

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

In the Matter of Missouri-American Water)	
Company's Request for Authority to Implement)	Case No. WR-2008-0311
A General Rate Increase for Water and Sewer)	SR-2008-0312
Service Provided in Missouri Service Areas.)	

**MAWC'S REPLY CONCERNING TRUE-UP DATE
AND PROCEDURAL SCHEDULE**

COMES NOW Missouri-American Water Company (MAWC), and in Reply the City of Joplin's (Joplin) Response to MAWC's Recommendation Concerning the True-Up Procedural Schedule and the Staff's Request For Expedited Treatment For True-Up Rate Determination, states the following to the Missouri Public Service Commission (Commission):

COMMISSION ORDER IN REGARD TO TRUE-UP

1. On April 3, 2008, the Commission issued its Suspension Order and Notice, Order Setting Hearings, Order Directing Filing, and Order Consolidating Cases. That order, in relevant part, directed that MAWC "file not later than April 17, 2008, any request for true-up audit and hearing." It further directed that the "Staff of the Missouri Public Service Commission, the Office of the Public Counsel, and anyone requesting intervention shall file not later than May 1, 2008, a pleading stating their recommendation concerning true-up" (emphasis added).

PARTY RESPONSES TO COMMISSION ORDER

2. On April 15, 2008, MAWC filed its Recommendation Concerning Test Year and Request for True-Up Audit and Hearing and therein proposed that a true-up audit and hearing be conducted for a proposed package of revenue, expense and

investment through September 30, 2008 (a date five months prior to the operation of law date in this case (February 28, 2009)). The adjustments were proposed with the “intent of maintaining the proper matching of revenue, expense and rate base.” MAWC filed its Recommendation Concerning Test Year and Request for True-Up Audit and Hearing, para. 11.

3. On May 1, 2008, Staff filed its Test Year and True-Up Recommendations. Therein Staff did not take a position as to MAWC’s request for a true-up audit and hearing. Staff stated that it would first need to complete its audit and that thereafter Staff would “provide a statement of its position as to Company’s true-up request simultaneously with its revenue requirement direct testimony.”¹

4. Similarly, on May 1, 2008, the Office of the Public Counsel (Public Counsel) indicated a need to perform its audit before taking a position as to MAWC’s true-up request. Public Counsel further stated that it would inform the Commission as to its position on the true-up request as part of its direct testimony to be filed in this case. Office of the Public Counsel’s Recommendations as to Test Year and True-Up, filed May 1, 2008.

5. No other party took a position as to MAWC’s true-up request within the time period provided by the Commission’s order. On May 5, 2008, Joplin filed a pleading stating that “it takes no position on the issue of proper test year submitted by Missouri American Water Company nor does it take a position on the necessity for a true-up hearing, at this time.”

¹ Staff also expressed concern about the true-up request in relation to the evidentiary hearing dates that were then in place for this case. The Procedural Schedule adopted by the Commission on June 30, 2008, changed the evidentiary those hearing dates with which Staff was concerned.

6. On June 30, 2008, the Commission issued its Order Adopting Procedural Schedule and therein reserved hearing dates (December 8-9, 2008) for a true-up hearing.

FURTHER DISCUSSION OF TRUE-UP PERIOD

7. On July 18, 2008, in response to a Commission order establishing the test year in this case, MAWC filed its Response Concerning Test Year/ True-Up Issues. Therein, MAWC recited the status of the test year and true-up requests and responses, as well as the fact that no party had opposed the true-up. No pleading was filed by Joplin contesting this allegation.

8. Direct testimony was filed on August 18, 2008. Staff's testimony supported MAWC's request for a true-up through September 30, 2008. Bolin Direct, p. 6; Staff Report – Cost of Service, p. 3. Public Counsel's direct testimony was silent as to the true-up. As of the direct testimony filing, no party had opposed, in testimony or pleading, MAWC's request that the case be trued-up through September 30, 2008. Joplin's testimony did not contain any discussion of the true-up issue.

TRUE-UP PROCEDURAL SCHEDULE

9. On September 24, 2008, MAWC filed its Recommendation Concerning True-Up Procedural Schedule. Therein, MAWC proposed a testimony schedule for the true-up hearing that had been previously agreed to by both Staff and Public Counsel.

