

Exhibit No.:
Issues: *Cash Working Capital –
Management Fees; Fuel and
Electricity Expense Related to
New Treatment Processes;
Property Taxes; Dues, Donations,
and Charitable Contributions;
and Dues and Memberships,*
Witness: *Keith D. Foster*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Surrebuttal Testimony*
Case No: *WR-2008-0311*
Date Testimony Prepared: *October 16, 2008*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

SURREBUTTAL TESTIMONY

OF

KEITH D. FOSTER

MISSOURI-AMERICAN WATER COMPANY

CASE NO. WR-2008-0311

Jefferson City, Missouri
October 2008

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OF
KEITH D. FOSTER
MISSOURI-AMERICAN WATER COMPANY
CASE NO. WR-2008-0311

A. Keith D. Foster, 200 Madison Street, Suite 440, Jefferson City, Missouri

A. Yes.

A. My surrebuttal testimony addresses the rebuttal testimonies of Missouri-American Water Company (MAWC or Company) witnesses:

➤ Dennis R. Williams, regarding Dues, Donations, and Charitable Contributions; and Dues and Memberships.

CASH WORKING CAPITAL - MANAGEMENT FEES

Q. Does Staff agree with the statement Company witness Tyler T. Bernsen made in his rebuttal testimony that the expense lag for management fees supplied by an affiliated

1 service company should be negative 2.65 days versus the positive 21.41 days utilized in
2 Staff's Accounting Schedule 8 - Cash Working Capital?

3 A. No. Contrary to the statements of Mr. Bernsen, the Staff does not agree that
4 ratepayers should provide the excess cash working capital requirements of an
5 affiliated company who provides services to the utility. This situation results from requiring
6 the utility to prepay management fees to the affiliated service company, while the utility
7 obtains the majority of its goods and services from third party vendors in arrears; i.e., the
8 utility is normally provided an opportunity to pay for goods and services on credit.
9 Affiliated companies should not receive preferential treatment. Rather, the affiliate should be
10 treated like other third-party vendors who supply goods and services to the utility on an
11 arm's-length basis. Therefore, the Staff has assigned the same expense lag to the
12 disbursements for management fees from an affiliated service company that it has utilized for
13 general cash vouchers for goods and services from third-party vendors (i.e. positive
14 21.41 days).

15 **FUEL AND ELECTRICITY EXPENSE – NEW TREATMENT PROCESSES**

16 Q. On pages 11 through 18 of Frank L. Kartmann's rebuttal testimony, Mr.
17 Kartmann discusses the need to include additional electricity costs associated with new
18 water treatment processes placed into service since the end of the Test Year. Has Staff
19 reviewed Mr. Kartmann's computations in estimating the proposed annual electricity costs for
20 these new treatment processes?

21 A. Yes, Mr. James Merciel, Utility Regulatory Engineering Supervisor, with the
22 Commission's Water and Sewer Department, reviewed the computations and estimates.

23 Q. Were the estimates found to be fair and reasonable?

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1 A. Yes, Mr. Merciel found the estimates to be fair and reasonable given the
2 estimates were based on the manufacturers' technical documentation for these processes.

3 Q. Does Staff intend to include the estimates provided in Mr. Kartmann's rebuttal
4 testimony in the rate case?

5 A. Yes, to the extent that all the Company's investment related to the treatment
6 processes are included in the Utility Plant In Service for the True-Up period, these estimates
7 will be added to the calculations for Fuel and Power Expense in the Staff's True-Up. Staff
8 has no reason to believe such processes will not be included in the Company's Utility Plant In
9 Service for the True-Up period which ends September 30, 2008.

10 **PROPERTY TAXES**

11 Q. On page 8, lines 16 to 19 of Mr. Donald J. Petry's rebuttal testimony, he
12 indicates the Company disagrees with the Staff's calculation of property taxes, and states the
13 Staff should have used utility plant trued-up through September 30, 2008, rather than at
14 December 31, 2007, as the basis for the calculation of property tax expense. Do you agree
15 with this approach?

16 A. No. The Staff's case reflects a level of property tax expense that is based upon
17 the last known and measurable amount of plant in service and other assets that were assessed
18 for taxing purposes. The Staff's approach reflects how tax payments are actually determined
19 by the taxing authorities and are a proper match between what will be included in the
20 taxing authorities' assessments through the true-up period and the tax payments that will
21 occur after the true-up period.

