administrative and general expenses be allocated based on length of main. "The proper allocation of the corporate, administrative and general expenses is by linear feet of pipe within each district and not by payroll expenses as advocated by Staff." (City of Joplin's List of Disputed Issues and Witness, p. 1)

At the hearing, after understanding the correct amount of linear feet of main in the St. Louis County District, Joplin's witness attempted to "correct" her testimony and her position regarding the proper allocation of corporate costs. It appears that the Joplin witness did not change her testimony based upon her belief that number of customers and payroll were, in fact, more appropriate allocators, but use of the correct factor for length of mains resulted in her initially preferred allocation factor (*i.e.*, length of mains) to increasing from .011% to 7.105%. Staff witness Rackers testified that using the corrected allocation factor for length of mains in

Joplin's advocated position would actually result in a higher allocation of costs to Joplin than Staff (and the Nonunanimous Stipulation) had proposed. (Tr. 324)

"Just and reasonable rates" cannot be established for Joplin alone, for MAWC does not serve Joplin exclusively.

## **2. Payroll Tax Payment as Annualized for the Joplin District and Certain Depreciation Issues**

Joplin continues to identify the level of payroll and payroll tax annualization attributable to the Joplin District as an "issue" with the Nonunanimous Stipulation. However, Joplin has stated in its Statement of Filing of Calculations (filed August 22, 2007), that "there is no direct revenue impact upon the payroll tax annualization and payroll annualization discussed in Leslie Jones' testimony on August 14, 2007."

Joplin's Post-Hearing Brief states that "the payroll annualization from corporate to the various districts is incorrectly done and should not be confirmed by this Commission." Joplin's Post-Hearing Brief, p. 11. However, Joplin's Brief cites to no record evidence explaining why it believes the annualization to be in error, nor does it offer a proposed correction other than encouraging the Commission to "not accept that annualization and . . . strip it in its entirety from" the portion of the revenue requirement proposed by the Nonunanimous Stipulation to be recovered from Joplin. *Id.*

There are two aspects to payroll and payroll tax. First, there is payroll and payroll tax directly attributable to those employees who work within a specific operating district. That payroll and payroll tax amount is directly assigned to that particular district. Second, there is the payroll and payroll tax associated with employees working at the corporate office. This payroll and payroll tax amount must be allocated to the various districts. (Tr. 221)

For purposes of its case, the Company annualized payroll and associated payroll tax by determining the number of employees on its payroll at the end of the test period (i.e., June 30, 2006). It then adjusted this number for any vacancies or new hires that occurred through the end of the true-up period (i.e., May 31, 2007) and calculated labor rates based on pay rates existing at the time of the true-up. Payroll taxes were based on the annualized payroll for each employee using the appropriate tax rates. (Tr. 220)

Staff calculated and annualized payroll and payroll tax in virtually the same way as the Company. Staff looked at all employees as of the end of the test year (i.e., June 30, 2006), then it included any employees that were hired subsequent to that date and through the true-up period. Staff also eliminated any employees that had been terminated during that period of time. Staff's annualization took into account any union labor rate increases and any changes in positions of the employees that would cause their salary to change. Staff took an individual's hourly rate and multiplied it by the number of hours given the employee's position (including overtime amounts, shift differentials, etc.) to arrive at an annualized salary amount for each employee. Staff took the annualized salary amount for each employee and factored it up for payroll taxes. (Tr. 242)

Like the Company, Staff annualized payroll and payroll tax for each employee whether they were working in a specific district or at the corporate office. (Tr. 243) Neither Joplin, nor any other party, has offered evidence suggesting how the payroll and/or payroll taxes have been inaccurately calculated or annualized.

Based upon the evidence in the record, the Commission finds that the payroll and payroll tax annualization reflects actual employee levels as of the end of the true-up period and reasonably reflects a going-forward level of payroll and payroll tax expense the Company will likely incur at the time rates set in this proceeding will become effective. (Tr. 247, 259)



### **3. Rate Design Conclusion**

The Commission finds that the Staff's approach to both the allocations of corporate costs and the annualization of payroll is the most reasonable and appropriate given the evidence in the record. The Staff's approach is utilized in the rate design recommended by the Nonunanimous Stipulation.

The Commission finds that the rate design proposed by the Nonunanimous Stipulation will result in just and reasonable rates given the various operating districts and their varying sizes.

#### **J. Case No. ST-2007-0443 -- Capacity Charge Tariff Sheets**

MAWC initially filed proposed tariff sheets applicable to its Warren County and Jefferson County sewer districts (JS-2007-0713 and JS-2007-0714). The purpose of these tariff sheets was to implement a Capacity Charge for each of these two sewer districts where investment has been, and is being, made to upgrade the sewer systems.

