

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Metropolitan St. Louis Sewer District,)	
)	
Complainant,)	
)	
v.)	Case No. WC-2007-0040
)	
Missouri-American Water Company,)	
)	
Respondent.)	

COMPLAINANT’S MOTION FOR REHEARING

COMES NOW Complainant, Metropolitan St. Louis Sewer District (“MSD”), pursuant to Section 386.500.2 RSMo and 4 CSR 240-2.160(1), and for its Motion for Rehearing states as follows:

1. On May 22, 2007, the Commission entered its Report and Order (the “Order”) on stipulated facts in which it ordered that MSD was required to compensate Missouri-American Water Company (“MAWC”) for its meter-reading data. The Report and Order of the Commission is unlawful, unjust and unreasonable for the following reasons.
2. In the Order, the Commission ignored the fact that Section 249.645 RSMo, the statute at issue, does not require MSD to pay a fee to gain access to MAWC’s data.
3. In the Order, the Commission erred in accepting the argument of MAWC that Section 249.645 is not ambiguous, while at the same time, finding that the language “upon reasonable request” assumes a reasonable charge and that the parties past behavior should be given consideration in interpreting the statute.
4. In the Order, the Commission erred in failing to consider the language of Section 250.233, a virtually identical statute dealing with municipal sewer districts, which provides that

such data shall be provided *at reasonable charge* upon reasonable request, and to read such language *in para material* with the language of Section 249.645.

5. In the Order, the Commission erred in failing to take into consideration the legislative history of Sections 249.645 and 250.233.

6. In the Order, the Commission erred in holding that the adoption of MSD's interpretation of Section 249.645 would ensure, not avoid, an unjust, unreasonable, absurd and confiscatory result.

7. In the Order, the Commission erred in ignoring MSD's argument that the parties' previous course of conduct was irrelevant.

8. In the Order, the Commission erred in suggesting that MSD was urging the Commission to look outside the statute to find ambiguity while accepting MAWC's *insertion* of the words "at reasonable charge" into the statute.

9. In the Order, the Commission erred in imposing a duty on MSD to explain the distinction between the treatment of municipal sewer districts in 250.233 and sewer districts, like MSD, in 249.645.

10. In the Order, the Commission erred in suggesting that the General Assembly should have added the language "free of charge" to Section 249.645 if it had wanted the data to be provided without charge.

11. The Commission's Order is unjust, unreasonable and unlawful in finding that MSD is *not* being forced to subsidize or share in the meter reading costs of MAWC where it is effectively being forced to pay one-half of the meter reading costs of MAWC which costs MAWC would be forced to incur notwithstanding MSD's request for such data.

12. The Commission's Order is unjust, unreasonable and unlawful in ordering MSD to compensate MAWC for MAWC's meter reading data.

WHEREFORE, Complainant, Metropolitan St. Louis Sewer District, respectfully requests the Commission to enter its order ordering a rehearing of this matter on the grounds set forth above.

Respectfully submitted,

ARMSTRONG TEASDALE LLP

BY: 

Joseph P. Bednar	#33921
Byron E. Francis	#23982
E.W. Gentry Sayad	#42414
J. Kent Lowry	#26564
Jacqueline Ulin Levey	#51222

One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070
(314) 621-5065 (facsimile)
bfrancis@armstrongteasdale.com
klowry@armstrongteasdale.com
gsayad@armstrongteasdale.com
jlevey@armstrongteasdale.com

ATTORNEYS FOR COMPLAINANT

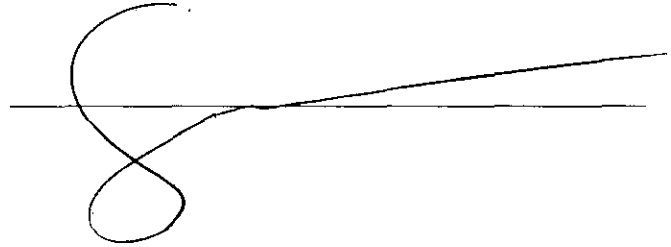
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served via email and/or pursuant to the Commission's electronic filing system (EFIS), this 15th day of June, 2007, upon the following parties/counsel of record:

Kenneth C. Jones
Missouri-American Water Company
727 Craig Road
St. Louis, MO 63141

Lewis R. Mills, Jr.
Public Counsel
Office of the Public Counsel
P. O. Box 2230
Jefferson City, MO 65102

Kevin A. Thompson
General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

A handwritten signature in black ink, appearing to be 'K. A. Thompson', is written over a horizontal line.