22 Q. How do taxing authorities calculate the required tax payments?

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1 A. On page 42 of the Staff Report – Cost of Service, I state property tax is due by
2 December 31 of the tax year, and is calculated based on an assessed valuation of the utility
3 property at the beginning of each year, January 1.

4 Q. Why is the January 1 assessment date important?

5 A. The state and local tax authorities use January 1 as the assessment date to
6 determine the appraised value of the property, which forms the basis for the property tax
7 liability that is paid at the end of the year, no later than December 31. Utilities are required to
8 file with the taxing authorities a valuation of their utility property base as it exists on
9 January 1 of each year. Several months later, the taxing authorities will provide the utilities
10 with an “assessed value” for each category of property owned. Much later in the year the
11 utilities will be given the property tax rate. Property tax bills are then issued to the utilities
12 with “due dates” by December 31 based on the property tax rates applied to assessed values.

13 Q. How does this affect what Missouri-American is requesting of Staff?

14 A. Any additions and reductions to the Company’s plant in service that are
15 completed and booked against plant in service during the period of January 2 through
16 December 31 of any given tax year will not be assessed for property tax purposes until
17 reported in January 1 of the following year. Therefore, any additional plant in service added
18 since December 31, 2007 through the end of the true-up period at September 30, 2008, as
19 noted on page 8, lines 23-24 of Mr. Petry’s rebuttal testimony, will not be reflected in the
20 assessment by the taxing authorities until January 1, 2009. Furthermore, the property taxes
21 based on this assessment will not be due until December 2009. Neither of these periods are
22 within the test year (ending December 31, 2007) or true-up period (September 30, 2008) for
23 this case to be included in the Company’s cost of service.

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1 Q. On page 9, lines 4-5 of Mr. Petry's rebuttal testimony, he states the Company
2 will incur the property taxes associated with this property on its books as of January, 2009.
3 Do you agree with this assessment?

4 A. Yes, in the sense that the Company will begin accruing property tax for any
5 changes in plant in service that occur between January 2 and December 31, 2008 beginning in
6 January 2009. However, the 2009 accrual will only be an estimated amount, because the
7 Company will not know the actual amount of the property tax payments until late in 2009,
8 when the property tax bills are sent out by the taxing authorities.

9 Q. Do you believe the assessment of property taxes based on the
10 Company's declared addition of \$133,164,911 to plant in service since December 31, 2007, is
11 known and measurable?

12 A. No. The Company is assuming all variables in the property tax equation to
13 perform an adjustment for the additional plant in service will remain constant. A "known and
14 measurable" expense is an expense that is (1) "known," meaning the amount did or definitely
15 will be an actually incurred cost, and (2) "measurable," meaning the rate impact of the change
16 can be calculated with a high degree of accuracy. The significance of "known and
17 measurable" is: historically the Commission has only reflected in rates those revenue
18 requirement changes that were known and measurable at the time an audit of the event could
19 be performed. Property taxes associated with the Company's changes in plant in 2008, will
20 not be known and measurable until late 2009 when the taxing entities establish their tax rates,
21 and do not constitute an appropriate cost of service for this case.

22 Q. Has this issue, or a similar issue, previously been tried before the Commission?

1 A. Yes. I will give a brief overview of one such case. In Case
2 Number WR-2000-844, St. Louis County Water Company, Staff proposed to use the last
3 actual tax payment as the most reliable indicator of future payments. The Company proposed
4 to calculate the ratio of plant in service at December 31, 1999, to the property taxes paid on
5 December 31, 2000, and then apply that ratio to plant in service on December 31, 2000, the
6 plant included through the true-up cut-off date. The property tax on the December 31, 2000,
7 plant was not due until December 31, 2001. This is the exact same proposal being made by
8 the Company in the current case. The Commission stated in its Report and Order:

