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4 STATE OF MISSOURI
5 PUBLIC SERVICE COMMISSION
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8 IN THE MATTER OF MISSOURI-AMERICAN WATER COMPANY'S
9 REQUEST FOR AUTHORITY TO IMPLEMENT A GENERAL RATE
10 INCREASE FOR WATER SERVICE PROVIDED IN MISSOURI SERVICE
11 AREAS

12 Case No. WR-2007-0216

13 IN THE MATTER OF MISSOURI-AMERICAN WATER COMPANY'S
14 REQUEST FOR AUTHORITY TO IMPLEMENT A GENERAL RATE
15 INCREASE FOR SEWER SERVICE PROVIDED IN MISSOURI

16 CASE NO. SR-2007-0217

17 TRANSCRIPT OF PROCEEDINGS

18 PREHEARING CONFERENCE

19 VOLUME 1

20 FEBRUARY 7, 2007
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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Prehearing Conference

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February 7, 2007

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Jefferson City, Missouri

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Volume 1

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In the Matter of Missouri-)
American Water Company's Request) Case No. WR-2007-0216
for Authority to Implement a)
General Rate Increase for Water)
Service Provided in Missouri)
Service Areas.

14

In the Matter of Missouri-)
American Water Company's Request) Case No. SR-2007-0217
for Authority to Implement a)
General Rate Increase for Sewer)
Service Provided in Missouri)

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CHIEF REGULATORY LAW JUDGE

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1 P R O C E E D I N G S

2 JUDGE DALE: For those of you who don't know
3 me, I'm Colleen Dale. I'm the assigned regulatory judge
4 for this matter.

5 This is a prehearing conference in the
6 matter of the general rate increase for water and sewer
7 service provided by Missouri-American Water Company,
8 Cases No. WR-2007-0216 and SR-2007-0217.

9 This is a consolidated prehearing, having
10 canceled the one o'clock prehearing in the other -- in
11 the other of these consolidated cases, which will be, I
12 believe, if not consolidated, utterly consolidated
13 certainly for the purposes of hearing.

14 With that, I'd like entries of appearance
15 verbally, please, starting with Mr. Comley.

16 MR. COMLEY: Well, good morning, Judge Dale.

17 Let the record reflect the entry of
18 appearance of Mark W. Comley, Newman, Comley & Ruth,
19 601 Monroe Street, Suite 301, Jefferson City, Missouri
20 65101, on behalf of the City of Jefferson.

21 MR. THOMPSON: Kevin Thompson for the Staff
22 of the Missouri Public Service Commission, Post Office
23 Box 360, Jefferson City, Missouri 65102.

24 MR. CURTIS: Leland B. Curtis and Carl J.
25 Lumley of the firm of Curtis, Heinz, Garrett & O'Keefe,

1 130 South Bemiston, Suite 200, St. Louis, Missouri 63105,
2 entering on behalf of the City of Warrensburg.

3 MR. CONRAD: On behalf of Intervenor Ag
4 Processing, Stuart W. Conrad and David W. Woodsmall, the
5 law firm of Finnegan, Conrad & Peterson.

6 We have provided addresses to the reporter,
7 with phone numbers. So unless you need it, I won't
8 burden the record with that.

9 MS. ILES: On behalf of Missouri Industrial
10 Energy Consumers, I'm Carole Iles. I'm also entering an
11 appearance for Diana Vuylsteke. We're with Bryan Cave
12 LLP, 211 North Broadway, St. Louis, Missouri.

13 MR. DORITY: Good morning. Larry W. Dority
14 and James M. Fischer, Fischer & Dority, P.C. Our address
15 is 101 Madison, Suite 400, Jefferson City, Missouri
16 65101, appearing on behalf of Intervenor Public Water
17 Supply District Nos. 1 and 2 of Andrew County and Public
18 Water Supply District No. 1 of DeKalb County.

19 MS. LANGENECKERT: Lisa C. Langeneckert
20 appearing on behalf of the Missouri Energy Group, and
21 with the Stolar Partnership LLP, 911 Washington,
22 St. Louis, Missouri 63101.

23 MR. WOODSMALL: Your Honor, I was asked to
24 enter an appearance on behalf of my colleague Jeremiah
25 Finnegan of the law firm Finnegan, Conrad & Peterson,

1 3100 Broadway, Suite 1209, Kansas City, Missouri 64111,
2 appearing on behalf of the City of Parkville.

