BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Missouri-American Water Company's Request for Authority to Implement General Rate Increase for Water and Sewer Service Provided in Missouri Service Areas.	))))	Case No. WR-2017-0285, et al.

OPC'S SECOND POSITION STATEMENT

COMES NOW the Missouri Office of Public Counsel ("OPC"), by and through undersigned counsel, and for *OPC's Second Position Statement*, states as follows:

Wednesday, February 28

Rate Base

a. Depreciation Reserve – *What treatment, if any, should the Commission order regarding the net negative depreciation reserve balances?*

OPC requests the Commission to order MAWC to file a report which thoroughly details what the driving cause is of ongoing negative reserve balances.[1] The report should not be a statement from MAWC generally stating the company has retired more dollars from plant in service than were put in plant reserves.[2]

b. Jaxson Estates – *What is the appropriate amount of plant and CIAC balances to include in rate base?*

OPC did not write testimony on this specific issue. However, OPC supports Staff's opinion that the plant is fully contributed; therefore, the CIAC and CIAC reserve balances should match the plant in service and depreciation reserve balances for a net of zero for Jaxson Estates rate base.[3]

[1] Missouri Office of the Public Counsel witness John Robinett, Rebuttal Testimony, page 8, Lines 6-15
[2] *Id*.
[3] Missouri Public Service Commission Staff witness Amanda McMellen, surrebuttal testimony, page 9, lines 15 - 18

a. Hickory Hills – *Should the unamortized amount of the Hickory Hills acquisition be included in rate base?*

No. MAWC should not be entitled to earn a return on these costs as they are not an investment to utility assets to provide utility service, which is a requirement for rate base.[4]

b. Woodland Manor – *Should the unamortized amount of the Woodland Manor acquisition be included in rate base?*

No. The amortization for Woodland Manor has not begun. MAWC has included this in rate base as part of its future test year proposal which is opposed by OPC. Additionally, MAWC should not be entitled to a return on these costs as they are not dollars invested in utility assets to provide utility service, which is a requirement for rate base treatment.[5]

c. Emerald Pointe & City of Hollister Pipeline – *Should the unamortized amount of the cost of the pipeline be included in rate base?*

No. MAWC should not be entitled to earn a return on these costs as the pipeline is not owned or maintained by MAWC.[6]

AFUDC regulatory amortization – *What is the appropriate treatment of AFUDC regulatory amortization in this case?*

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's position that MAWC has not shown why these regulatory assets are appropriate.[7]

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[4] Missouri Office of the Public Counsel witness Keri Roth, rebuttal testimony, page 2, lines 5 - 11
[5] Missouri Office of the Public Counsel witness Keri Roth, rebuttal testimony, page 3, lines 5 - 18
[6] Missouri Office of the Public Counsel witness Keri Roth, rebuttal testimony, page 5, lines 13 - 18
[7] Missouri Public Service Commission Staff witness, Amanda McMellen, surrebuttal testimony, page 14, lines 20 - 22

Capitalized Depreciation – Should MAWC capitalize a portion of depreciation expense on tools and equipment partly used on capital projects?

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's position to capitalize a portion of depreciation expense when those assets are partly used for capitalized construction projects.[8]

Cash Working Capital –

i. *What is the appropriate expense for lead or lag treatment for Service Company expenses?*

OPC wrote limited testimony on the subject of cash working capital.[9] OPC is supportive of Staff's lead or lag treatment for the Service Company expenses of 56.74.[10]

ii. *Should the revenue lag be adjusted to account for the move from quarterly to monthly billing in St. Louis County?*

OPC wrote limited testimony on the subject of cash working capital.[11] OPC is supportive of Staff's treatment of calculating revenue and expense lags for St. Louis County.[12]

Thursday, March 1

Rate of Return

a. Return on Common Equity – What is the appropriate return on common equity to be used to determine the rate of return?

OPC proposes a return on common equity of 9.00% to determine the rate

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[8] Missouri Public Service Commission Staff witness Amanda McMellen, surrebuttal testimony, page 11, lines 5 - 14
[9] Missouri Office of the Public Counsel witness Amanda Conner, rebuttal testimony, page 2, lines 1-5.
[10] Missouri Public Service Commission Staff witness Caroline Newkirk, surrebuttal testimony, page 3, line 13
[11] Missouri Office of the Public Counsel witness Amanda Conner, rebuttal testimony, page 2, lines 1-5.
[12] Missouri Public Service Commission Staff Report – Cost of Service, page 52, line 26

of return for MAWC.[13]

b. Capital Structure – What capital structure should be used to determine the rate of return?