9 The Commission traditionally, and properly, allows recovery of
10 the cost increases that are projected to occur after the end of the
11 test year (including any adjustment periods) only if those costs
12 are known and measurable. A cost increase is “known” if it is
13 certain to occur, and it is “measurable” if the Commission is
14 able to determine the amount of the increase with reasonable
15 precision. The Company’s projected property tax increases are
16 neither known nor measurable. While it is probable that the
17 Company will experience an increase in property tax expense at
18 the end of the year, it is by no means certain. Even more
19 damaging to the Company’s proposal is the fact that its best
20 estimate of the amount of any increase is based on an
21 assumption that finds no support in the record. Company’s
22 proposed property tax calculation assumes that the tax rates for
23 2000 will be the same as the tax rates for 1999. Because any
24 increase in the Company’s property tax expense is not known
25 and measurable, the Commission will not adopt the Company’s
26 proposal. Staff’s proposal to use a known amount (the last
27 amount actually paid), while probably not a perfectly accurate
28 representation of the property taxes that will be paid in the
29 future, at least avoids the speculation inherent in
30 Company’s proposal.

31 Q. Are the additional property tax expenses being requested by MAWC “known
32 and measurable” at this time?

1 A. No. As I stated earlier in my testimony, the assessments levied by the state and
2 local governments will not be known until later in 2009 for property tax payments due in
3 December 2009.

4 **DUES, DONATIONS, AND CHARITABLE CONTRIBUTIONS**

5 Q. In Dennis R. Williams' rebuttal testimony on page 11, lines 11-12 he states
6 \$5,668 of the \$231,526 in donations and charitable contributions eliminated by the Staff were
7 due to concerns of incomplete support. And on lines 19 to 21 he asks the Staff to reconsider
8 its position if the company can provide the requisite information by the time of the true-up
9 hearings. Do you agree with this?

10 A. Yes, the Staff will reconsider the \$5,668 it has identified if sufficient supporting
11 information is provided by the Company before the true-up hearings.

12 **DONATIONS AND CHARITABLE CONTRIBUTIONS**

13 Q. On page 12, line 1 of Mr. Williams' rebuttal testimony he states that he does
14 not agree with the Staff's exclusion of all donations from rate recovery. He further states in
15 lines 1 through 10 that community involvement is a normal cost of operating a business and
16 that participation, *through contributions* (emphasis added), in communities served by
17 merchants and businesses is a normal operating cost that companies ultimately build into their
18 prices that contributes to the economic health of the communities we serve and, in turn,
19 benefits our customers. Do you agree with his statements?

20 A. I agree with these statements only to the extent that "normal operating costs"
21 and the resulting cost to consumers reflect competitive pricing. I do not, however, agree that
22 a government regulated monopoly should be free to charge ratepayers for the cost of
23 donations for which the ratepayers receive no direct benefit. There is a fundamental

1 difference between a competitive retail environment and that of a regulated utility that has no
2 direct competition.

3 Q. What do you mean?

4 A. Let me give a specific example. Dierbergs Markets is an example of a
5 company consumers would presumably expect to be a “good corporate citizen” when it came
6 to giving back to the community through donations and charitable contributions. However,
7 Dierbergs is not at all comparable to Missouri-American. Dierbergs is a supermarket chain,
8 with over 20 stores in the Missouri segment of the greater metropolitan area of St. Louis.
9 Missouri-American is a government regulated utility. As a supermarket chain, Dierbergs sells
10 literally thousands of items each individually priced. Dierbergs sells a large variety of
11 products including, for example, groceries, specialty foods, hot prepared food, and lottery
12 tickets, and has a delicatessen, a bakery, a pharmacy, a liquor department, and a meat
13 department. Missouri-American sells water and sewer services. At its highest level,
14 Dierbergs is a supermarket, and in the St. Louis metropolitan area, competes with other
15 supermarkets such as Shop ‘N Save, Schnucks, Wal-Mart Supercenters, and others. As a
16 grocer it also competes with any other store that sells groceries including small
17 independently-owned grocers, convenience stores, etc. As a seller of liquor Dierbergs
18 competes with any other store that sells liquor such as Lukas Liquors, Dirt Cheap,
19 convenience stores, independently owned liquor stores, etc. As a retailer of greeting cards, it
20 competes with retailers such as Hallmark stores and any other store that sells greeting cards.
21 Because Dierbergs sells a large number of products it competes with any other retailer that
22 sells similar products. While there may be shoppers who make the choice to shop only at
23 Dierbergs, there must be a large number of consumers who choose to shop at other stores,

1 otherwise those other competing stores wouldn't exist. Dierbergs and stores like it publish
2 weekly sales fliers that are included in the local newspaper and made available at the front of
3 the store. Thus, these stores are able to adjust their prices on at least a weekly basis. There
4 are consumers who choose to shop based on price, where they can get the best deal for their
5 money. The point is, when it comes to stores such as Dierbergs, in a metropolitan area such
6 as St. Louis, consumers literally have hundreds of stores to choose from. Consumers can
7 make their choice based on price, location, loyalty, or even how they feel about what the
8 company does with its earnings.

