

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the General Rate Increase)
for Water and Sewer Service Provided) **Case No. WR-2007-0216**
by Missouri-American Water Company.)

**OFFICE OF THE PUBLIC COUNSEL'S OBJECTION TO THE CITY OF
JOPLIN'S LATE-FILED EXHIBIT AND TO LIVE TESTIMONY OF JOPLIN
WITNESS, MS. JONES**

COMES NOW the Office of the Public Counsel (Public Counsel), and for its Objection to the City of Joplin's (Joplin's) Late-Filed Exhibit and to Live Testimony of Joplin Witness, Ms. Jones states as follows:

1. On August 15, 2007, the Commission issued an order directing Joplin to late-file exhibits regarding:

 ...work papers, letters, memoranda, notes, reports, analyses, computer analyses, adding machine calculations, test results, studies or data recordings, transcriptions, and printer, typed, or written materials of any kind, in any format, that relate to demonstrating the revenue effect on the specific revenue requirement for the Joplin district that were generated by the City of Joplin or its witness, Ms. Leslie Jones, to serve as a basis for the testimony the City of Joplin submitted to the Commission.

2. On August 20, 2007, the Commission issued an order clarifying the post-hearing procedural schedule. In this order, the Commission stated:

 The Commission wishes to make clear that this order directs Joplin to submit the documentation that was in existence prior to the filing of Ms. Jones rebuttal testimony that was filed on July 13, and any documentation that was generated prior to 9:00 a.m. on August 14, the date of the hearing.

3. On August 22, 2007, Joplin filed its Statement of Documents Pursuant to Commission's Order of August 15, 2007. Joplin's filing contained an attached Adobe document which

purported to be prepared by the City of Joplin or Ms. Jones on August 13, 2007 after 5:00 p.m. The actual computer file or documentation was not attached or filed with the Commission.

4. On August 23, 2007, Public Counsel sent an email request to Joplin's attorney, Mr. Marc Ellinger, requesting an electronic copy of the filed Adobe document which Joplin's pleading indicated was generated by the City of Joplin or Ms. Jones on August 13, 2007 after 5pm. Many other parties replied to Mr. Ellinger that they too would like an electronic copy of the filed Adobe document.

5. On August 24, 2007, Mr. Ellinger distributed a document in an email which purported to be the electronic copy of the spreadsheet utilized for the Adobe document filed on August 22nd. The email was copied to various parties' attorneys and representatives, including representatives of MO American Water Company (MAWC). The document attached to the email was a privileged settlement negotiation work document which was distributed among the non-MAWC parties on July 31, 2007 but was not given to MAWC until Mr. Ellinger sent it to the company's representatives and attorneys.

6. On August 24, 2007, Joplin filed its Amended Statement of Filing of Documents Pursuant to Commission's Order of August 15, 2007. This document included an attached Adobe document which on the top of the fourth page clearly states "Confidential – For Settlement Discussion Purposes Only". Again, this document was a privileged settlement negotiation work document which was distributed among the non-MAWC parties. This document was not given to MAWC and it certainly was not intended to be filed as a public document.

7. Public Counsel objects to the late-filed exhibit as being based on privileged settlement negotiation information and calculations which were not intended to be revealed to MAWC

representatives or attorneys. As the emailed document purporting to be the basis for the late-filed exhibit was not provided to the non-MAWC parties until July 31, 2007, this document could not have been the basis of Ms. Jones' July 13, 2007 rebuttal testimony.

8. Also, if this late-filed exhibit is the basis for the live testimony of Ms. Jones, Public Counsel would object to the live testimony as being based on privileged settlement negotiation information and calculations not on specific test year and true up calculations from information provided by MAWC.

WHEREFORE, Public Counsel objects to the late-filed exhibit as being based on privileged settlement negotiation information and calculations which were not intended to be revealed to MAWC representatives or attorneys. If this late-filed exhibit is the basis for the live direct testimony of Ms. Jones, Public Counsel would also object to the live direct testimony as being based on privileged settlement negotiation information and calculations not on specific test year and true up calculations from information provided by MAWC.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 24th day of August 2007:

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