

**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 STAFF RECOMMENDATION
TO DISMISS COMPLAINT
AND STATEMENT IN SUPPORT OF LCTCA’S MOTION TO INTERVENE**

COMES NOW Missouri-American Water Company (MAWC or Company) and, as its Response to the Staff Recommendation to Dismiss Complaint and Statement in Support of LCTCA’s Motion to Intervene, states as follows to the Missouri Public Service Commission (Commission):

1. A civil case related to this Complaint is currently pending in St. Louis County Circuit Court (Cause No. 14SL-CC02207). On September 4, 2014, MAWC filed its Answer and Response to Motion. Therein, among other things, MAWC suggested that this Commission has primary jurisdiction over the subject of this complaint – billing matters; what collection actions may be taken by MAWC; and, whether there may be discontinuation of service under existing circumstances, in light of the terms of MAWC’s tariff sheets and their application to 9953 Lewis & Clark.

2. On September 10, 2014, the Staff of the Commission (Staff) filed its Recommendation to Dismiss Complaint. The Staff Recommendation was based upon the fact that Complainant is not MAWC’s customer (the customer is the Lewis & Clark Tower Condo Association). Therefore, Staff argued that “Complainant lacks standing to bring an action for

relief in this Commission against a public utility of which they are not customers.” (Staff Rec., para. 5)

3. On August 27, 2014, the St. Louis County Circuit Court appointed a receiver for the Lewis & Clark Tower Condominium Association (LCTCA). The St. Louis County Circuit Court later issued the attached Order (**Appendix A**). In that Order, the Court realigned the parties to make LCTCA a plaintiff and appointed Complainant Shands’ attorney, Susan Mello, to represent LCTCA.

4. On September 23, 2014, counsel for Complainant filed in this case a Motion to Set Aside or Amend Order Questioning Joinder/Entry for LCTCA and Motion to Intervene for Good Cause. In that pleading, among other things, LCTCA sought to intervene in this action.

5. On September 25, 2014, the plaintiffs in the civil matter filed a Third Amended Petition (*See **Appendix B***). Count 1 of the Amended Petition seeks declaratory relief against MAWC. Plaintiffs ask the Circuit Court to declare: 1) that MAWC had no authority to bill LCTCA for both the condominium and a shopping center’s water usage; 2) that MAWC’s bills are unreasonable; 3) that MAWC should have informed LCTCA it was billing for shopping center usage; 4) that Plaintiffs are not liable for a shopping center’s bills; 5) that MAWC must cease demands for payment of bills that include shopping center usage; and, 6) that MAWC must return payments associated with the shopping center. Count 9 largely restates the same claims against MAWC, as well as other entities. The Count further alleges that MAWC was wrong to provide the Metropolitan St. Louis Sewer District (MSD) with water bills that included the shopping center usage, when MSD would use those water bills to calculate sewer bills.

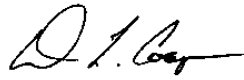
6. As indicated in MAWC’s Answer in this matter, these subjects are squarely within the primary jurisdiction of this Commission and therefore should be addressed by the

Commission. Therefore, MAWC supports a grant of the Motion to Intervene filed by the LCTCA. Such participation by the LCTCA would make Staff's Recommendation to Dismiss moot and allow this Commission to address the billing; collection; and, discontinuation of service questions in light of the terms of MAWC's tariff sheets and their application to 9953 Lewis & Clark.

7. Accordingly, MAWC asks that the Commission grant the Motion to Intervene filed by LCTCA, deny the Staff's Motion to Dismiss, and set this matter for a prehearing conference.

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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Certificate of Service

I hereby certify that copies of the foregoing have been transmitted by electronic mail to the following on this 29th day of September, 2014:

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