9 Q. Do consumers of Missouri-American Water have the same choice when it
10 comes to choosing their water supplier?

11 A. No, this is a choice consumers do not have with a regulated utility such as
12 Missouri-American. While consumers can drive, walk, or take a bus, taxi, or metro to any
13 number of stores in which to purchase their goods, they only have one water main coming
14 into their homes, with two options when they turn the water on: hot or cold. Consumers do
15 not have other viable options from where to obtain their daily water supply. Short of
16 connecting a hose or pipe from a neighbor's water supply and stealing the water, or putting in
17 their own well, consumers do not have a choice of where to get their daily water supply. And
18 it would not make sense from an infrastructure standpoint to have, say, four companies with
19 four separate water lines running through a community, because none of the companies are
20 likely to reach the economies of scale necessary to be competitive enough to set reasonable
21 rates. Because of this monopoly environment, the Missouri Public Service Commission exists
22 in large part to set rates for water and other types of utilities because the consumers do not
23 have effective choices.

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1 Q. How does all this affect the issue of donations and charitable contributions?

2 A. When it comes to donations and charitable contributions, if a consumer doesn't
3 care for the fact that some portion of the money he or she spends for groceries is donated by
4 Dierbergs or another retailer to a specific charitable organization or cause, the consumer can
5 go to another grocer who does not make a similar donation. By the same token, if a consumer
6 wants to donate to a specific charitable organization or cause, he or she can make that
7 donation themselves, or choose to shop at the grocer who donates a portion of its sales to the
8 same organization or cause. In either case, the consumer has a choice of whether or not to
9 donate to specific charitable organization or cause and is free to adjust his or her spending
10 habits accordingly.

11 Q. Do consumers have this same freedom of choice if the Commission includes
12 donations and charitable contributions in the rates as requested by Missouri American?

13 A. No. Missouri-American, by including donations and charitable contributions
14 in its cost of service in effect wants to force its customers to donate to the Company's choices
15 of charitable organizations and causes by including the Company's donation in all its
16 customers rates. And the customers' only viable choices for not allowing a portion of their
17 payment to be donated to a cause they do not support are to incur the expense of moving to a
18 locality that is not served by Missouri American. And most ratepayers are unlikely to want to
19 incur that expense.

20 Q. Is there anything else related to this issue that should be discussed?

21 A. Yes. It is important to point out that companies in a competitive environment
22 such as Dierbergs have a lot of freedom to adjust their costs when necessary to help achieve
23 desired profit margins. This means companies can stop making donations and charitable

1 contributions if they believe it is affecting their bottom line or not achieving the results the
2 companies want. Missouri-American can do the same thing, by moving all its donations and
3 charitable contributions to a below-the-line expense. That way, should the Company decide it
4 no longer wants to make certain contributions, it can do so without affecting the rates of its
5 ratepayers. If provided in the cost of service, and the Company decides later to eliminate a
6 donation, the ratepayers continue to pay for it even when the company is not.

7 Q. How does this impact the Company's desire to be a good corporate citizen and
8 show that it is contributing to "the concept of community involvement?"

9 A. The Company can continue to make donations and charitable contributions and
10 take corresponding deductions from its income taxes, to the extent allowable by law, as long
11 as such contributions are below-the-line and not contributed by ratepayers who would
12 otherwise have no choice in contributing.

13 Q. What has been the Commission's position in regards to donations and
14 charitable contributions in rate cases?

15 A. In the past it has been the Commission's position to disallow dues and
16 donations that: (1) provided no direct, quantifiable benefit to the ratepayer, (2) were not
17 necessary in providing safe and adequate service to the ratepayer, and (3) represented an
18 involuntary contribution on the part of the ratepayer to an organization.