OPC proposes a capital structure of long-term debt weighted at 49.95%, preferred stock weighted at 0.05%, and common equity weighted at 50.00%.[14]

c. Debt/Preferred Stock Rates/Costs – What Debt/Preferred Stock Rates/Costs should be used to determine the rate of return?

OPC proposes a long-term debt rate of 5.24% and a preferred stock rate of 9.70%.[15]

Hydrant Painting – *What is the appropriate amount of hydrant painting expense to be included in the cost of service calculation?*

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's disallowance, as sufficient documentation was not provided by MAWC.[16]

Tank Painting Expense – *What is the appropriate amount for tank painting expense to be included in the cost of service calculation?*

OPC is supportive of Staff's normalized level of tank painting expense of $1,462,518, because the dollars are known and measureable.[17]

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[13] Missouri Office of the Public Counsel/Missouri Industrial Energy Consumers witness Michael P. Gorman, direct testimony, page 46, lines 1 - 9

[14] Missouri Office of the Public Counsel/Missouri Industrial Energy Consumers witness Michael P. Gorman, rebuttal testimony, page 5, lines 14 – 16, continuing on page 6

[15] Missouri Office of the Public Counsel/Missouri Industrial Energy Consumers witness Michael P. Gorman, rebuttal testimony, Schedule MPG-R-3, page 2 of 3

[16] Missouri Public Service Commission Staff witness Jennifer Grisham, rebuttal testimony, page 4, lines 19 – 24, and page 5, lines 1 - 2

<u>Main Break Expense</u> – *What is the appropriate amount of main break expense to be included in the cost of service?*

OPC is supportive of Staff's calculation of main break expense using a 3-year average of 2014 – 2016, as it takes into consideration the high number of main break incidents caused by the 2014 polar vortex. However, OPC is also agreeable to update main break expense using data from 2015 – 2017 to eliminate the disagreement of the 2014 polar vortex main break issue.[18]

<u>Maintenance Expense</u> – *What is the appropriate amount of Maintenance Expense other than main break expense should be included in the cost of service calculation?*

OPC supports the use of a 5-year average of maintenance expense dollars used by MIEC. However, OPC proposes to update this information to include 2017 data, during true-up, to capture a 5-year average using 2013 – 2017 data.[19]

<u>Other Miscellaneous Expenses</u> – *For each of the following topics, what is the appropriate amount of related expenses that should be included in the cost of service calculation?*

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[17] Missouri Office of the Public Counsel witness Amanda C. Conner, rebuttal testimony, page 2, lines 12 - 18

[18] Missouri Office of the Public Counsel witness Keri Roth, surrebuttal testimony, page 4, lines 14 – 17, and page 5, lines 1 - 4

[19] Missouri Office of the Public Counsel witness Keri Roth, rebuttal testimony, page 8, lines 7 - 10

a. Contract Services – OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's calculation of $4,330,909.[20]

b. Charitable Contributions – OPC proposes to remove all dollars associated with charitable contributions as they are not required in order to provide customers safe and adequate service.[21]

c. Promotional Giveaways – OPC supports Staff's adjustment to remove all costs incurred by MAWC for promotional items given away at various events, because they are not required in order to provide customers safe and adequate service.[22]

d. Advertising Expenses – OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's position to exclude costs associated with institutional and promotional advertising expense totaling $43,423.[23]

e. Postage – OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's calculation of $1,264,738 for postage expense.[24]

f. Franchise Tax – OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's disallowance of these accrued taxes during the test year in Warrensburg, because the taxes were not actually paid by MAWC during the test year.[25]

g. Management Expense Charges – OPC proposes to remove $248,683 related to

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[20] Missouri Public Service Commission Staff Report – Cost of Service, page 78, line 20
[21] Missouri Office of the Public Counsel witness Keri Roth, direct testimony, page 5, lines 1 - 7
[22] Missouri Office of the Public Counsel witness Keri Roth, rebuttal testimony, page 8, lines 12 - 23
[23] Missouri Public Service Commission Staff Report – Cost of Service, page 78, lines 4 - 8
[24] Missouri Public Service Commission Staff Report – Cost of Service, page 79, line 9
[25] Missouri Public Service Commission Staff Report – Cost of Service, page 76, lines 8 - 11

unreasonable and imprudent management expenses incurred by MAWC.[26]