3 I'll note that Mr. Finnegan has not yet
4 filed an application for intervention. He only received
5 approval from the City Council at the regularly scheduled
6 meeting last night and his intervention will be
7 forthcoming.

8 Thank you.

9 MR. LOWRY: Kent Lowry and Byron Francis of
10 the firm of Armstrong Teasdale LLP on behalf of the
11 St. Louis Metropolitan Sewer District, an Intervenor in
12 this case.

13 MR. ENGLAND: Thank you, Your Honor.

14 Let the record reflect the appearance of
15 W. R. England and Dean Cooper of the law firm of Brydon,
16 Swearngen & England, Post Office Box 456,
17 Jefferson City, Missouri 65102, on behalf of the
18 Applicant, Missouri-American Water Company.

19 MR. EVANS: Michael A. Evans with Hammond,
20 Shinnners, Turcotte, Larrew and Young on behalf of the
21 Union UWUA 335.

22 MS. SMITH: Jane A. Smith and Marc Ellinger
23 with Blitz, Bardgett & Deutsch, 308 East High, Suite 301,
24 Jefferson City 65101, and we represent the City of
25 Joplin.

1 MS. BAKER: Christina Baker and also Lewis
2 Mills from the Office of Public Counsel, P. O. Box 2230,
3 Jefferson City, Missouri 65102, here representing the
4 Office of Public Counsel and the ratepayers.

5 JUDGE DALE: Okay.

6 MR. ENGLAND: One more.

7 JUDGE DALE: Oh. We have one more?

8 MR. STEINMEIER: Just like that, out of
9 breath, reflecting the fact that there is no parking
10 available in the parking garage.

11 Please let the record reflect the appearance
12 of William D. Steinmeier and Mary Ann Garr Young of
13 William D. Steinmeier, P.C., Jefferson City, Missouri,
14 appearing on behalf of the City of St. Joseph.

15 JUDGE DALE: Do we now have everyone?

16 Okay. Having reviewed the proposals for
17 test year, update and true-up, it does appear to be
18 reasonable to go with a test year ending June 30th, an
19 update through December 31st and a true-up through
20 May 31st, 2007.

21 I believe everybody has the hearing dates,
22 and with those dates in mind, I would like for you to
23 establish a procedural schedule, a recommended procedural
24 schedule.

25 MR. THOMPSON: Your Honor?

1 JUDGE DALE: Yes.

2 MR. THOMPSON: Staff is going to move that
3 the evidentiary hearing dates be changed, be pushed back
4 to August 20th to the 31st, 2007.

5 JUDGE DALE: For what reason are you making
6 that motion?

7 MR. THOMPSON: Because we think we need more
8 time to prepare the case than you have allowed.

9 MR. ENGLAND: Kevin, can you give me dates
10 again?

11 MR. THOMPSON: Sure. August 20th through
12 the 31st of 2007.

13 MR. CURTIS: Is that a Monday, starting on a
14 Monday?

15 MR. THOMPSON: I'm sure it is. I think I
16 have a calendar here.

17 Yeah, the 20th is a Monday. The 31st is a
18 Friday.

19 MS. BAKER: And Office of Public Counsel
20 would support that as well.

21 JUDGE DALE: When is the operation of law
22 date here? I'm sorry. I don't have it in front of me.

23 MR. ENGLAND: November 14th.

24 MR. THOMPSON: November 14, 2007.

25 MR. CONRAD: Judge, for what it's worth, we

1 had not been advised of Staff's request until this
2 morning, but we will also support their motion.

3 MR. CURTIS: Judge Dale --

4 JUDGE DALE: Hold on a second. I'm doing
5 math. We have to have utter silence.

6 MR. CURTIS: I'm sorry. I understand.

7 The City of Warrensburg would support
8 Staff's motion.

9 JUDGE DALE: I will look and see what dates
10 are available.

11 MR. THOMPSON: I printed out the ALJ
12 calendar, Your Honor, and I can tell you that those dates
13 are available except for the 29th and 30th when there is
14 a -- which is reserved for a true-up in the Laclede rate
15 case, but I think that the Laclede true-up dates could
16 easily be moved to perhaps the following week.

17 JUDGE DALE: Unfortunately, this doesn't
18 have the green reservation dates on it.

19 MR. THOMPSON: That's true. That is only
20 what is available electronically.

21 JUDGE DALE: I will look and see what is
22 actually available on the adjudication calendar, having
23 already established hearing dates for KCP&L and
24 anticipating hearing dates for Empire.