19 Q. Was Staff's treatment of donations and charitable contributions in this case
20 consistent with this position of the Commission?

21 A. Yes it was. In fact, Staff's treatment was the same as that at least in
22 Missouri-American's last two rate cases: WR-2007-0216 and WR-2003-0500.

Surrebuttal Testimony of
Keith D. Foster

1 Q. On page 12 of Mr. Williams' rebuttal, he specifically addresses a concern
2 about Staff's exclusion of Missouri-American's contributions to the funding of the H2O Help
3 Program. Do you agree this program should be included in Missouri-American's cost
4 of service?

5 A. No. Philosophically, Missouri American's H2O Help program appears to be a
6 worthy program with intent to help qualified low-income water users pay their bills and,
7 potentially, offset the company's bad debt. However, it is clear the Company has not
8 thoroughly thought through the logic and implications of what it means to include the
9 company's donations to the program in the cost of service.

10 Q. Why do you believe the Company has not thought through the implications of
11 this program?

12 A. First of all, by including in the cost of service the donations to the program
13 administered by local community service agencies, Missouri American ratepayers will have
14 no choice about whether or not they want to donate a portion of their water bill payment to the
15 program.

16 Q. Is there another reason you believe the company has not thought this out
17 completely?

18 A. Yes. Secondly and most profoundly, by including the cost of the company's
19 donation in the cost of service, all ratepayers pay for the donation as part of their water bill
20 including those who qualify for the low income assistance funded by H2O Help. So the
21 individuals who need the services will be subsidizing themselves. There is no distinction in
22 the cost borne by a water user based on their income level - only on their class of service
23 (residential or commercial) and the amount of water used.

1 Q. In addition to assisting low income customers having trouble paying their
2 water bills, Mr. Williams implies that bad debts should be reduced as a result of this program
3 thereby benefiting all customers. Has the Company provided Staff with any information to
4 support how this program has affected bad debt since it was implemented in 2007?

5 A. No. Information on this was specifically requested on October 2, 2008, as part
6 of Data Request (DR) Number 62.4. In addition to other items, the DR specifically asked the
7 Company to provide “(3) any studies conducted on the effectiveness of the [H2O] program on
8 reducing past due accounts.” Staff received the Company’s response to the DR on
9 October 13, 2008. The Company did not address this specific request in its response.

10 Q. Do you believe such a study would be appropriate?

11 A. Yes, to determine the effectiveness in the program achieving its goals. How
12 else would the Company be able to measure the H2O Help program’s degree of success?
13 Therefore, a study would need to be performed to see how much uncollectible expense was
14 actually reduced through this program. To do this, the company would need to figure in not
15 only the amount of its contribution, but also the voluntary contributions made by ratepayers
16 and others, if any. In other words, Missouri-American, which in 2007 contributed \$72,000 to
17 H2O Help could not just look at the past due amounts and say the amounts were reduced by
18 \$72,000 to be considered effective: the company would have to look at the \$72,000 *plus* all
19 the other contributions for the comparison to be meaningful.

20 Q. Is there any way the Company could continue to fund the program without
21 including the costs of its donations in the cost of service?

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Keith D. Foster

1 A. Yes. Instead, the company can make the donation to subsidize the program as
2 a *below-the-line* expense. The shareholders would benefit from the resulting tax deduction,
3 decreasing the company's tax burden.

4 Q. How could the ratepayers benefit from this approach?

5 A. The ratepayers could benefit in three ways. First, they would not be paying the
6 extra expense to fund a program for which they are not obtaining a direct financial benefit.
7 Second, if uncollectible expenses subsequently go down, this will help offset increases in
8 other expenses included in the company's next rate case, reducing the overall potential rate
9 increase, if any. Third, low-income ratepayers would not have to pay increased water bills to
10 fund a program for which they would then need assistance to pay their increased water bills.

11 Q. Are there any other options available to the Company regarding funding the
12 H2O Help Program?

13 A. Yes. The Company could work with Commission Staff and other parties to
14 their rate proceedings to determine how best to operate such a program and then come
15 forward to the Commission with a request for any required rate approval. It is my
16 understanding that stipulations have been reached and approved by the Commission for some
17 Missouri jurisdictional electric and gas utilities for implementation of low-income programs
18 including, in some cases, agreements on the level of ratepayer funding for the programs.
19 However, these agreements are fundamentally different from what Missouri-American is
20 suggesting on this case, which is to include contributions in customer rates related to
21 programs for which the Commission, the Staff, and other parties have had no input or say in
22 the program's development.