The proposed Capacity Charge would be a one-time, non-recurring charge in addition to any connection fees and payable at the time a new customer connects to the sewer system. It is designed to recover a portion of the capital costs that the Company has incurred in expanding its treatment facilities in the subject districts. To the extent that the capacity charge were paid by new customers, the payments would be treated as contributions in aid of construction and serve to reduce the rate base upon which the Company would earn a return in *future* rate cases.

MAWC proposed the Capacity Charge in the amount of \$5,500.00. The Nonunanimous Stipulation recommends that a Capacity Charge be implemented in the amount of \$1,500.00, and provides sample tariff sheets to be filed by MAWC for this purpose.

No party has objected to the recommended Capacity Charge. After review of this matter, the Commission agrees that the proposed tariff sheets to include the Capacity Charge represent a fair and reasonable distribution of expansion costs between existing and new customers. Accordingly, this recommendation will be approved by the Commission.

**K. Miscellaneous**

**1. Additional Nonunanimous Stipulation and Agreement Items**

The Nonunanimous Stipulation contains several additional items to which no party has objected. These include the following:

- Billing Determinants – Billing determinants for the purpose of ultimately developing the new rates in this case have been recommended by the signatories;
- Sewer Rates – The portion of the overall increase to be obtained from MAWC’s sewer districts is identified as follows \$55,465 in the Warren County district, \$57,552 in the Cedar Hill district and \$7,300 in the Parkville district. The Commission notes that MAWC has invested significant amounts in capital improvements in both the Warren County and Cedar Hill districts since the Company’s last general rate case (Exh. MAWC-14, Jenkins Reb., p. 18);
- Experimental Consolidated Bill Tariff – MAWC proposed in this case tariff sheets that would implement an experimental consolidated bill tariff for the Company’s St. Louis district. This would allow consolidation of customer’s bills for contiguous, owner-occupied properties to allow for an aggregation of usage. (Exh. MAWC-6, Grubb Dir., p. 16-17; Exh. MAWC- 7, Grubb Reb., p. 24-25; Exh. MIEC-2, Gorman Dir. (Rate Design), p. 4-7) The signatories propose tariff sheets for this purpose in the Nonunanimous Stipulation;
- OPEBs/FAS 106 Tracker Mechanism and Pensions/FAS 87 Tracker Mechanism – “Tracker” mechanisms concerning both MAWC’s Other Post-Employment Benefits (OPEB) and

pension costs are recommended. The Commission finds this to be a reasonable mechanism to address the volatile nature of these expenses. (Exh. Staff-11, Hagemeyer Dir., p. 5-8; Exh. 12, Hagemeyer Sur., p. 5);

- National Call Center and Shared Services Center Transition Costs – It is recommended that the Commission authorize MAWC to create a regulatory asset associated with the net investment that was made to plan, design and implement the National Call Center and National Shared Services Center utilized by MAWC. This asset would be amortized and recovered in rates over a fifty (50) year period. The mechanism would provide MAWC with recovery of its investment, while not requiring the customers to fund a return on the investment. (Exh. MAWC-7, Grubb Reb., p. 18-23);

- Tank Painting Tracker – It is recommended that the Commission authorize MAWC to establish a regulatory asset or liability for tank painting and inspection expense. An asset or liability will be recorded on an annual basis in the amount that actual tank painting and inspection expense is greater than or less than \$1,000,000, in that year. This mechanism addresses an issue where there is disagreement as to whether past expense levels are indicative of future expenses (Exh. MAWC-17, Petry Reb., p. 3-4; Exh. Staff-12, Hagemeyer Sur., p. 2);

- Depreciation Rates – A comprehensive set of depreciation rates, to be effective as of January 1, 2008, are recommended;

- Customer Service Reports – It is recommended that MAWC be required to provide certain reports concerning its Call Center performance;

- Consumer Service – The Company agrees to respond to Commission Staff inquiries/complaints within specified time periods in a specified form;

- Cost Allocation Manual – MAWC agrees to provide an updated cost allocation manual on an annual basis in a specified form; and,
- Weather Reporting – The Company agrees to provide certain billing cycle data in a specified form.

Again, no party has objected to these recommendations. Having reviewed the identified recommendations, the Commission finds that they are a fair and reasonable resolution of the issue addressed by each and that they will be ordered by the Commission.