25 MR. THOMPSON: I understand, Your Honor.

1 I would simply say on behalf of Staff that
2 in the event that the suggested two-week period is not
3 available, that you set the dates later rather than
4 sooner.

5 Thank you.

6 JUDGE DALE: If we have the hearing, then,
7 when do you suggest the true-up and when do you suggest
8 the final briefing date?

9 MR. CONRAD: I was going to ask -- perhaps
10 counsel for Staff will speak to that.

11 Is it your contemplation, Mr. Thompson, that
12 the true-up be combined in that week?

13 MR. THOMPSON: I'm sorry. I couldn't hear
14 you.

15 MR. CONRAD: Would the true-up be combined
16 in that week, would not be separate?

17 MR. THOMPSON: Yes. Mr. Rackers was telling
18 me the Staff's position, that the true-up could be done
19 the same week.

20 MR. CONRAD: And we concur.

21 MS. BAKER: Public Counsel concurs as well.

22 MR. CONRAD: Although we generally don't
23 like the idea of a true-up.

24 JUDGE DALE: An opportunity to argue a
25 true-up is not necessarily a belief on my part or anybody

1 else's in the Fad Five that it would be appropriate.

2 MR. CONRAD: Could Your Honor clarify who
3 the Fad Five are?

4 JUDGE DALE: There is you and there is . . .
5 The five commissioners.

6 MR. CONRAD: I wasn't aware that there were
7 five. I thought there were just three. But be that as
8 it may.

9 MR. THOMPSON: Is that going to be in the
10 transcript?

11 JUDGE DALE: I believe so.

12 MR. THOMPSON: That's right. You have
13 tenure here.

14 MR. ENGLAND: Your Honor, if I may address
15 it.

16 JUDGE DALE: Yes.

17 MR. ENGLAND: I don't think the company is
18 prepared at this time to agree to that. One of our main
19 concerns is that if the hearing concludes on August 31st,
20 we only have two and a half months -- if I'm calculating
21 correctly -- to the operation of law date. Subtracting
22 ten days for effective date, we only have two months for
23 purposes of briefing and Commission decision.

24 JUDGE DALE: You need to subtract twenty
25 days.

1 MR. ENGLAND: Okay.

2 JUDGE DALE: It is our intent, and at least
3 in my intent, in every case going forward that the order
4 will be issued twenty days prior to the operation of law
5 date, giving it a ten-day effective date, so that there
6 is at least a ten-day effective date for tariffs. If
7 companies do not -- if ten days isn't enough, we'll just
8 go back to thirty.

9 So that gives -- if my math is correct, I
10 put that at October 25th.

11 MR. ENGLAND: It sounds about right.

12 To issue the order?

13 JUDGE DALE: To issue the order.

14 MR. CONRAD: Trip, you surely weren't
15 expecting something earlier, were you?

16 MR. ENGLAND: What's that? An order?

17 MR. CONRAD: An order.

18 MR. ENGLAND: No. But I think that -- and
19 I'll be the first to admit, I'm not surprised that there
20 has been a motion to push the hearings back. I think
21 they are rather early in the process by traditional
22 standards.

23 And so I'm -- I'm saying we're not adverse
24 to moving some of those hearings back, but we have --
25 other staff working on this has hearings in other states

1 that are going to compound this, as well as August tends
2 to be a busy month for family vacations, getting ready
3 for kids to go back to school and things of that nature.

4 So I'm just not prepared to agree to the
5 dates that have been proposed, and my obvious concern is
6 that there is simply not enough time to brief it and for
7 the Commission to consider it.

8 MR. THOMPSON: Trip, I'm sure your expert
9 witnesses would be happy to vacation in Jefferson City.

10 MR. ENGLAND: And as a member of the Chamber
11 of Commerce, I think that's an excellent idea, but my
12 clients may have other ideas.

13 MR. CONRAD: And I was just going to say, if
14 it's too big of an inconvenience for you, you can also
15 dismiss and refile in a more convenient time.

16 JUDGE DALE: I can expedite the transcripts,
17 but if I move it the date for filing post-hearing briefs
18 will be September 21st.

19 MR. THOMPSON: That's fine, Your Honor.

20 JUDGE DALE: When you work on this
21 procedural schedule, I will want prehearing briefs and a
22 single round of post-hearing briefs.

