

FILED<sup>2</sup>

JUN 15 2007

Missouri Public  
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Metropolitan St. Louis Sewer District,

Complainant,

v.

Missouri American Water Company,

Respondent.

Case No. WC -2007-0040

**COMPLAINANT'S MOTION TO EXTEND EFFECTIVE DATE  
AND FOR LEAVE TO FILE APPLICATION FOR REHEARING**

COMES NOW Complainant Metropolitan St. Louis Sewer District ("MSD"), and pursuant to Section 386.490, RSMo, the Missouri Code of State Regulations 4CSR 240-2.050, and other rules, regulations and statutes applicable to the review of a Commission Order, hereby moves the Public Service Commission ("PSC") to amend the May 22, 2007 Commission Order to an effective date of either (1) June 21, 2007, which would provide MSD the statutorily authorized thirty days in which they may file a Motion for Rehearing in the above-captioned case; or (2) ten days following issuance of Commissioner Gaw's dissenting opinion. In addition, MSD moves for leave to file the attached application for rehearing. In support of its motion, MSD states as follows:

1. When an act is required or allowed to be done by order or rule of the commission at or within a specified time, the commission, at its discretion, may— (A) Order the period enlarged before the expiration of the period originally prescribed or as extended by a previous order; or (B) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect. 4 CSR 240-2.050.

2. Section 386.490.3, RSMo, provides that every order or decision of the

Commission shall of its own force take effect and become operative thirty days after the service thereof, except as otherwise provided.

3. The Commission is permitted to amend the effective date of its orders pursuant to Section 386.490.3, which further states that “such order shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission[.]”

4. On May 22, 2007, the PSC issued its Report and Order (the “Order”) in the above-captioned case, setting forth an effective date of June 1, 2007.

5. The Order further provided that Commissioner Gaw would file a separate dissenting opinion. *See Order at p.10.*

6. As of June 15, 2007, Commissioner Gaw has not yet filed his opinion.

7. Based on Commissioner Gaw’s statements at the March 7, 2007 hearing, MSD believes that his dissent will likely contain analysis and statements of law that will implicate MSD’s appeal and better enable the circuit court to review this case on appeal. Commissioner Gaw’s dissenting opinion is critical to MSD’s application for rehearing.

8. Relying on the PSC’s guidance in the Order itself that Commissioner Gaw’s dissenting opinion was forthcoming, MSD has waited to finalize its position in the application for rehearing to obtain the benefit of Commissioner Gaw’s insights.

9. Moreover, MSD reasonably assumed that the Order could not be a final order, capable of becoming effective and appealed without Commissioner Gaw’s opinion.

10. 4 CSR 240-2.050(3) provides that the Commission may enlarge the original time period in which an act is required or allowed to be done, or permit an act that could have been done to be done after the expiration of the original time period “where the failure to act was the result of excusable neglect.”

11. MSD did not file the attached application for rehearing because of its belief that Commissioner Gaw's dissenting opinion was required not only for purposes of a valid, final order that can be appealed but also for purposes of including and relying on portions of his opinion in the application for rehearing.

12. MSD's actions constitute excusable neglect under 4 CSR 240-2.050(3), and no party would be prejudiced should the Commission extend the effective date.

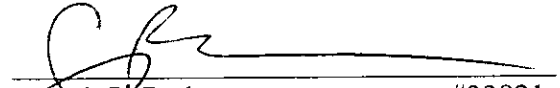
13. Accordingly, the Commission should amend the June 1, 2007 effective date of the Order to an effective date of either (1) June 21, 2007, thereby providing MSD the statutorily authorized thirty days in which to file a motion for rehearing in the above-captioned case; or (2) ten days following issuance of Commissioner Gaw's dissenting opinion. In addition, the PSC should grant MSD leave to file the attached application for rehearing.

WHEREFORE, Complainant Metropolitan St. Louis Sewer District, respectfully prays the Commission amend its Order to reflect an effective date of either (1) June 21, 2007, thereby providing MSD the statutorily authorized thirty days in which to file a motion for rehearing in the above-captioned case; or (2) ten days following issuance of Commissioner Gaw's dissenting opinion. In addition, MSD respectfully prays the Commission grant MSD leave to file the attached application for rehearing, and for such other and further relief the Commission deems just and proper.

Respectfully submitted,

ARMSTRONG TEASDALE LLP

BY:



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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](mailto:bfrancis@armstrongteasdale.com)  
[klowry@armstrongteasdale.com](mailto:klowry@armstrongteasdale.com)  
[gsayad@armstrongteasdale.com](mailto:gsayad@armstrongteasdale.com)  
[jlevey@armstrongteasdale.com](mailto:jlevey@armstrongteasdale.com)

**ATTORNEYS FOR COMPLAINANT**

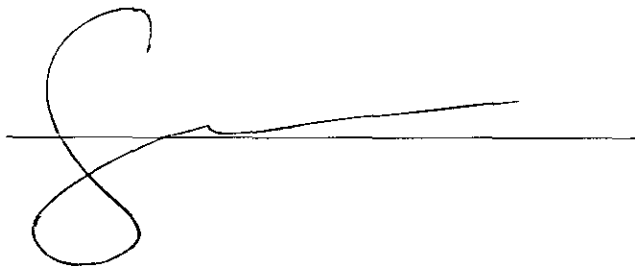
### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served via electronic submission and/or by U.S. Mail, postage prepaid, 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, consisting of a large, stylized 'S' shape followed by a horizontal line extending to the right.