

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

In the Matter of Missouri-American Water)	
Company's Request for Authority to Implement)	Case No. WR-2008-0311
A General Rate Increase for Water and Sewer)	SR-2008-0312
Service Provided in Missouri Service Areas.)	

**MAWC'S RESPONSE TO MOTION
TO REDESIGNATE DOCUMENTS**

COMES NOW Missouri-American Water Company (MAWC), and in response to the Utility Workers Union of America Local 335's Motion to Redesignate Documents, states as follows to the Missouri Public Service Commission (Commission):

RESPONSE

1. On September 3, 2008, the Utility Workers Union of America Local 335 (Union) filed its Motion to Redesignate Documents (Motion). The Motion seeks the Commission's order making public certain documents MAWC has provided to the Union in response to Union data requests. These documents were designated by MAWC as "Highly Confidential" in accordance with Commission Rule 4 CSR 240-2.135.
2. The Union cites in support of its Motion the Commission's Order Granting, In Part, Motion to Make Certain Documents Public in Case No. EM-2007-0374. *In the Matter of the Joint Application of Great Plains Energy Incorporated, et al.* (April 8, 2008). The Union cites this order for the premise that the Commission "has ordered that documents be made public where, as here, a party used the 'Highly Confidential' designation in an overly broad manner." Motion, p. 3.
3. Setting aside the inaccuracy of the Union's comparison of this situation with the one present in the *Great Plains* matter, the Union's citation is still erroneous. In

the cited order, and in spite of the Commission's expressed frustration with the situation, the Commission acknowledged that its duty was to "sift through the information and balance the need of the public to have open access and the need of the company to keep the information confidential." There was no penalty as suggested by the Union.

4. Further distinction between this case and the *Great Plains* case can be found in the fact that this is the first such motion the Commission has been asked to address in this case. MAWC has previously answered approximately 342 data requests from a variety of parties and this is the first motion asking the Commission to redesignate (or reclassify) documents that has been filed with the Commission. This scenario certainly does not represent a "continuing practice of overly broad designation of documents as 'Highly Confidential,'" as alleged by the Union. Motion, p. 4.

5. The first data request at issue was sent by the Union to MAWC (UWUA 1-1) on July 31, 2008. MAWC provided a timely response on August 20, 2008. The Union acknowledges in its motion that it has not challenged the confidentiality classification of the responsive documents within the ten days required by Commission Rule 4 CSR 240-2.135(11). The Union instead requests a waiver of this Commission rule.

6. Data Request UWUA 1-1, while designated as a single data request, actually requests MAWC's responses to eighteen (18) previous MAWC responses to Staff data requests (Staff data requests 48, 50, 51, 52, 54, 57, 58, 59, 59.1, 67, 78, 82, 91, 95, 96, 100, 113 and 114). In responding to the Union, MAWC merely provided to the Union the same responses it previously gave to the Staff. Those responses contained the same classification that was utilized in the Staff responses. Out of the

eighteen data requests, only seven of the responses (48, 50, 51, 54, 58, 67 and 113) include information that is deemed by the Company to be highly confidential.¹ Attached hereto as **Appendix A** is a description of each of these requests.

7. The other Union data requests at issue are UWUA 2-1, 2-2, 2-3 and 2-4. UWUA 2-1 requests a description of the MAWC “executive structure.” UWUA 2-2 requests pay structure for MAWC “executive employees.” UWUA 2-3 requests employee benefits to which the executive employees of MAWC are entitled. UWUA 2-4 requests a list of total compensation, including wages and the value of any employee benefits received by each “individual executive employee” of MAWC.

8. The Union Motion correctly surmises that the information identified as highly confidential in response to UWUA 1-1, 2-1, 2-2, 2-3 and 2-4 was so designated, in part, because it is “employee-sensitive personnel information,” which the Commission’s Rule defines as highly confidential. Commission Rule 4 CSR 240-2.135(1)(B). However, some of the documents are further deemed to be highly confidential because they contain: “Market specific information relating to services offered in competition with others” (4 CSR 240-2.135(1)(B)3); “Market specific information relating to goods or services purchased or acquired for use by a company in providing services to customers” (4 CSR 240-2.135(1)(B)4); or “Strategies employed, to be employed, or under consideration in contract negotiation” (4 CSR 240-2.135(1)(B)6).

¹ It should be noted that Data Request 58 has been included in the list of highly confidential responses because, while the list of documents provided is not considered highly confidential, the documents themselves are considered to be highly confidential. Similarly, the response to DR 54 identifies a file that is considered to be highly confidential.

9. In its Verified Application of UWUA Local 335 to Intervene in this case, the Union described its relationship with MAWC as follows:

Local 335 is a labor organization that represents approximately 300 employees of MAWC in two bargaining units. Local 335 has two collective bargaining agreements with MAWC, one of which establishes the terms and conditions of employment for the clerical employees, and the other of which establishes the terms and conditions of employment for the “physical” employees. (The “physical” bargaining unit includes all MAWC’s production, construction, maintenance, operation and distribution employees.)

In this position, the Union serves as an entity with which MAWC engages in contract negotiations in regard to services utilized by the Company to provide services to customers.

10. The information that the Union seeks to declassify is generally that relating to expected and historic salary/wage increases, salary, employee benefits, medical coverage, 401k contribution rates, ESOP contributions, payroll and wage level studies, actuarial reports and affiliate relationships.