23 MR. THOMPSON: And you want those filed on
24 9-21?

25 JUDGE DALE: The post-hearing briefs, yes.

1 MR. THOMPSON: Okay.

2 JUDGE DALE: I would like prehearing briefs,
3 if we are able to get these dates -- well, I would like
4 prehearing briefs ten days prior to the hearing.

5 MR. THOMPSON: Okay.

6 JUDGE DALE: Anyone who wishes at any time,
7 although I will not be requiring them, may file proposed
8 findings of fact, conclusions of law, statements of
9 position.

10 MR. THOMPSON: You're not going to require a
11 position statement?

12 JUDGE DALE: Well, you've have that combined
13 statement of the issues, in which I'm given to understand
14 argument is precluded, et cetera.

15 So I will need a statement of the issues,
16 but if anyone wishes to provide a separate position
17 statement, they are welcome to do so.

18 MR. THOMPSON: Okay.

19 MR. ENGLAND: When you say "statement of the
20 issues," do you mean simply a listing of the issues as
21 opposed to a statement of position with respect to those
22 issues?

23 JUDGE DALE: Generally what I'm saying --
24 for example, the kind of issues that I see in the joint
25 issues list are what items should be included in off-

1 system sales, when, in fact, the issue for Mr. Conrad may
2 be, should the X contract be included in off-system
3 sales, and you may have a little bit different take on
4 that issue.

5 So the more specificity I get about how
6 people individually frame the issues, the more I know
7 about how to write the order.

8 MR. CONRAD: Well, there went my position
9 statement right there.

10 JUDGE DALE: You mean off-system sales?

11 MR. CONRAD: Yeah, I just blew it.

12 MR. THOMPSON: Mine was just going to say I
13 don't agree with Stu.

14 JUDGE DALE: See, and that just does not --
15 while it may be true, it just doesn't help me write the
16 order.

17 And what I'm finding is that the joint issue
18 statement, because they are a joint document, tend to be
19 so over-arching and conciliatory that they don't give me
20 enough information.

21 So if you would like to restate the nuances
22 of the issue as you see them, you are welcome to do so,
23 but I will not order it.

24 MR. ENGLAND: But you still would like, to
25 the extent possible, a joint document listing the issues?

1 JUDGE DALE: Yes. Yes. And I would use
2 that as the framework for the order. But even the sub
3 issues, which tend to be a little more partisan, still
4 are bland enough that they don't really tell me what a
5 party's particular issue really is. So . . .

6 Does everyone feel they have enough guidance
7 on this?

8 MR. ENGLAND: I just need to know, what is
9 the likelihood that the hearings will be moved back to
10 the dates that are being proposed?

11 JUDGE DALE: I will go up and look at the
12 calendar now and see what is available.

13 Do you have specific dates that you know are
14 not available or is it just that you haven't had a chance
15 to check with your clients?

16 MR. ENGLAND: No more than you do.

17 I'm assuming that the Laclede case, which is
18 set for, I believe, July 30th through August 10th, is
19 pretty well set in concrete, and that's a clear conflict,
20 if you will.

21 JUDGE DALE: That's a conflict because
22 you're also in that case?

23 MR. ENGLAND: No. Just that the Commission
24 is not going to want to have two rate proceedings or
25 hearings going at the same time.

1 JUDGE DALE: Actually, the Commission has
2 learned to bite the bullet on that. You will see the
3 video equipment in here, and we are making this room web
4 castable. And proceedings will be recorded the way they
5 are in 310 and saved to CD, so that commissioners who
6 cannot be in attendance at both hearings can catch up
7 with one or the other.

8 MR. CONRAD: And they can always just read
9 the transcript and the exhibits and the briefs that cite
10 to portions of the transcript and the portions of the
11 transcript that are cited.

12 JUDGE DALE: Yes.

13 Speaking of citations, the more citations,
14 the better in briefing and position statements. It's
15 easiest for me.

16 I will go upstairs and look at the calendar
17 and come back and leave you to your negotiating. And if
18 you manage to settle this case today, I'll buy you all
19 lunch.

20 MR. CONRAD: Is that on the record?

21 JUDGE DALE: That was on the record. We're
22 now off the record.

23 WHEREUPON, the on-the-record portion of the
24 Prehearing Conference was concluded.

25