

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

Janice Shands,)	
)	
COMPLAINANT,)	
)	
v.)	Case No. WC-2015-0030
)	
Missouri-American Water Company,)	
)	
RESPONDENT.)	

**MAWC’S RESPONSE TO COMPLAINANT’S
SUPPLEMENTAL MEMO/MOTION IN SUPPORT OF MOTIONS**

COMES NOW Missouri-American Water Company (MAWC or Company) and, as its Response to Complainant’s Supplemental Memo/Motion in Support of Motions, states as follows to the Missouri Public Service Commission (Commission):

1. On October 1, 2014, Complainants filed a document entitled “Complainant’s Supplemental Memo/Motion in Support of Motions” (Supplemental Memo). Therein, Complainants alleged that the Commission’s “complaint procedures do not extend to its general supervisory jurisdiction” (Supp. Memo, intro. para.) and suggested that the complaint in this case “is not based on any rule, or provision of law or order of the commission, it is based on common law and the limits as set out in the recorded Declaration” (Supp. Memo, para. 4).

2. Complaints are correct that the complaint procedure governs only “alleged violation of any tariff, statute, rule, order, or decision within the commission’s jurisdiction.” (4 CSR 240-2.070) In fact, similar language is found in Section 386.390.1, RSMo (“Complaint may be made by . . . setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed

by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission.”).

3. The questions identified by the rule and statute are all-encompassing in regard to the service a public utility provides to its customers. The Commission has broad powers of supervision and regulation over electric, gas, water, and sewer utilities. The legislature has placed within the Commission’s jurisdiction “generally all matters relating to rights, facilities, service, and other correlated matters of a public service company.” *State ex rel. Cirese v. Ridge*, 138 S.W.2d 1012, 1014 (Mo. banc 1940).

4. MAWC’s relationship with, and its services provided to, its customers is governed by the properly filed and effective Commission schedules or tariff sheets. Section 393.140(11) states that the Commission shall:

Have power to require every . . . water corporation . . . *to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such . . . water corporation . . .*; but this subdivision shall not apply to state, municipal or federal contracts. . . . No corporation shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such services as specified in its schedule filed and in effect at the time; nor shall any corporation refund or remit in any manner or by any device any portion of the rates or charges so specified, nor to extend to any person or corporation any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons and corporations under like circumstances. The commission shall have power to prescribe the form of every such schedule, and from time to time prescribe by order such changes in the form thereof as may be deemed wise. The commission shall also have power to establish such rules and regulations, to carry into effect the provisions of this subdivision, as it may deem necessary, and to modify and amend such rules or regulations from time to time.

(emphasis added)

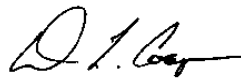
5. "A tariff has the same force and effect as a statute, and it becomes state law." *State ex rel. Mo. Gas Energy v. Pub. Serv. Comm'n*, 210 S.W.3d 330, 337 (Mo. App. W.D. 2006).

6. Other authority, such as the "Declaration" referenced by Complainants, can have no impact on MAWC's tariffs or the Commission's statutes and rules. "[T]he power of the Public Service Commission . . . overrides all contracts, privileges, franchises, charters or city ordinances." *May Dep't Stores Co. v. Union Electric Light & Power Co.*, 107 S.W.2d 41, 45 (Mo. 1937), citing *State ex rel. City of Kirkwood v. Public Service Comm.*, 50 S. W. (2d) 114, 118 (Mo. 1932).

7. The issues raised in this Complaint are squarely within the primary jurisdiction of this Commission and therefore should be addressed by the Commission. If, as suggested by Complainants, MAWC has not violated any tariff, statute, rule, order, or decision within the Commission's jurisdiction, the Commission should not dismiss the complaint, but rather should find in favor of MAWC.

WHEREFORE, Missouri-American Water Company prays the Commission consider this Response and grant such relief as the Commission deems reasonable and just

Respectfully submitted,



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ATTORNEYS FOR MISSOURI-AMERICAN
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Certificate of Service

I hereby certify that copies of the foregoing have been transmitted by electronic mail to the following on this 6th day of October, 2014:

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