Friday, March 2

Business Transformation (BT) Depreciation Rate – *What is the appropriate depreciation rate for the amounts booked in account No. 391.4 BT Initial Investment?*

OPC proposes to continue the current ordered depreciation rates ordered in case number WR-2015-0301, including account No. 391.4 with a 5% depreciation rate representing a 20-year average service life.[27]

Depreciation Rate Change for Sewer Leasehold equipment – *Should the Commission order a change in depreciation rate for sewer leasehold equipment?*

OPC is recommending the Commission order a depreciation rate of 5% for sewer leasehold equipment, because MAWC now has plant recorded in this account. This rate is consistent with the rate ordered in case numbered WR-2011-0337.[28]

Insurance Other than Group – *Should the cost of a Directors and Officers Liability policy be included in the cost of service calculation?*

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's position to disallow these costs as rate payers should not be responsible for litigation

[26] Missouri Office of the Public Counsel witness Amanda C. Conner, surrebuttal testimony, page 3, line 9
[27] Missouri Office of the Public Counsel witness John A. Robinett, rebuttal testimony, page 3, lines 29 – 31, and page 4, lines 1 - 2
[28] Missouri Office of the Public Counsel witness Mr. John A. Robinett, direct testimony, page 2, lines 1 - 7

fees, fines, or penalties for MAWC board members who may become involved in civil or criminal proceedings.[29]

<u>Uncollectible Expense</u> – *What is the appropriate amount of uncollectible expense to recover in rates?*

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's normalization of uncollectible expense totaling $2,868,911.[30]

<u>Coordination with local Municipalities for Water Main Replacement</u> –*Should MAWC's five year main replacement program approved by the Missouri Department of Natural Resources (its Owner Supervised Program) prioritize the replacement of small dimension mains in Jefferson City and other municipalities that are connected to fire hydrants?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

i. *Should MAWC be directed to provide on a regular basis the following described information to appropriate Jefferson City and other municipalities' departments:*

ii. *MAWC's annual or multi-year capital expenditure or improvement plan*

[29] Missouri Public Service Commission Staff witness Caroline Newkirk, surrebuttal testimony, page 4, lines 20 - 23, and page 5, lines 1 - 4

[30] Missouri Public Service Commission Staff Report – Cost of Service, page 80, lines 23 - 28

for the Jefferson City and other municipality service areas, and any updates made to those plans

iii. *Leak studies of the water system in the Jefferson City and other municipality service areas;*

iv. *The current pressure and volume model for the water system in the Jefferson City and other municipality service areas and the age of all facilities.*

Yes. OPC strongly supports greater coordination, transparency and minimization of taxpayer and ratepayer dollars. The Commission should order the Company to extend the same information to each municipal public works departments throughout its service territory. Furthermore, the Commission should consider opening a working docket to explore this issue in greater detail with explicit feedback from Missouri's various public works departments, the Missouri Municipal League and other utilities.

The Commission is an excellent position to help facilitate a dialogue and promote positive public policy that defines the extent of "the problem," and constructively work on potential solutions moving forward.

At a minimum, MAWC should be adopting best practices its affiliates are already utilizing such as West Virginia American Water's ("WVAM")'s online Infrastructure Upgrade Project Map as shown in the rebuttal testimony of OPC witness Geoff Marke, p. 33. The WVAW infrastructure upgrade map provides at least some cursory level of transparency to customers, regulators and other relevant actors (e.g., local public works departments) to review and confirm it's in the best interest of ratepayers (and taxpayers). No doubt, more detail could and should be provided that could be determined through the working docket.

OPC would also offer that the very concept of coordinated investment planning with interdependent actors supports and complements OPC's full lead service line replacement pilot study.

