

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

Jim Moriarty,
Complainant

vs.

Missouri-American Water Company,
Respondent

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Case No. WC-2025-0204

THE OFFICE OF THE PUBLIC COUNSEL’S POST-HEARING BRIEF

COMES NOW the Office of the Public Counsel (“OPC” or “Public Counsel”) and for its *Post-Hearing Brief*, states as follows:

Introduction

. The OPC does not act as the personal attorney to any one customer, as its duty is to serve the public interest *as a whole*. However, sometimes a complaint raises an issue that may affect a utility’s customers beyond the one who submitted the complaint. In those cases, the OPC may become more active, providing the Public Service Commission (“Commission”) with context to consider when determining whether a utility’s actions are appropriate. With the OPC’s role in mind, this brief aims to acknowledge and address the tariff violation that Missouri American Water Company (“MAWC” or “Company”) committed by relocating Complainant’s meter from his basement to an outdoor pit, affecting his ability to read his meter.

Public Counsel recognizes that the violation it is highlighting is not one that Jim Moriarty (“Complainant” or “Mr. Moriarty”), himself, asserted in his case. However, Missouri law states the following

Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that . . . the acts or regulations of any such persons or corporations are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law, the commission shall determine and prescribe , , , the just and reasonable acts and regulations to be done and observed[.]¹

Missouri courts' make clear that "[a] tariff has the same force and effect as a statute, and it becomes state law."² Therefore, the OPC contends that the hearing itself, as well as the Company's own testimony³ recognizes the relocation of Complainant's water meter to an inaccessible location as a violation at issue in this case.

Meter Placement

Complainant's formal complaint⁴ and Company testimony⁵ both acknowledge that MAWC decided to relocate Mr. Moriarty's meter to an outdoor meter pit. According to the formal complaint, the Complainant focused intensely on the amount of water usage his meter recorded.⁶ The Company itself admitted that the Complainant was in regular contact with it due to his concern over the meter's recorded increase in water usage.⁷ However, despite Complainant's clear priorities, MAWC moved that meter from Mr. Moriarty's home and into an inaccessible, outdoor meter pit on December 11, 2023.⁸

¹ Section 393.140(5) RSMo

² *State ex rel Mo. Gas Energy v. Pub. Serv. Comm'n*, 210 S.W.3d 330,337 (Mo. App. W.D. 2006).

³ Ex. No. 2 *Direct Testimony of Paul Ebbeler*, p. 12 line 13 to p. 13 line 14, Case No. WC-2025-0204, EFIS Item No. 36.

⁴ Ex. No. 4 *Formal Complaint*, p. 23, Exhibit E, Case No WC-2025-0204, EFIS Item No. 38.

⁵ Ex. No. 2 *Direct Testimony of Paul Ebbeler*, p. 13 lines 4 to 14.

⁶ Ex. No. 4 *Formal Complaint* at p. 22, Exhibit E.

⁷ Ex. No. 2 *Direct Testimony of Paul Ebbeler*, p. 13 lines 17 & 18.

⁸ *Id.* at lines 5 & 6.

Regarding meter placement, the Company's effective tariff at the time of these events stated, in relevant part "The meter shall only be installed in a dry meter box/vault of a size and design acceptable to the company ***and located accessibly*** on the premises served."⁹ The placement of the phrase "to the company" in this provision notably falls before the phrase "and located accessibly," creating an implication that the accessibility of the meter is not limited to MAWC. In fact, the Company itself highlighted *why* a customer's access to the water usage data that meter provides is so important in this exchange:

Mr. Cooper: Ms. Martin asked you a question about, it was a hypothetical about a customer utilizing MyWater for their sort of water management. Correct?

Mr. Ebbeler: *Nods Head*

Mr. Cooper: Ultimately is the meter the final sort of determiner of water usage?

Mr. Ebbeler: Yes.

Mr. Cooper: And that's the meter that's located on the customer's premises?

Mr. Ebbeler: Yes.¹⁰

This exchange does highlight the ability of all of MAWC's customers to check their physical water meter and verify their recorded usage from the MyWater application. However, for customers, such as Complainant, who may be injured, or elderly, or may struggle to get to a meter that is stored in a pit with the lid bolted shut,¹¹ the accessibility of that meter is an issue.

⁹ MAWC Tariff Sheet R-32, Rule 15D; Attached as "Attachment A."

¹⁰ *Transcript ("Tr.")*, p. 75 lines 5 to 14.

¹¹ *Tr.* at p. 50 lines 15 & 16.

The tariff sheet that was in effect at the time, MAWC's tariff Sheet No. R 33, states:

Approved meter installation locations in dry basements, sufficiently heated to keep the meter from freezing, may remain, provided the meter remains readily accessible, as determined by the Company, for servicing and reading, the meter space provided is located where the water service line enters the building, and a properly installed electrical ground wire is installed around the water meter.¹²

It is clear that MAWC approved of the location of Complainant's water meter, as provided by its tariff, as the meter was, in fact, located there. Moreover, the Company's own testimony asserts that the meter was moved more for convenience than due to MAWC finding issue with the current location of Mr. Moriarty's meter.¹³ Thus, MAWC took a meter from a location that was accessible, but perhaps inconvenient to MAWC and moved it to an outdoor pit that is inaccessible, while providing more convenience to MAWC.

Conclusion

While MAWC's tariff does provide the Company with a wealth of discretion as to where, when, and how to install its meters on customer premises, that discretion is not unlimited. The physical meter must be located accessibly, and the Company itself expressed why. Without the meter being relocated to an area that was accessible to Mr. Moriarty, his concerns over the MyWater application could have been sated by looking at his physical meter, as Company counsel suggested. Instead, Complainant's

¹² MAWC Tariff Sheet R-33, Rule 15H; Attached as "Attachment B."

¹³ Ex. No. 2 *Direct Testimony of Paul Ebbeler*, p. 13 lines 7 to 14.

physical meter was placed in a pit under a lid that was bolted shut and inaccessible to him, causing anxiety and confusion.

The OPC understands and appreciates the many changes and corrections that MAWC has done to the MyWater app since this series of events took place with Mr. Moriarty. However, none of those changes and corrections get to the root of the issue in this case. Complainant's meter is on his premises, but it is not accessible to him. Especially when MAWC wishes to assert that reading the physical meter is the solution to any confusion derived from inconsistent data on its mobile application, that physical meter needs to be accessible to its customers when they see fit to check it.

WHEREFORE, the OPC respectfully submits this Post-Hearing Brief for Commission consideration.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this thirtieth (30th) day of September, 2025.

/s/ Anna Martin