11. This is all information that in light of the Union’s status as a party negotiating on behalf of those providing services to MAWC and, in turn, to its customers, represents both market specific and competitive information and information that will reveal strategies employed, or to be employed in contract negotiations with the Union.

12. Where such information is specifically tied to individual employees, or can be specifically tied to individual employees through public information (such as in data request UWUA 2-4), it represents “employee-sensitive personnel information.” The Union argues that because some documents “do not provide any employee names, social security numbers, or other identifying characteristics specific to any actual employee,” they cannot fit within the meaning of Commission Rule 4 CSR 240-2.135.

13. First, Commission Rule 4 CSR 240-2.135 does not require that the information contain names and or social security numbers. It requires only that there be employee-sensitive information. Second, even without such information, in this case there are sufficient characteristics to identify the employees involved. As an example, MAWC has one president. When the president’s salary and benefit information is provided, there is no mystery with whom that information is associated. Requiring a name and social security number before the information related to the four company offices would be protected, would focus on form, rather than the substance of the situation.

14. To the extent that the Commission may decide that any of the referenced information is highly confidential within the meaning of Commission Rule 4 CSR 240-2.135, MAWC believes that the information should instead be considered to be “proprietary” pursuant to the same rule. Proprietary information is defined as “information concerning trade secrets, as well as confidential or private technical, financial, and business information.” Commission Rule 4 CSR 240-2.135(1)(A).

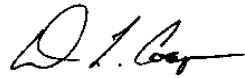
15. As indicated above, protecting the subject information from public disclosure is important to MAWC and its ability to protect its costs. Any disadvantage

MAWC would suffer from the public release of the competitive information may impact its costs to provide service and therefore impact the rates paid by its customers.

16. As a final matter, as a part of its review of the responses previously provided to the Union, MAWC has determined that its response to UWUA DR 2-1 should be classified as proprietary, rather than highly confidential. MAWC will provide a replacement response that carries that new designation.

WHEREFORE, for the foregoing reasons, MAWC respectfully requests that the Commission issue its order denying the Union's Motion to Redesignate Documents.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 12th day of September, 2008, to:

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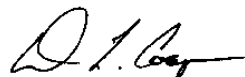
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APPENDIX A

Staff DR 48 - Please provide a list of the current benefits (i.e., health insurance, life insurance, etc.) paid to each group of employees, the provider of each benefit and basis for cost. Indicate the account(s) charged, by district. Provide copies of any brochures or materials regarding the benefits. Please list any anticipated changes to these benefits.

Staff DR 50 - Please provide an excel spreadsheet similar to the sheet provided to Staff in the last rate case in Company's response Data Request 158 for the test year ending 12/31/07. This spreadsheet should include the following data: (1) the total hours, and applicable dollars by pay category (regular, overtime at 1X, 1 1/2X, etc.) for all employees that charge or allocate time to MAWC for each month during the test year and the total twelve months for the prior two years, by district; (2) employee counts for Item No. 1 above by category (clerical union, physical union and non-union) for each month for the test year, by district; (3) amounts paid by category (clerical union, physical union and non-union) for all employees that charge or allocate time to MAWC for each month during the test year and the total twelve months for the prior two years, by district; and (4) average raises, by district, for the last three years ending with the test year for (i) non-union employees; (ii) clerical union employees; and (iii) physical union employees.

Staff DR 51 - Please provide the expected salary/wage increase for employees, by category during the twelve months following the test year and when the increase will occur, by district.

Staff DR 54 - Please provide a roster of all employees as of the end of the test year, who charge or allocate time to MAWC, by district, and for each employee provide the following information: (1) employee number and employee name; (2) job title; (3) division/district assigned; (4) hourly rate or annual salary, whichever is applicable; (5) medical coverage (individual, dependants, managed care, workers comp, etc.); (6) latest known 401k contribution rate; (7) latest actual ESOP contribution (if applicable); and (8) date of hire if during the test year. Please advise of any employee changes following the test year.

Staff DR 58 - Please provide a copy of any surveys the Company used or considered to establish the wage levels of its salaried employees.

Staff DR 67 - Provide access to the actuarial reports for the last three years associated with any Pension and Other Post Retirement Benefits cost allocated to Missouri, showing the following by employee group (i.e., management, contract, if applicable): (1) actual contributions for each plan; (2) FAS 87 and FAS106 expense calculation by component (i.e., benefit costs, fund earnings, gains and losses, amortizations, corridor calculation, asset valuations, etc.); (3) minimum and maximum ERISA contribution amounts; (4) other actuarial support data; and (5) amounts charged to expense during the test year, by plan, by account, by district.

APPENDIX A, CONT.

Staff DR 113 - 1. Provide a detailed organizational chart for all regulated and unregulated companies that are affiliated in any way with American Water Works Company, Inc. This organizational chart should include but not be limited to the following: a. Names of each company b. The affiliated relationship c. Lines drawn linking the companies in pyramid like structure. 2. For every regulated and unregulated entity in item 1 above provide a detailed description of the business relationship of each company. 3. For every regulated and unregulated company in item 1 above provide a detailed description of all products/services that are transferred between Missouri-American and any regulated or unregulated company and how these transfers are accounted for on the books and records of MAWC.