Private Fire Service Rates– *What is the appropriate private fire service rate?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

Cedar City / Jefferson City Airport and Fire Protection – *Is the proposed pressure valve replacement at the wholesale point of supply for the water system serving the Jefferson City Airport adequate to resolve water pressure losses or fluctuations in that system?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

Monday, March 5

Affiliate Transactions – *Should the Commission order the opening a rulemaking docket to establish affiliate transaction rules for large water utilities?*

OPC recommends that the Commission consider opening a rulemaking to establish affiliate transaction rules for water utilities. The present affiliate transaction rules for both electric and gas utilities serve as an appropriate framework from which to expeditiously be promulgated and submitted. As it relates to this case, OPC recommends that the Commission order MAWC to create a new CAM guided by existing standards for other regulated utilities and informed by stakeholder input. The Commission should order MAWC to file a proposed CAM for Commission approval within six months of the date of its Report and Order in this rate case.

See: Dr. Geoff Marke: Direct Testimony p. 13 – 17 and Surrebuttal Testimony p. 3 - 4

<u>System Delivery</u> –

a. What is an acceptable level of water loss for the MAWC systems?

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's use of a 5-year average ending June 30, 2017, to calculate water loss.[31]

b. What is the appropriate water loss to apply to chemicals, and fuel and power expense?

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's use of a 5-year average of water loss applied to customer usage to calculate system delivery. The 5-year average was used to calculate Staff's annualized amount for both chemicals and fuel and power expense.[31]

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[31] Missouri Public Service Commission Staff witness Ashley Sarver, Surrebuttal testimony, page 2, lines 7 - 11

<u>Lead Service Line Replacement (LSLR)</u> –

a. <u>LSLR Activity</u> – *Should MAWC continue to replace the customer-owned portion of lead service lines (LSL) while performing water main repair and replacement?*

OPC has argued in WU-2017-0296 that the questions associated with replacing customer-owned lead service lines go beyond the scope of an AAO docket and require diverse stakeholder input. That is also true in this proceeding.

To highlight OPC's argument, consider the nature of the question which discusses replacement *and* repairs. The Company and Staff went to great lengths to advocate for full lead service line replacement rather than partial lead service line replacement in WU-2017-0296. If the underlying rationale is to prioritize lead service lines replacement concurrent with replacement of mains or the entire service line, then that practice would not apply to certain repairs that don't require replacements. Whether that is sound policy, prudent management decisionmaking, or in the public interest hast not been addressed. OPC vigorously advocated for bringing diverse stakeholders to the table to determine such issues as prioritization, prudency, and lawfulness of replacing customer-owned lead service lines. That approach has been rejected by the Company, and their current practice as described in testimony is deficient for many of the same reasons argued in WU-2017-0296. A pilot bringing diverse stakeholders together while maintaining minimal replacement is still an option for the Commission, but a pilot will not cure the prior imprudent actions of the Company. As will be explained elsewhere, such imprudent amounts should be excluded from rates for many reasons. A prudent utility undertaining this type of project would be asking and seeking input from diverse stakeholders on a number of issues.[32]

i. Should the Company prioritize at risk populations?

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such questions before it undertook this type of project. If replacement is found to be prudent and lawful, then yes, the Company should consider prioritizing at risk populations and seek input from relevant stakeholders.

ii. *Should the Company be required to disclose known lead service line and when should that notification take place?*

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such a question before it undertook this type of project. The Company should consider and seek input from relevant stakeholders on the consequence and timing of disclosure.

iii. Should the Company be required to have a written plan about its LSL replacement program?

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would have a written plan, procedures, and practices that would be formed through the input of relevant stakeholders.[33]

[32] Missouri Office of the Public Counsel witness Dr. Geoff Marke, Schedule GM, P 6-11 (in particular, see p. 10)
[33] Id.

iv. *Should the Company be required to provide test kits and what testing parameters should be in place including whether the results should be disclosed to the public?*

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such a question before it undertook this type of project. The Company should consider and seek input from relevant stakeholders.[34]

v. *Should the Company be required to do a cost-benefit analysis?*

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such a question before it undertook this type of project.[35]

Dr. Geoff Marke has projected the costs to be in the hundreds of millions of dollars.[36] One estimate shows costs could be $165 million if there are 30,000 service lines costing $5,500 each.[37] Ratepayers will want to make sure the benefits outweigh the costs including that all reasonable alternatives were explored (e.g., other lower-costs options to achieve the same/similar benefit, public private partnerships through lower-interest financing, and/or charging customers who want to participate in the program through low-interest on bill financing, etc.).[38]

vi. *Should the Company be required to comply with OSHA lead standards?*

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[34] Id.
[35] Id.
[36] Missouri Office of the Public Counsel witness Dr. Geoff Marke, Schedule GM-3, page 20, lines 8-12
[37] *Id*.
[38] Missouri Office of the Public Counsel witness Dr. Geoff Marke, Schedule GM, P 6-11 (in particular, see p. 10)