10. In response, on September 29, 2008, Joplin filed its response to the procedural schedule recommendation and stated that "Joplin does not consent to the proposed nine month true-up period proposed by MAWC and will be filing Rebuttal Testimony, opposing the proposed true up period."

JOPLIN OBJECTION IS TOO LATE

11. Joplin's efforts to object to the true-up period in this case are both delinquent and erroneous. First, the only issue on the table in MAWC's pleading, to which Joplin purported to respond, was the proposed procedural schedule for the true-up hearing, not the true-up period itself. The time to respond to MAWC's request for a true-up had passed one hundred and fifty-two days (152) prior to the filing of Joplin's pleading. Joplin's failure to object to the true-up proposal in a timely manner has placed the parties in an awkward position as MAWC is in the process of providing data based on a September 30, 2008 true-up period. Until the issue is resolved, MAWC will not know whether that effort is a worthwhile expenditure of resources and the parties will not know what resources to devote to the review of that information.

12. Second, there is no proposal for a "nine month true up period" as alleged by Joplin. This case has already been updated by the parties through March 31, 2008, for known and measurable changes. Order Regarding Test Year, July 31, 2008. Thus, the requested true-up period is designed to true-up a package of adjustments for a six month period of time in order to bring the case forward to a point *still five months prior to the operation of law date* in this case.

TRUE-UP

13. The true-up process allows the Commission to establish rates based upon the most current data available, while maintaining the proper balance of rate elements. A true-up is not uncommon in a MAWC rate case as a true-up process has been provided for in at least the last four general rate cases in which the Company has been

involved (Cases Nos. WR-2000-281, WR-2000-844, WR-2003-0500 and WR-2007-0216).

14. The true-up process is a broadly accepted tool that has been utilized in the state of Missouri for many years. In *In re Kansas City Power & Light Company*, 26 Mo.P.S.C.(N.S.) 104, 110 (1983), the Commission described the test year as follows:

The purpose of using a test year is to create or construct a reasonable expected level of earnings, expenses and investments during the future period in which the rates, to be determined herein, will be in effect. All of the aspects of the test year operations may be adjusted upward or downward to exclude unusual or unreasonable items, or include unusual items, by amortization or otherwise, in order to arrive at a proper allowable level of all of the elements of the Company's operations. The Commission has generally attempted to establish those levels at a time as close as possible to the period when the rates in question will be in effect.

(emphasis added).

15. The true-up process is a tool that can be used to accomplish the goal of establishing a “reasonable expected level of earnings, expenses and investments” “at a time as close as possible to the period when the rates in question will be in effect.” The Commission further stated in the 1983 *Kansas City Power & Light Company* case that “[t]he true-up procedure has received broad acceptance as a proper ratemaking tool. A true-up permits adjustments outside of the test year without improperly disturbing the revenue-expense relationship.” *Id.* (emphasis added).

16. The water industry is subject to a great amount of infrastructure investment. A true-up is generally appropriate if for no other reason than to capture the increased level of capital investment being made by the Company through the true-up. The Commission has found it proper to utilize this tool on many occasions, including in MAWC's last four rate cases.

SPECIFIC JUSTIFICATION IN THIS CASE

17. As stated in MAWC's April 15, 2008 filing, MAWC's proposal in this case is driven by several factors. First, MAWC anticipated that approximately \$125 million of plant would be placed into service between January 1, 2008, and September 30, 2008. It now appears that the Company's actual investment will exceed this projection.

18. Second, MAWC has completed a number of special construction projects. For example, in the City of Joplin, there is approximately \$31.8 million of investment related to the Joplin production facilities that have been placed into service. For the St. Louis District, approximately \$42.5 million of plant improvements, main replacements and main relocations were completed by September 2008.

19. Third, the Company completed a debt issuance in the amount of \$70,000,000 in the time frame of the true-up. An equity infusion of \$35,000,000 has also occurred during the proposed true-up period. These financings will have a material impact on the Company's capital structure.

20. Accordingly, the Company seeks inclusion in its revenue requirement and rates of certain revenues that will be experienced, expenses that will be incurred, investments that will be made and certain items that will be known on or before September 30, 2008.