1 Q. Also on page 12 of Mr. Williams' rebuttal, he specifically addresses a concern
2 about Staff's exclusion of Missouri-American's contributions to the funding of the
3 Children's Theatre Conservation Education Program. Do you agree that this program should
4 be included in Missouri-American's cost of service?

5 A. No. As I stated earlier in my surrebuttal testimony, in the past it has been the
6 Commission's position to disallow dues and donations that: (1) provided no direct,
7 quantifiable benefit to the ratepayer, (2) were not necessary in providing safe and adequate
8 service to the ratepayer, and (3) represented an involuntary contribution on the ratepayer to an
9 organization. Although lines 17-18 of Mr. Williams' rebuttal testimony states the Company
10 "believes the program will achieve a positive impact that will benefit all customers for the
11 long term," no such benefits have been quantified and provided to Staff. Staff disallowed the
12 amounts for the program because it met the above-mentioned criteria for disallowance.

13 **DUES AND MEMBERSHIPS**

14 Q. On pages 15 through 18 of Dennis R. Williams' rebuttal testimony, he takes
15 issue with Staff's removal of expenses related to Missouri-American's membership in the
16 Missouri Chamber of Commerce as well as for participation in programs sponsored by the
17 Chamber. Do you agree with Mr. Williams' assessment?

18 A. No. It has been a long standing position of the Commission to allow, in a
19 company's cost of service, only dues for one civic club membership in each of a company's
20 service areas. This policy has been in place since at least Case No. 18,180, involving
21 Missouri Public Service Company (MPS). In this case, the Commission determined that the
22 dues for one civic club membership should be included in MPS's rates but the other should be

1 disallowed. The following standards were stated as governing the treatment of dues in rates:

- 2 • Business related dues would be allowed so employees can keep abreast of
- 3 developments in their fields;
- 4 • Dues paid to local chambers of commerce which are community and industrial
- 5 development oriented (the development needs to be of a long term benefit to the
- 6 ratepayers) would be allowed; and
- 7 • Dues paid to state and national chambers of commerce would be disallowed.

8 Q. Has your treatment of dues and donations in this case been consistent with this
9 position?

10 A. Yes it has. Dues paid to the Missouri Chamber of Commerce are considered
11 duplicative because Staff allowed the cost of the Company's annual memberships to local
12 chambers of commerce.

13 Q. On page 15, lines 20 through 24, of his rebuttal testimony, Mr. Williams states
14 that Staff excluded \$11,245 in costs related to the Missouri Chamber of Commerce. How
15 much did Staff allow in cost for annual membership dues to local chambers of commerce?

16 A. For amounts charged to the Company's dues/memberships accounts, Staff
17 allowed \$13,796. These included memberships for the following local chambers:
18 Brunswick Area, Carl Junction Area, Chesterfield, Creve Coeur-Olivette, Jefferson City Area,
19 Joplin Area, Lemay, Mexico, Neosho Area, Northwest, Parkville, Riverside Area,
20 St. Joseph Area, Webster Groves-Shrewsbury, and West St. Louis County.

21 Q. Does this conclude your surrebuttal testimony in this case?

22 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

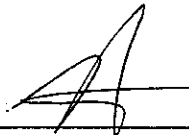
In the Matter of Missouri-American Water)
Company's request for authority to)
implement a general rate increase for water)
and sewer service provided in Missouri)
Service Areas)

Case No. WR-2008-0311

AFFIDAVIT OF KEITH D. FOSTER

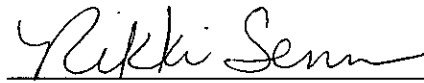
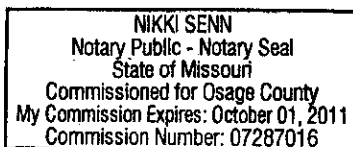
STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

Keith D. Foster, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 16 pages to be presented in the above case; that the answers in the foregoing Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.



Keith D. Foster

Subscribed and sworn to before me this 15th day of October, 2008.



Notary Public