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such a question before it undertook this type of project.[39]

vii. *Should the Company be required to have a plan for how they will address excess costs related to unusual site restoration work?*

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such a question before it undertook this type of project.[40]

viii. *Should the Company be coordinating activity with other pertinent entities?*

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such a question before it undertook this type of project. OPC previously brought up the idea of a workshop. As previously stated, OPC strongly supports greater coordination, transparency and minimization of taxpayer and ratepayer dollars. The Commission should order the Company to extend the same information to each municipal public works departments throughout its service territory.[41]

ix. *Should the Company be required to remove all lead service lines including vacant properties or inactive accounts?*

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[39] Id.
[40] Id.
[41] Id.

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such a question before it undertook this type of project.[42]

x. *Should the Company also be replacing worn out customer-owned service lines, copper service lines, and/or galvanized pipes?*

OPC cannot find discussion of this issue in the Company's testimony, but OPC believes a prudent utility would be asking and seeking answers to such a question before it undertook this type of project. This issue also raises the risk of discriminatory treatment for customers within the same class.

b. <u>How should costs be allocated?</u>

It is unclear based on what is in the record, but if the idea is to socialize these costs, then industrial and commercial customers should not be shielded from these costs.

c. <u>Pilot Program</u> – *Should the Commission order the implementation of OPC proposed LSL pilot program?*

OPC presented that option in WU-2017-0296, and OPC believes it continues to be an option for Commission consideration.[43] OPC believes that a significant issue of the pilot project would need to consider the tremendous costs of hundreds of millions of dollars that could occur and weigh the relative benefit, and one result of the pilot project could be that the Company cease replacement of customer-owned lead service lines. OPC has also raised the problems with the Company's tariff that would need to be addressed in the context of

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[42] Id.
[43] Id.

this case.[44] OPC also continues to argue that there are many issues that require diverse stakeholder input that the Company desperately needs but refuses to accept.

d. LSLR AAO Treatment – *What recovery approach, if prudent, should be adopted for the AAO amount from WU-2017-0296?*

OPC proposes zero recovery of the dollars booked to account 186 – miscellaneous deferred debits, because these costs have been incurred unlawfully and the service lines are not owned by MAWC.[45] Furthermore, the Company failed – and fails in this case- to seek a waiver of the NARUC USoA prior to taking its arguably unlawful actions. These costs should not be included in plant in service, as they do not meet the definition of account 101 – utility plant in service as defined by the National Association of Regulatory Utility Commissioners Uniform System of Accounts, which is required to be followed by all water companies under the jurisdiction of the Commission.[46]

e. Future LSLR Recovery –*What the Commission authorize in this case for the recovery of future LSLR activity?*

Under the Company's proposal, OPC proposes zero recovery of the dollars going forward, because these costs have been incurred unlawfully and the service lines are not owned by MAWC.[47] These costs should not be included in plant in service, as they do not meet the definition of account 101 – utility plant in service as defined by the National Association of Regulatory Utility Commissioners Uniform System of Accounts, which is

[44] Missouri Office of the Public Counsel witness Dr. Geoff Marke, rebuttal testimony, page 2, lines 8-24 and page 3
[45] Id.
[46] Missouri Office of the Public Counsel witness Keri Roth, rebuttal testimony, page 12, lines 10 – 25 and page 13, lines 1 – 6; John Robinett, surrebuttal testimony, page 5, lines 27 – 29, and page 6, lines 1 - 2
[47] Id. And Missouri Office of the Public Counsel witness Dr. Geoff Marke, rebuttal testimony, page 2, lines 8-24 and page 3

required to be followed by all water companies under the jurisdiction of the Commission.[46] OPC also continues to argue that there are many issues that require diverse stakeholder input that the Company desperately needs but refuses to accept. If the Commission wishes to order OPC's pilot, OPC had proposed to include up to $8 million (or $4 million per year over a two-year period) of prudently incurred costs in conjunction with OPC's proposed pilot program.