21. Without the requested true-up period, the Commission would be left with a period of time ending on March 31, 2008. That is approximately eleven (11) months prior to the operation of law date in this matter. Such a situation would not result in the examination of a "reasonable expected level of earnings, expenses and investments" "at a time as close as possible to the period when the rates in question will be in effect."

JOPLIN RESPONSE

22. On October 9, 2008, Joplin filed an additional pleading concerning this issue. The Joplin pleading both misstates the law and the true-hearing process. Further, there is nothing in that pleading that Joplin could not have argued in a timely manner five months ago.

23. As to the law, Joplin cites the 1982 Court of Appeals decision in *State ex rel. Southwestern Bell Telephone Company v. Public Service Commission of Missouri*, 645 S.W.2d 44 (Mo.App.W.D. 1982), for the proposition that “the use of any true-up period is questionable.” A reading of this case reveals that it has absolutely no analysis of the propriety of the use of a true-up period. The language cited by Joplin is part of a discussion of whether construction work in progress (CWIP) should be included in Southwestern Bell’s rates. The Court found that “in the final analysis, the ultimate choice of whether to include the cost of CWIP in the rate base or to order the company to recover its costs through capitalization rests with the discretion of the regulatory agency, and so long as that choice is not shown to result in confiscation, it will be upheld on review.”

24. On point in this discussion is the Court of Appeals decision in *State ex rel. GTE North, Inc. v. Public Service Commission*, 835 S.W.2d 356, 367 (Mo. App. 1992). Therein, the Court stated as follows:

“The accepted way in which to establish future rates is to select a test year upon the basis of which past costs and revenues can be ascertained as a starting point for future projection.” *State ex rel. Southwestern Bell Tel. Co. v. Public Serv. Comm’n*, 645 S.W.2d 44, 53 (Mo. App. 1982). A test year is a tool used to find the relationship between investment, revenues, and expenses. Certain adjustments are made to the test year figures; “normalization” adjustments used to eliminate non-recurring items of expenses or revenues and “annualization” adjustments used to reflect the

end-of-period level of investment, expenses and revenues. Adjustments are also made for events occurring outside the test year. The criteria used to determine whether a post-year event should be included in the analysis of the test year is whether the proposed adjustment is (1) "known and measurable," (2) promotes the proper relationship of investment, revenues and expenses, and (3) is representative of the conditions anticipated during the time the rates will be in effect.

25. The Commission clearly has the authority to make adjustments for events that take place outside the test year. The only concern is whether those adjustments maintain a proper relationship of "investment, revenues and expenses." It is for that reason the Commission directed as follows in its Suspension Order and Notice (issued April 3, 2008):

The company's proposal should also specify a complete list of accounts of items of expense, revenues, and rate base designed to prevent any mismatch in those areas. The Commission will not consider a true-up of isolated adjustments, but will examine only a "package" of adjustments designed to maintain the proper revenue-expense-rate base match at a proper point in time.

26. MAWC's true-up request included a proposed package of revenue, expense and investment intended to maintain the proper matching of revenue, expense and rate base. MAWC filed its Recommendation Concerning Test Year and Request for True-Up Audit and Hearing, para. 11.

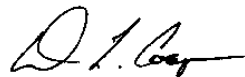
27. It is further significant that the Commission's treatment of the true-up process that MAWC quoted above, as well as a good twenty-five years of practice utilizing the true-up process, has taken place after the issuance of the *Southwestern Bell Telephone Company Joplin* relies upon.

28. Lastly, Joplin shows a misunderstanding of the procedural schedule in this matter as it completely ignores the true-up hearing part of the process. Joplin argues that there is limited time to review the true-up information prior to the October 30, 2008

hearing. Joplin ignores the fact that the true-up information does not have to be reviewed by the October 30, 2008 hearing. This Commission has set separate hearing dates for the true-up on December 8-9, 2008, something the Commission commonly does. The pleading that started this flurry of paper was MAWC's pleading asking the Commission to set the procedural schedule for the filing of true-up testimony leading up to the December 8-9, 2008 true-up hearing.

WHEREFORE, MAWC respectfully requests that the Commission issue its order setting the above described procedural schedule for the true-up hearing in this case and confirm that the case will be tried-up through September 30, 2008.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 10th day of October, 2008, to:

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