

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Missouri-American)
Water Company's Request for Authority)
to Implement a General Rate Increase)
for Water Service Provided in Missouri)
Service Areas)

Case No. WR-2007-0216, et al.

ORDER CLARIFYING POST-HEARING PROCEDURAL SCHEDULE

Issue Date: August 20, 2007

Effective Date: August 20, 2007

On August 15, 2007,¹ the Commission issued an order delineating the post-hearing procedural schedule in this matter.² In that order, the Commission, *inter alia*, directed the City of Joplin ("Joplin") to file certain late-filed exhibits and established a schedule to afford the remaining parties the opportunity to provide rebuttal testimony to supplemental testimony Joplin was allowed to present at the hearing held on August 14.

On August 17, AG Processing, Inc. ("AGP") filed a statement expressing concerns with regard to the Commission's deadlines. The gravamen of AGP's concern is that it does not wish to prematurely waive any right to respond to any of Joplin's post-hearing pleadings. AGP's concern is well taken and the Commission will clarify its August 15 order to address this concern.

During the hearing on August 14, Joplin's sole witness, Ms. Leslie Jones, was examined by AGP with regard to one of its data requests (AGP Exhibit 4) that appeared to

¹ All dates throughout this order refer to the year 2007 unless otherwise noted.

² The order was captioned: "Order Extending Deadline for Filing Suggestions Regarding the Non-Unanimous Stipulation and Agreement, Setting Briefing Schedule, Ordering Proposed Finding of Fact and Conclusions of Law, Directing the Filing of Late-Filed Exhibits and Responses, and Addressing Other Procedural Matters."

have been not fully answered by Joplin. Ms. Jones's testimony appeared to indicate that she had either not prepared the data that was the subject of the data request, or had no record of having generated that data. Ms. Jones indicated that she might have some spread sheet data that related to the data request but that she was unsure. Consequently, the Commission directed Joplin to late-file exhibits that would have addressed that data request. Ordered paragraph 5 of the Commission's August 15 order stated:

No later than August 22, 2007, **the City of Joplin shall file any documents, 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.** If no such materials exist, the City of Joplin shall file a pleading verifying that such materials do not exist.

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. Any such documentation that is filed in response to this order shall indicate the time period of its generation with particularity. This ordered paragraph does not direct Joplin to file documentation generated after August 14. Additionally, any offering of late-filed exhibits will still be subject to all customary and reasonable objections by the parties, and shall not be received into evidence until the presiding officer has ruled on any objections.³

³ Commission Rule 4 CSR 240-2.130 provides that the presiding officer shall rule on the admissibility of all evidence.

Joplin was also directed, in ordered paragraph number 4 of the August 15 order, to generate and file with the Commission calculations showing the effect that Joplin's **currently advocated positions** with regard to the disputed issues would have on its revenue requirement.⁴ These calculations are to include the effects of Joplin's position on the proper method of allocating MAWC's corporate administrative and general expenses, payroll tax payments as annualized for the Joplin District and corporate allocation of corporate depreciation, as well as any other disputed issue identified in its revised list of issues. These calculations must include the determination of the value of each issue and its effect on Joplin's revenue requirement.

On August 17, Joplin filed its revised list of issues and a pleading stating that these newly generated calculations would be filed no later than August 22. Again, the offering of this late-filed exhibit will still be subject to all customary and reasonable objections by the parties, and shall not be received into evidence until the presiding officer has ruled on any objections.

The Commission's August 15 order set a deadline for any party wishing to file rebuttal testimony to the newly adduced live, direct testimony of Ms. Jones, to notify the Commission of its intention to file said testimony no later than 5:00 p.m. on August 17. That order also set a deadline for filing such testimony and any responses thereto. The order was focused only towards the rebuttal testimony that would be offered in response to the live testimony of Ms. Jones adduced at the August 14 hearing. There was no intent on the part of the Commission's order to prematurely foreclose any response to the late-filed exhibits that the Commission directed Joplin to file.

⁴ During the hearing on August 14, Joplin's witness was allowed to supplement her prefiled testimony; where upon her supplemental testimony advocated a change in positions from that in her pre-filed testimony.

Because the August 15 order has created some concern and confusion, and because the Commission wishes to provide all of the parties the opportunity to fully respond to Ms. Jones's supplemental testimony and Joplin's late-filed exhibits, the Commission will revise its August 15 order. Joplin has indicated that it will file the newly required calculations no later than August 22. That date coincides with the deadline set for Joplin to file any other late-filed exhibit as directed by the Commission, and coincides with the date set for transcripts from the August 14 hearing to be filed. Consequently, by the end of the day on August 22, the parties should have before them all of the materials necessary to register any objections to the late-filed exhibits and provide the Commission with a definitive statement as to if it wishes to offer rebuttal testimony to Joplin's newly adduced testimony, exhibits and positions.

The Commission shall set the date to respond to Joplin's supplemental testimony offered at hearing, and to Joplin's late-filed exhibits for August 24. Any party wishing to offer rebuttal testimony shall inform the Commission on or before August 24 and shall offer a proposed procedural schedule for receiving that testimony and responses thereto.

IT IS ORDERED THAT:

1. Ordered paragraph 2 in the Commission's August 15, 2007, "Order Extending Deadline for Filing Suggestions Regarding the Non-Unanimous Stipulation and Agreement, Setting Briefing Schedule, Ordering Proposed Finding of Fact and Conclusions of Law, Directing the Filing of Late-Filed Exhibits and Responses, and Addressing Other Procedural Matters," is rescinded.

2. Any party wishing to file objections to the City of Joplin's late-filed exhibits, which are to be filed no later than August 22, 2007, shall file said objections no later than August 24, 2007.

3. Any party wishing to provide rebuttal testimony to the supplemental testimony provided by the City of Joplin's sole witness, Ms. Leslie Jones, on August 14, 2007, shall inform the Commission of its intent to offer said testimony no later than August 24, 2007 as directed in the body of this order.

4. Any waiver by a party filed in accordance with the Commission's August 15, 2007, "Order Extending Deadline for Filing Suggestions Regarding the Non-Unanimous Stipulation and Agreement, Setting Briefing Schedule, Ordering Proposed Finding of Fact and Conclusions of Law, Directing the Filing of Late-Filed Exhibits and Responses, and Addressing Other Procedural Matters," is hereby disregarded. Any party filing such a waiver shall have the opportunity to reconsider that position in conjunction with the new parameters the Commission has established in this order.

5. This order shall become effective on August 20, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Harold Stearley, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 20th day of August, 2007.