Also see:

Direct Testimony (Revenue Requirement) of Geoff Marke p. 11-17; GM-2, GM-3 and GM-4

Direct Testimony (Rate Design) of Geoff Marke p. 14-17

Rebuttal Testimony (Revenue Requirement) of Geoff Marke p. 2-3 & p. 31-36, GM-1 and GM-8

Rebuttal Testimony (Rate Design) of Geoff Marke p. 8

Surrebuttal Testimony of Geoff Marke p. 2-3 and 11-23

Tax Cut and Job Act of 2017

See OPC's First Position Statement

Tuesday, March 6

Payroll

a. Number of Employees – *What is the appropriate number of MAWC employees to include when setting rates?*

The appropriate number of employees to include when setting rates is the actual employee level that existed at June 30, 2017. OPC does not believe it is reasonable for rate payers to be responsible for salaries related to vacant positions.[48] OPC does agree with MAWC and Staff to update actual employee levels as of December 31, 2017, during true-up.[49]

b. Overtime – *What is the appropriate amount of overtime to include in rates?*

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's overtime calculation of $4,776,412.[50]

c. Capitalization Ratio – *Should an amount of labor and expenses related to capital investment be capitalized? If yes, what amount should be capitalized?*

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's use of a capitalization percentage of 42.14% and an O&M percentage of 57.86%, based on the period ending June 30, 2017. OPC would not oppose Staff updating this information as of December 31, 2017, during true-up.[51]

d. Relocation Expense – *What is the appropriate amount of relocation expense to be included in rates?*

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's position to use a 3-year average ending December 31, 2016 to calculate MAWC's relocation expense of $234,120.[52]

e. Engage2Excel Awards – *Should the Engage2Excel employee awards expense be included in the cost of service calculation?*

OPC did not write testimony on this specific issue. However, it is OPC's understanding Engage2Excel Awards are service anniversary awards employees

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[48] Office of the Public Counsel witness Keri Roth, rebuttal testimony, page 9, lines 9 - 15
[49] Missouri Public Service Commission Staff witness Caroline Newkirk, surrebuttal testimony, page 5, lines 12 - 15
[50] Missouri Public Service Commission Staff Report – Cost of Service, page 64, lines 25 - 30
[51] Missouri American Water Company witness Nikole L. Bowen, rebuttal testimony, page 17, lines 3 - 9
[52] Missouri Public Service Commission Staff Report – Cost of Service, page 69, lines 11 - 14

are able to choose out of a magazine for years of service completed. This is not required to provide rate payers with safe and adequate service. It is OPC's understanding this is Staff's position as well and will support Staff.

<u>Pension & OPEBs</u> – *What is the appropriate amount of Pension & OPEB expenses to be included in rates? Should a portion of non-service components of Pension and OPEB expense be capitalized, and if so, what amount?*

OPC did not write testimony on this specific issue. However, OPC believes the recent accounting standard update to begin in 2018, could be considered for the true-up period.[53]

<u>Lobbying</u> – *What is the appropriate amount of payroll tied to lobbying expense?*

OPC did not specify in testimony a dollar amount to exclude from payroll tied to lobbying expense. However, OPC is supportive of Staff's calculation to remove payroll tied to lobbying expense in the amount of $230,192.[54]

<u>Incentive Compensation</u> (APP & LTPP) – *Should incentive compensation related to earnings per share and other financial goals be included in the cost of service calculation?*

[53] Missouri American Water Company witness John M. Watkins, surrebuttal testimony, page 9, lines 17 – 23, and page 10, lines 1 - 14

[54] Missouri Public Service Commission Staff witness Caroline Newkirk, surrebuttal testimony, page 7, lines 16 – 23, and page 8, lines 1-2

No. OPC is supportive of Staff's position to exclude any incentive compensation costs associated to the financial performance of a company.[55]

Employee Benefits (ESPP) – What is the appropriate treatment of the ESPP in regard to the cost of service calculation?

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's position to disallow recovery of the booked expense associated with ESPP, as there is no cash outlay for this item.[56]

Rate Case Expense –

a. Sharing of Cost – *Should rate case expense be shared? If so, what amount of rate case expense should be borne by the ratepayers?*

   OPC supports a sharing of rate case expense because it benefits both ratepayers and shareholders. Specifically, the adjustment methodology of allocating rate case expense based on the ratio of the dollar requirement ordered by the Commission to the dollar of revenue requirement sought by the utility as used in the Commission's Report and Order in Case No. ER-2014-0370.[57]

b. Normalization period – *What is the appropriate normalization period for recovering rate case expense?*

