

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

In the Matter of the General Rate Increase)
for Water and Sewer Service Provided)
by Missouri-American Water Company.)

Case No. WR-2007-0216

STAFF'S RESPONSE TO JOPLIN'S MOTION TO COMPEL

COMES NOW the Staff of the Missouri Public Service Commission, by and through the Commission's General Counsel, and for its Response to the Motion to Compel filed by the City of Joplin on September 19, 2007, states as follows:

1. On September 10, 2007, the Commission directed its Staff to file:

A. [A] revised reconciliation based upon the resolution of the issues embodied in the Non-Unanimous Stipulation and Agreement ("Agreement") filed on August 9. The reconciliation should mirror the format of the reconciliation Staff filed on July 30, reflecting all company-wide variables, not those specific only to the Joplin District. The Commission further directs its Staff to provide citations to the record identifying the relevant portions of the record supporting the derivation of the amounts used to determine the over-all revenue requirement for MAWC that was reached in the Agreement as will be reflected in the revised reconciliation.

B. [A] spread sheet settlement analysis, based upon the Agreement, as corrected for the adjustment to the cost of chemicals for Joplin, reflecting MAWC's revenue requirement as it was allocated on a District Specific basis. This analysis shall include the settled revenue requirement for each district, the settled revenue requirement as a percentage of system revenue, the rate base allocated to each district and percentage of system rate base per district.

C. [R]evised Accounting Schedules # 1 for each District, demonstrating the revenue requirement for each district as it was determined by the Agreement. For Joplin's District it shall file a Schedule # 1 demonstrating the contrast between the revenue requirement as determined by the Agreement and the variance created utilizing the allocation factors advocated by Joplin.

2. On September 17, 2007, Staff timely filed its Response to the Commission's Order of September 10, 2007, referred to in Paragraph 1, above. Attached thereto were documents prepared by Staff in response to the Commission's first two directions in its Order of September 10, 2007, Paragraphs A and B, above.

3. As to the Commission's third direction in its Order of September 10, 2007, Paragraph C above, Staff stated in its Response of September 17, 2007, that it was not able to provide the requested information because Accounting Schedules reflecting the Nonunanimous Stipulation and Agreement (S&A) were not developed and do not exist. The Total Company Revenue Requirement reflected by the S&A was not produced by Staff accounting runs but by the negotiated agreement of the signatory parties. That stipulated Total Company Revenue Requirement was then allocated to the individual districts, as reflected in Appendix A to the S&A. The specific parameters, such as rate base and rate of return, were not specifically agreed to and are not available to facilitate the calculation of an Accounting Schedule # 1 for each individual district. Thus, Staff neither failed nor refused to comply with the Commission's Order, but is not able to do so. Staff stands ready to provide the testimony of its auditors as to why the requested schedules simply cannot be produced.

4. On September 20, 2007, the City of Joplin filed its Motion to Compel, seeking either an order directing Staff to produce the documents previously

requested by this Commission or, in the alternative, striking all Staff pleadings previously filed.

5. With respect to the specific allegations in Joplin's Motion, Staff admits the allegations contained in Paragraph 1 of Joplin's Motion and denies all other allegations contained in the Motion.

6. It is unprecedented for an intervenor to move to compel the Commission's Staff to comply with a Commission Order. Staff suggests that Joplin lacks standing to so move.

7. The Commission's practice rules, in so far as they treat motions to compel at all, require at Rule 4 CSR 240-2.090(8), that the movant satisfy certain procedural prerequisites prior to filing such a motion, to-wit:

(8) Except when authorized by an order of the commission, the commission will not entertain any discovery motions, until the following requirements have been satisfied:

(A) Counsel for the moving party has in good faith conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this rule in any discovery motion; and

(B) If the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall arrange with the commission for an immediate telephone conference with the presiding officer and opposing counsel. No written discovery motion shall be filed until this telephone conference has been held.

8. Joplin has not done any of the things required by Rule 4 CSR 240-2.090(8), but has nonetheless filed a motion to compel without leave of the Commission.

WHEREFORE, Staff urges the Commission to dismiss Joplin's Motion to Compel and to grant such other and further relief as is just in the circumstances.

Respectfully submitted,

s/ Kevin A. Thompson

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **20th day of September, 2007**, to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Kevin A. Thompson