

**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

**UTILITY WORKERS UNION OF AMERICA LOCAL 335, AFL-CIO'S  
RESPONSE TO MISSOURI-AMERICAN WATER COMPANY'S MOTION TO  
STRIKE REBUTTAL TESTIMONY OF ALAN RATERMANN**

COMES NOW Utility Workers Union of America Local 335, AFL-CIO ("UWUA 335"), by counsel, and responds to Missouri-American Water Company ("MAWC") as follows:

1. MAWC claims that Alan Ratermann's testimony should be struck because Commission Rule 4 CSR 240-2.130(7)(B) requires that rebuttal testimony be responsive to another party's direct testimony. However, that rule reads: "Where all parties file direct testimony, rebuttal testimony shall include all testimony which is responsive to the testimony and exhibits contained in any other party's direct testimony. A party need not file direct testimony to be able to file rebuttal testimony." 4 CSR 240-2.130(7)(B) (emphasis added). However, this rule is inapplicable because all parties have not filed direct testimony: UWUA 335 has not filed any direct testimony in this matter.

Moreover, MAWC's argument ignores the good cause rule waiver provision present in the Commission's rules. 4 CSR 240-2.015 states that: "A rule in this chapter may be waived by the commission for good cause." Waiving the rebuttal testimony rule to address issues affecting the health and safety of MAWC employees and the public at large clearly constitutes "good cause."

Finally, MAWC's argument is nonsensical in light of the parties' previous practices regarding testimony. On July 6, 2007, MAWC submitted a temporary issues list, which read: "This list...does not represent a binding list of issues or an agreement as to the characterization thereof. Parties may raise additional issues as the testimony proceeds, if appropriate." The fact that the parties agreed that they are permitted to raise new issues shows that the parties have not strictly abided by the rebuttal testimony rule. For these reasons, MAWC's argument regarding the rebuttal testimony rule is without merit.

2. MAWC also argues that Mr. Ratermann's testimony should be struck because he failed to raise the lead and asbestos safety issues when he testified at a local public hearing. If anything, MAWC should be thankful that Mr. Ratermann did discuss the issue of asbestos particles entering the water system during a public hearing. Such testimony presented at a public hearing could have aroused public concern and tarnished the public image of MAWC.

3. Finally, MAWC complains that the filing of Mr. Ratermann's testimony prejudices its ability to conduct discovery. However, this argument is weakened because MAWC has already begun conducting discovery related to Mr. Ratermann's testimony. On July 27, 2007 MAWC sent its first set of Data Requests to UWUA 335. UWUA 335's response to the DRs will be filed today, within the authorized response period. Moreover, the fact that MAWC has already submitted the surrebuttal testimony of Cindy Hebenstreit and Greg Weeks in response to Mr. Ratermann's testimony shows that its prejudice argument is illusory.

WHEREFORE, UWUA 335 respectfully requests that the Commission deny MAWC's motion to strike the Rebuttal Testimony of Alan Ratermann.

Respectfully submitted,

/s/ Sherrie A.Schroder  
Sherrie A. Schroder, MBN 40949  
HAMMOND, SHINNERS, TURCOTTE,  
LARREW and YOUNG, P.C.  
7730 Carondelet Avenue, Suite 200  
St. Louis, Missouri 63105  
(314) 727-1015 (Telephone)  
(314) 727-6804 (Fax)  
[saschroder@hstly.com](mailto:saschroder@hstly.com) (E-mail)

Attorneys for Utility Workers Union of  
America Local 335, AFL-CIO.

**Certificate of Service**

The undersigned certifies that a true and correct copy of the foregoing was served on August 2, 2007, by United States mail, hand-deliver, email, or facsimile upon the official service list in Docket No. WR-2007-0216.

/s/ Michael A. Evans