   OPC proposes a normalization period for rate case expense of 3 years.[58]

[55] Office of the Public Counsel witness Keri Roth, rebuttal testimony, page 10, lines 9 – 18, and page 11, lines 1 - 4
[56] Missouri Public Service Commission Staff Report – Cost of Service, page 67, lines 10 - 11
[57] Missouri Office of the Public Counsel witness Amanda C. Conner, direct testimony, page 3, lines 8 - 13
[58] Missouri Office of the Public Counsel witness Amanda C. Conner, direct testimony, page 3, line 6

c. <u>Prior Case Amortization-</u> *What is the appropriate amount of unamortized rate case expense from WR-2015-0301 to be included?*

OPC is in agreement with Staff and MAWC to allow MAWC to recover in rates 50% of its rate case expenditures amortized over 30 months.[59]

<u>Wednesday, March 7</u>

<u>Usage Normalization</u> – *What is the appropriate level of normalized residential usage that the Commission should adopt?*

OPC maintains that a five-year average is appropriate to inform just and reasonable rates moving forward. The projections put forward by MAWC witness Gregory P. Roach are largely based on expanding or contracting the sample size of his data to produce a favorable outcome as described in the testimony of OPC witness Lena M. Mantle and Geoff Marke. There is nothing on the record substantiating efficient and impactful saturation of end-use water measures and the recent Mueller Meter investigation results and customer experience further challenge the creditability of MAWC's assertions.

See Marke: Rebuttal Testimony p. 13 – 31 and Surrebuttal Testimony p. 6-7.

See Mantle: Direct Testimony p. 1-6, Rebuttal Testimony p. 1-9 and Surrebuttal Testimony p. 1-6

<u>Water Utility Revenues</u> – *What are the appropriate revenues to use to determine the increase or decrease in water service revenue requirement?*

[59] Missouri Office of the Public Counsel witness Amanda C. Conner, rebuttal testimony, page 3, lines 1 - 6

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

<u>Residential Revenue</u> – *What is the appropriate number of meters for fixed or customer charge to be used for revenues?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

i. *What is the appropriate number of residential meters for District 1 quarterly customers?*

a. *<u>Non-Residential Revenues</u>* –

i. *What is the appropriate usage to use for Rate J and Rate A?*

ii. *What is the appropriate annualized number of meters level for each revenue class?*

iii. *Should MAWC not use the pro-rated meters for District 1 quarterly customers?*

iv. *Should the usage from Water District #2 in Audrain County be allowed or disallowed in calculating the sale for resale District 1?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

<u>Sewer Utility Revenues</u> – *What are the appropriate revenues to use to determine the increase or decrease in sewer service revenue requirement?*

d. *What is the appropriate number of units to be used for fixed or customer charge?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

Revenue Stabilization Mechanism (RSM)

a. *Should the Commission adopt a Revenue Stabilization Mechanism?*

No. OPC maintains that the Commission should reject the Company's request for a decoupling mechanism for many of the same reasons recently noted by the Iowa Department of Commerce Board. OPC does not oppose the use of decoupling tool in the proper context (e.g., electric utilities in states where energy efficiency resources standards are statutorily required); however, that is clearly not the case here nor is decoupling legally permissible for water utilities. As it stands, approval of this regulatory tool would effectively function as a bill destabilization mechanism by needlessly shifting risk to ratepayers. Any approval of such a mechanism should be accompanied by a large, explicit reduction in the Company's approved Return on Equity ("ROE").

Marke Surrebuttal p. 4, 12-26 to p. 7, 3.

<u>Thursday, March 8</u>

Water Rate Design

a. <u>Customer Charge</u> – *What is the appropriate customer charge for each customer classification?*

OPC supports Staff's position to maintain the current customer charges at their respective amounts.

Speaking specifically to the residential customer charge, OPC opposes costs related to imprudent AMI deployment. Raising the residential customer charge for St. Louis ratepayers and lowering it for the rest of MAWC's districts, is yet another example of St. Louis ratepayers being penalized and bearing increased costs for services they are not causing.

As a general principle, utilities incur greater costs to serve ratepayers in rural areas compared to serving densely populated areas. The Company's proposal conflicts with this general principle. Instead, MAWC seeks to increase fixed costs where fixed costs are likely to be lower and decrease fixed costs where fixed costs are likely to be higher. Indeed, quarterly St. Louis/St. Charles customers are more densely concentrated than their monthly more rural counter-parts, and should have a lower customer charge assigned to them. This topsy-turvy proposal is counter-intuitive to the cost causation principle.

