

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

In the Matter of Missouri-American)	<u>Case No. WR-2007-0216</u>
Water Company's Request for Authority)	Tariff File Nos. YW-2007-0407, YW-2007-
to Implement a General Rate Increase)	0409, YW-2007-0410, YW-2007-0411,
for Water Service Provided in Missouri)	YW-2007-0412, and YW-2007-0413
Service Areas)	

APPLICATION FOR REHEARING OF REPORT AND ORDER

COMES NOW Intervenor City of Joplin, by and through counsel, pursuant to Section 386.500 and 4 CSR 240-2.160, and for its Application for Rehearing of Report and Order states as follows:

On October 4, 2007, the Commission issued its Report and Order in the above-captioned matter. Said Report and Order contained an effective date of October 14, 2007. Pursuant to Section 386.500, this Application for Rehearing is filed prior to the effective date of the Commission's Report and Order and is thus timely.

The Report and Order of October 4, 2007, is unlawful, unjust and unreasonable, in that it inappropriately, erroneously and arbitrarily allocates Missouri American Water corporate expenses to the Joplin District in a manner that is unrelated to the incurring reason for such expenses. The Report and Order fails to affirmatively determine that the use of payroll per district is the MOST appropriate method for allocating each specific corporate expense itemized, to wit: call center expense, customer account expense, shared services, and administrative and general expenses . The Report and Order simply adopts the Staff's position without any rationale.

For example, there is no discussion, analysis or evidence included in the Report and Order relating to the appropriateness of payroll as the most appropriate allocation factor for call center expense. This analysis is absent, since there is no believable rationale for this position. The

Company witnesses and Joplin's witness all agreed that the proper allocation factor for a call center is number of customers. The Report and Order rejects that evidence only by stating that one witness, Staff Witness Rackers, testified that all corporate expense supports employees in the field. (Report and Order, page 57). This conclusion, later embodied in a general acceptance of all the Staff testimony (Report and Order, page 73), flies in the face of all conceivable rationales for allocation based upon cost drivers. The allocations contained in the Report and Order are thus unreasonable, unjust and unlawful.

The effect of these allocations is to unduly discriminate against ratepayers in the Joplin district. Instead of a 25% rate increase, as originally proposed by Missouri American Water, now Joplin ratepayers will get in excess of a 64% rate increase - - the highest of all districts within Missouri American Water's districts across Missouri. This rate is even higher than those districts that are subsidized by other districts (in direct violation of the district specific pricing rationale seemingly adopted for some districts and not for others in the Report and Order). The rate increases are unlawfully discriminatory against Joplin ratepayers, they are unreasonably high in light of the inherent profitability of the Joplin District, and are unjust.

Rehearing should be granted on the specified corporate allocations and this Commission should order the allocations be made on a customer number basis as opposed to the erroneous payroll basis and reduce the egregious rate increases discriminatorily imposed upon the Joplin ratepayers.

Additionally, the City of Joplin filed a Motion to Consolidate in the above-captioned matter on March 29, 2007. On May 15, 2007, this Commission issued its Order denying Intervenor City of Joplin's Motion to Consolidate and made such Order effective May 15, 2007. On May 16, 2007, Joplin filed a Motion for Rehearing and/or Reconsideration of that Order. This Commission never

specifically ruled upon that Motion; however, in the Report and Order of October 4, 2007, the Commission did deny all pending motions. (Report and Order, page 87).

Consolidation is appropriate in the current matter in that there are related questions of law or fact in the current matter. This Commission's Order of May 15, 2007 acknowledges that there are facts in common, however, the Commission is incorrect in stating that there is no basis or rationale to have the consolidation, where similar facts exist in the current matter. The opinion of the Western District Court of Appeals was clear that some type of relief is owed to the ratepayers of the City of Joplin if the Commission cannot substantiate its 2000 ruling. *State ex rel. City of Joplin v. Public Service Commission*, 186 S.W.3d 290, 300-301 (Mo. App. W.D. 2005). The most appropriate method by which such relief may be granted and implemented is through the existing rate case. Moreover, since the parties are the same, there can be no prejudice by allowing the Commission to address this matter at this time.

The Commission's Order of May 15, 2007 notes that the 2000 case Order needs to be modified; however, the Order is incorrect in stating that there is no connection between the two cases. The cases both involve the same rate structures with the same parties.

Under this Commission's rule, cases may be joined if they entail similar facts and law. The basic facts are the same in each case. The key issue, overlooked in the Commission's May 15, 2007 Order, is that the determination of the 2000 rates will affect the rates set in 2007. If the 2000 rates are not supported by the Commission, then relief to the ratepayers of Joplin must be addressed. The proper vehicle is the current matter, and relief available to the ratepayers of the City of Joplin should therefore be available in this case. From a purely legal perspective, such relief is available. From the perspective of economic use of scarce Commission resources, proceeding with a single case is

the most efficient means by which to address the issues raised in all of these matters. This is the reason that the Commission has its rule allowing consolidation for hearings where there are similar facts and law. There is no justification for denying consolidation.

It is unjust and unreasonable for the Commission to require Joplin to maintain two separate actions, WR-2000-0281 and WR-2007-0216, when the current action is appropriate to address all issues. If the Commission does not allow consolidation and Joplin prevails in the 2000 case, the remedy to ratepayers through the current action will not be available, thus subjecting Joplin to the unreasonable costs to pursue multiple actions. This consolidated action will provide a resolution to all parties on all issues.

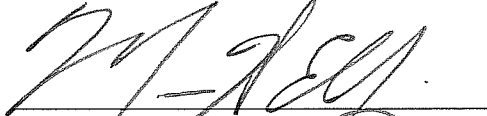
Due to common facts and law between the two matters; the similar parties in the two matters; the absolute lack of any prejudice to any party by granting consolidation; and the fact that any determination by the Commission with regard to the Joplin rates from the 2000 case will unavoidably have application to the current matter, this Commission should grant Intervenor City of Joplin's Motion for Rehearing on its Order of May 15, 2007 denying the Motion to Consolidate and issue a new order approving such consolidation.

WHEREFORE, Intervenor City of Joplin prays that this Commission grant its Motion for Rehearing, enter an order 1) reallocating the specified corporate expenses using customer numbers and 2) granting Intervenor's Motion to Consolidate and ordering case number WR-2000-0281 to be consolidated into the current matter and 3) convening additional hearings addressing the remedy for Joplin ratepayers, and 4) for such other relief as this Commission deems appropriate.

Respectfully submitted,

BLITZ, BARDGETT & DEUTSCH, L.C.

By:

A handwritten signature in black ink, appearing to read 'JB Deutsch', written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing Motion for Rehearing and/or Reconsideration of Order Denying Motion to Consolidate were sent to each of the following persons by electronic mail this 12th day of October, 2007:

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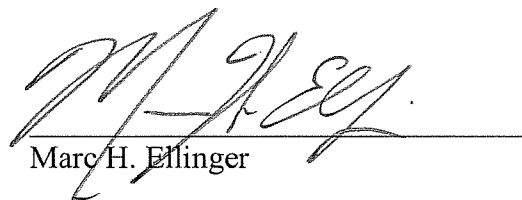
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