



ARMSTRONG TEASDALE LLP

Byron E. Francis, P.C.
(314) 342-8042
(314) 612-2245 (Fax)
bfrancis@armstrongteasdale.com

MISSOURI

KANSAS

ILLINOIS

NEVADA

WASHINGTON, DC

SHANGHAI

ATTORNEYS AT LAW

November 1, 2006

FILED³

NOV 7 2006

Colleen M. Dale
Secretary
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102-0360

Missouri Public
Service Commission

**Re: Metropolitan St. Louis Sewer District v. Missouri American Water
Case No. WC-2007-0040**

Dear Ms. Dale:

Enclosed herewith, please find Complainant's First Set of Data Requests Directed to Respondent, Missouri American Water Company to be filed in the above-referenced matter. Please file the original with the Commission and return the extra copy to me stamped-filed in the enclosed, self-addressed, stamped envelope.

Thank you for your cooperation.

Very truly yours,

Byron E. Francis

BEF/lva
Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
NOV 7 2006

Missouri Public
Service Commission

Metropolitan St. Louis Sewer District,)
)
Complainant,)
)
v.)
)
Missouri American Water Company,)
)
Respondent.)

Case No. WC -2007-0040

COMPLAINANT'S FIRST SET OF DATA REQUESTS DIRECTED TO RESPONDENT,
MISSOURI AMERICAN WATER COMPANY

COMES NOW Complainant, Metropolitan St. Louis Sewer District ("MSD"), pursuant to 4 CSR 240-2.090(2) and hereby submits the following Data Requests to Respondent, Missouri American Water Company.

INSTRUCTIONS

1. In answering these data requests, you are required to furnish such information as is available to you including the information in the possession of your attorneys, investigators, officers, agents, employees, insurers or other persons employed by you or acting on your behalf.
2. The data requests are continuing in nature and Complainant hereby demands that any information coming into your possession or the possession of your counsel that would change in any way your responses to these interrogatories be promptly furnished to Complainant's counsel.
3. If you cannot answer a data request in full, after exercising due diligence to secure the information requested, so state and answer to the fullest extent possible specifying the reason for your inability to answer.
4. If the answer to a data request requires reference to a meeting, whether formal or informal, you must state:

- (a) The date and time the meeting;
- (b) The place it occurred;
- (c) The identity of the person(s) involved;
- (d) The substance of the meeting; and
- (e) The identity of person(s) not at the meeting who possess, or claim to possess, information concerning the existence or nature of the meeting.

5. If your answer to a data request is "not applicable" or something similar, explain in detail why that data request is inapplicable.

6. Where an individual data request is composed of more than one part, each part of your answer should be set forth clearly from the other parts of the answer.

7. When a data request requires that you identify a natural person, that means you must do so as completely as possible, stating at least that person's:

- (a) full name;
- (b) social security number;
- (c) home address;
- (d) home telephone number;
- (e) name of employer;
- (f) business title;
- (g) business address;
- (h) business telephone number;
- (i) and the relationship to each of the parties.

8. When a data request requires that you identify certain documents, that means you must do so as completely as possible, stating at least each of the following facts about the

document:

- (a) type (e.g., note, letter, report, film, etc.);
- (b) title;
- (c) subject matter;
- (d) date;
- (e) author or originator;
- (f) recipient;
- (g) number of pages;
- (h) person presently in possession; and
- (i) present location.

If the document has been lost or destroyed or is for some other reason no longer in existence, then also state:

- (j) when it was lost or destroyed;
- (k) why it was lost or destroyed;
- (l) who its last custodian was;
- (m) who lost or destroyed it; and
- (n) whether it was destroyed pursuant to a document retention program or a document destruction policy regardless of whether such program or policy is formal or informal.

9. Any objection must indicate that part or portion of the data request to which such objection is directed and must explain the basis of the objection. That portion of the interrogatory not subject to the objection must be answered.

DEFINITIONS

A. The word "or" and the word "and" shall be construed either disjunctively or

conjunctively as necessary to bring within the scope of a data request any information that might otherwise be construed to be outside the scope of such data request.

B. The term "communication" means any contact or act by which information or knowledge is transmitted or conveyed between two or more persons and includes, without limitation: written contacts (whether by letter, memoranda, telegram, telex or other document) and oral contacts (whether by face-to-face meetings, telephone conversations or otherwise).

C. The word "document" means any and all written, typed, printed, recorded, or graphic material of any kind, including, but not limited to, petitions, pleadings, motions, notices, contracts, agreements, records, papers, notes, memoranda, drafts, minutes, summaries, correspondence, telegrams, communications, diaries, drawings, specifications, computer and word processor printouts, computer tapes, computer disks, microfilms, microfiche, periodicals, books, pamphlets, newspaper articles, resumes, financial and accounting records and statements, receipts, canceled checks, tax returns, appointment books, calendars, notebooks, desk pads, tape recordings, transcriptions of tape recordings, transcripts, phonograph records, memorials of conversations, meetings or conferences, messages, invoices, all reproductions and copies of documents, by whatever means made, including those that are not identical to the originals due to markings that have been made on the copies, and any other data compilations from which information can be obtained.