## **2. MSD Stipulation and Agreement**

On July 16, 2007, MAWC and MSD filed a pleading entitled: “Stipulation and Agreement as to MSD Rate Design between MAWC and MSD” (MSD Agreement). The MSD Agreement is non-unanimous in that the remaining parties to this action are not signatories to the Agreement, and as such, it is governed by Commission Rule 4 CSR 240-2.115(2). That rule provides that non-signatory parties have seven days from the filing of a non-unanimous stipulation and agreement to file objections. Failure to timely file such an objection constitutes a full waiver of that party’s right to a hearing on the agreement. If no party timely objects to a non-unanimous stipulation and agreement, the Commission may treat the agreement as being a unanimous stipulation and agreement.

Because no party objected, the MSD Agreement became unanimous by operation of Commission Rule on July 26. The MSD Agreement sets a new fee for the provision of water usage data to MSD. MAWC further agrees to identify and provide to MSD prior to the filing of MAWC’s next general rate case the incremental costs that MAWC incurs to provide the data and related services to MSD.

After reviewing the MSD Agreement, the Commission finds that the stipulation and agreement filed on July 16, 2007 should be approved as a resolution of the issues addressed by that stipulation and agreement. In approving this stipulation and agreement, the Commission is only accepting the agreement of the parties to resolve these particular issues in this particular case. The Commission is not endorsing any particular position with regard to these issues and its approval of this stipulation and agreement should not be interpreted as an endorsement in any future case.

### **3. UWUA Local 335 Issues**

UWUA Local 335 cited three issues it sought to raise in its September 4, 2007, Advice to the Commission. UWUA Local 335 reiterated in that document that it did not oppose the Nonunanimous Stipulation and acknowledged that its issues were likely not “outcome determinative in this matter.”

The only record evidence concerning UWUA Local 335’s issues was arguably contained in the pre-filed Rebuttal Testimony of Alan Ratermann. This testimony was struck by the Commission August 14, 2007, based upon its non-compliance with Commission rule. (Tr. 433) Accordingly, there is no evidence for the Commission to consider in regard to these issues.

#### **IT IS ORDERED THAT:**

1. The proposed water and sewer service tariff sheets submitted under Tariff File No. YW-2007-0407, YW-2007-0409, YW-2007-0410, YW-2007-0411, YW-2007-0412, YW-2007-0413, YS-2007-0415, YS-2007-0416 and YS-2007-0417 on December 15, 2006, by Missouri-American Water Company for the purpose of increasing rates for retail water and sewer service to customers are hereby rejected. The specific sheets rejected are:

## **WATER**

### P.S.C. Mo. No. 6

13th Revised Sheet No. RT 1.0, Canceling 12th Revised Sheet No. RT 1.0  
13th Revised Sheet No. RT 2.0, Canceling 12th Revised Sheet No. RT 2.0  
13th Revised Sheet No. RT 2.1, Canceling 12th Revised Sheet No. RT 2.1  
13th Revised Sheet No. RT 2.2, Canceling 12th Revised Sheet No. RT 2.2  
10th Revised Sheet No. RT 2.3, Canceling 9th Revised Sheet No. RT 2.3  
12th Revised Sheet No. RT 2.6, Canceling 11th Revised Sheet No. RT 2.6  
10th Revised Sheet No. RT 3.0, Canceling 9th Revised Sheet No. RT 3.0  
9th Revised Sheet No. RT 3.1, Canceling 8th Revised Sheet No. RT 3.1  
11th Revised Sheet No. RT 4.0, Canceling 10th Revised Sheet No. RT 4.0  
13th Revised Sheet No. RT 5.0, Canceling 12th Revised Sheet No. RT 5.0  
13th Revised Sheet No. RT 5.1, Canceling 12th Revised Sheet No. RT 5.1  
13th Revised Sheet No. RT 5.2, Canceling 12th Revised Sheet No. RT 5.2  
13th Revised Sheet No. RT 6.0, Canceling 12th Revised Sheet No. RT 6.0  
13th Revised Sheet No. RT 7.0, Canceling 12th Revised Sheet No. RT 7.0  
13th Revised Sheet No. RT 8.0, Canceling 12th Revised Sheet No. RT 8.0  
2nd Revised Sheet No. RT 10.0(a), Canceling 1st Revised Sheet No. RT 10.0(a)

### P.S.C. Mo. No. 3

11th Revised Sheet No. 1, Canceling 10th Revised Sheet No. 1  
7th Revised Sheet No. 2, Canceling 6th Revised Sheet No. 2  
4th Revised Sheet No. 2A, Canceling 3rd Revised Sheet No. 2A  
9th Revised Sheet No. 3, Canceling 8th Revised Sheet No. 3  
11th Revised Sheet No. 1, Canceling 10th Revised Sheet No. 1  
10th Revised Sheet No. 4, Canceling 9th Revised Sheet No. 4  
2nd Revised Sheet No. 5A, Canceling 1st Revised Sheet No. 5A

### P.S.C. Mo. No. 2

12th Revised Sheet No. 3, Canceling 11th Revised Sheet No. 3  
7th Revised Sheet No. 5, Canceling 6th Revised Sheet No. 5  
9th Revised Sheet No. A-1, Canceling 8th Revised Sheet No. A-1  
6th Revised Sheet No. A-2, Canceling 7th Revised Sheet No. A-2  
6th Revised Sheet No. A-3, Canceling 5th Revised Sheet No. A-3  
9th Revised Sheet No. B-1, Canceling 10th Revised Sheet No. B-1  
6th Revised Sheet No. B-2, Canceling 5th Revised Sheet No. B-2  
6th Revised Sheet No. B-3, Canceling 5th Revised Sheet No. B-3  
9th Revised Sheet No. C-1, Canceling 8th Revised Sheet No. C-1  
6th Revised Sheet No. C-2, Canceling 5th Revised Sheet No. C-2  
6th Revised Sheet No. C-3, Canceling 5th Revised Sheet No. C-3

10th Revised Sheet No. D-1, Canceling 9th Revised Sheet No. D-1  
6th Revised Sheet No. D-2, Canceling 5th Revised Sheet No. D-2  
6th Revised Sheet No. D-3, Canceling 7th Revised Sheet No. D-3  
8th Revised Sheet No. E-1, Canceling 7th Revised Sheet No. E-1  
6th Revised Sheet No. E-2, Canceling 5th Revised Sheet No. E-2  
6th Revised Sheet No. E-3, Canceling 5th Revised Sheet No. E-3  
6th Revised Sheet No. E-4, Canceling 5th Revised Sheet No. E-4

P.S.C. Mo. No. 1

12th Revised Sheet No. 1, Canceling 11th Revised Sheet No. 1  
1st Revised Sheet No. 1b, Canceling Original Sheet No. 1b  
8th Revised Sheet No. 2, Canceling 7th Revised Sheet No. 2

P.S.C. Mo. No. 7

1st Revised Sheet No. 4, Canceling Original Sheet No. 4

**SEWER**

P.S.C. Mo. No. 8

3rd Revised Sheet No. 4, Canceling 2nd Revised Sheet No. 4

P.S.C. Mo. No. 2

3rd Revised Sheet No. 4, Canceling 2nd Revised Sheet No. 4

P.S.C. Mo. No. 7

1st Revised Sheet No. 9, Canceling Original Sheet No. 9

2. The proposed sewer service tariff sheets submitted under Tariff File No. JS-2007-0713 and JS-2007-0714 on April 2, 2007, by Missouri-American Water Company for the purpose of increasing rates for retail water and sewer service to customers are hereby rejected.

The specific sheets rejected are:

**SEWER**

PSC Mo. - No 8  
Jefferson County (Cedar Hill) District  
Original Sheet No. 4a  
Original Sheet No. 16a  
Original Sheet No. 16b  
Original Sheet No. 16c  
PSC Mo. - No 7

Warren County (Incline Village et al.) District  
Original Sheet No. 9a  
Original Sheet No. 9b  
Original Sheet No. 9c

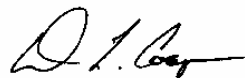
3. Missouri-American Water Company is ordered to comply with the recommendations found in the Nonunanimous Stipulation and Agreement filed on August 9, 2007.

4. Missouri-American Water Company shall file proposed water and sewer service tariff sheets in compliance with this Report and Order.

5. The Stipulation and Agreement as to MSD Rate Design between MAWC and MSD filed on July 16, 2007, is approved as a just and reasonable resolution of the issues addressed in that stipulation and agreement. A copy of the stipulation and agreement is attached to this order as Exhibit \_\_. The signatory parties are ordered to comply with the terms of the Stipulation and Agreement as to MSD Rate Design between MAWC and MSD.

6. This order shall become effective on October \_\_, 2007.

Respectfully submitted,



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ATTORNEYS FOR MISSOURI-AMERICAN  
WATER COMPANY



CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 17<sup>th</sup> day of September, 2007, to:

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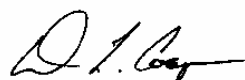
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