D. "Relate to" or "relating to" or "concern" or "concerning" means referring, regarding or pertaining in any manner whatsoever in whole or in part, directly or indirectly, implicitly or explicitly.

E. "MSD" or "Complainant" means Complainant, Metropolitan St. Louis Sewer District.

F. "MAWC," "Respondent," "you" or "your" means Respondent, Missouri-

American Water Company.

DATA REQUESTS

1. Does MAWC supply its records and books to any other sewer district in Missouri other than MSD? If so, identify each such sewer district, state the amount that MAWC charges annually for acquisition of such data, and attach copies of all such data acquisition agreements.

ANSWER:

2. Identify each and every sewer district in your Missouri service areas and, for each such sewer district not identified in response to Data Request No. 1 above, state the following:

- a. Whether MAWC has refused to supply data to such sewer district without compensation.
- b. The manner in which such sewer district generates its sewer bills.

ANSWER:

3. Does MAWC know of any other sewer districts in Missouri that acquire, or have acquired, the records and books from a water district or private water company? If so, identify each such sewer district(s) and the water district(s) or private water company(ies) from which it acquires, or has acquired, such records and books and state whether each such sewer district pays, or has paid, a charge for such records or books and the annual amount of such charge.

ANSWER:

4. Produce all documents concerning the agreements between MAWC and MSD referred to in Paragraph 3 of your Answer and identify all persons who participated in any way in the negotiation, preparation and execution of such agreements..

ANSWER:

5. Produce all documents relating to the termination of the Water Usage Data Agreement effective December 31, 2003 as admitted in Paragraph 7 of your Answer and the negotiation of a new agreement between MSD and MAWC and identify all persons who participated in any manner in such termination.

ANSWER:

6. Produce all documents concerning the preparation and submission of Revised Sheet No. RT 16.0 which proposed a flat fee of \$760,000 for the information to be provided to

MSD referenced in Paragraph 19 of your Answer and identify all persons responsible for such preparation and submission.

ANSWER:

7. State the additional cost to MAWC to produce the records and books requested by MSD in the calendar year 2005; identify each such cost by category; and produce all documents relating to such additional cost.

ANSWER:

8. State with particularity the reasons that MSD's Complaint fails to state a claim upon which relief can be granted as set forth in Paragraph 1 of the Affirmative Defenses set forth in your Answer.

ANSWER:

9. State with particularity the basis for the affirmative defense set forth in Paragraph 2 of the Affirmative Defenses set forth in your Answer that the doctrines of waiver, estoppel and laches preclude MSD from claiming Section 249.645.1 RSMo requires MAWC to provide water usage data and customer billing information to MSD free of charge.

ANSWER:

10. State with particularity what property of MAWC will be taken in the event that Section 249.645.1 RSMo is deemed to require MAWC to provide water usage data and customer billing information to MSD free of charge as asserted in Paragraph 4 of the Affirmative Defenses set forth in your answer.

ANSWER:

11. Identify each person whom you expect to call as an expert witness at the trial or hearing of this matter, providing each such expert's name, address, occupation, place of employment and qualifications to give an opinion.

ANSWER:

12. With respect to each person identified in your response to Data Request No. 11, state the general nature of the subject matter on which the expert is expected to testify and the expert's hourly deposition fee, if any.

ANSWER:

13. Identify an non-retained or non-engaged expert whom you expect to call at trial or hearing who may provide expert witness opinion testimony by providing such person's name, address and field of expertise.

ANSWER:

14. For each expert witness identified in your responses to Data Requests No. 11 and No. 13, please provide a list of all proceedings in which the expert has testified previously, including the following information:

- a. the court, tribunal or agency that conducted the proceeding;
- b. the case number or equivalent identification of the proceeding;
- c. the caption of the proceeding;
- d. the date of the testimony; and
- e. the general nature of the testimony.

ANSWER:

ARMSTRONG TEASDALE LLP

BY: 

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

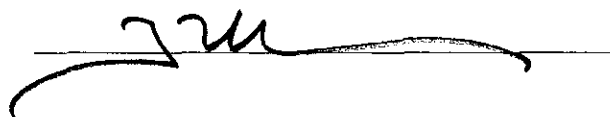
CERTIFICATE OF SERVICE

It is hereby certified that a copy of Complainant's First Set of Data Requests Directed to Respondent, Missouri American Water Company was filed with the Public Service Commission and has been served, first class, postage prepaid, this 1st day of November, 2006 to the following parties of record.

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

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

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 "JRM", is written over a horizontal line.