See rebuttal (rate design) testimony of Geoff Marke p. 6 and 7, 1-6.

b. Commodity Charge – *What is the appropriate commodity charge for each customer classification?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

c. Miscellaneous Service Charge – *What are the appropriate amounts for the* *miscellaneous service charges related to water service?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

d. Customer Classifications – *Should Rate A rate be split into a Residential and a Non-residential rate?*

OPC supports Staff position to maintain customer classifications. As drafted, the Company's proposal to spilt apart Rate A into two groups (residential and non-residential) is discriminatory and has not been justified. The Company bears the burden of presenting its case in chief. As it stands, this proposal is deficient and without merit. The Commission should reject this proposal in total as there is literally no evidence on the record to support a revenue-shift on to residential ratepayers. The outcome would not represent rates that are just and reasonable but instead represent rates that are arbitrary and capricious.

e. Class Costs – *What is the appropriate cost of service for each customer class?*

OPC supports Staff's class cost of service study.

f. Purchased-Power – *What is the appropriate allocator for purchased power costs?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing. As it stands, OPC's present position on this issue is contingent on the Commission's ruling on single tariff pricing and lead service line replacement. If the Commission elects to abandon the principles of cost causation OPC would then support the Company's position regarding purchased power cost allocation. If the Commission does not elect to abandon the principles of cost causation by maintaining zonal pricing (at a minimum) and adopting OPC's lead service line replacement pilot program then OPC would support MIEC's position.

32. Sewer Rate Design

g. Sewer Districts – *What is the appropriate rate structure for the sewer service districts?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

h. Miscellaneous Service Charge – *What are the appropriate amounts for the miscellaneous charges related to sewer service?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

Consolidation/ Single Tariff Pricing

a. Single Tariff Pricing / District Specific Pricing – *Should the Commission keep the current water district structure, adopt single tariff pricing for the water customers, or return to eight water districts?*

OPC categorically opposes single-tariff pricing. In previous cases, Public Counsel has argued for flexibility from strict district pricing when reasonably necessary based on considerations of all relevant factors. In MAWC's last rate case (WR-2015-0301), OPC took the position that further movement towards consolidated pricing was not warranted. That conclusion was based on the following considerations:

• Water service is local;

- The principles of cost causation in rate making;
- Inappropriate price signals; and
- The potential for overinvestment, or "gold-plating" of future capital.

OPC believes the current proposal by the Company unreasonably penalizes St. Louis and St. Charles County (as well as St. Joseph and Joplin) ratepayers for costs they have not caused. Furthermore, OPC believes approval of single tariff pricing in conjunction with the Company's proposed lead service line replacement program would essentially lead to a complete privatization of water service in Missouri. This would represent an unprecedented decision by a Commission in this country and would amount to an abandonment of the cost causation principle in setting just and reasonable rates. Such extreme action is not defensible, especially in light of the Company's current and previous case in chief.

OPC cannot support such a sweeping regulatory departure. Instead, OPC, like Staff and MIEC, supports the current zonal pricing as reasonable and appropriate compromise. As an alternative, OPC could support a movement back towards district specific pricing to be revisited in the next MAWC rate case.

See Direct Testimony (revenue requirement) of Geoff Marke p. 1 – 17.

i. Offset Mechanism – *If the Commission orders consolidated tariffs for water service, should it also order the implementation of the Coalition City Offset Mechanism to allow certain service areas to avoid paying certain capital investment costs?*

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

b. Impacts of Pricing Districts on cities/service Areas

i. If the Commission adopts either MAWC's or Staff's rate district proposal, should the Commission establish a working group or collaborative process to determine a rate offset for cities/service areas that have borne the costs of their own system upgrades since 2000?

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

ii. If the Commission adopts either MAWC's or Staff's rate district proposal, should the Commission establish a working group or collaborative process to explore capital expenditure tracking mechanisms?

Public Counsel did not file testimony on this issue and reserves the right to base a final position on the testimony provided at hearing.

34. Low-Income Rate –

a. Should the Commission maintain the current Low-Income Rate pilot program?

b. *What is the appropriate accounting treatment for the current deferred unamortized balance of the pilot program?*

OPC supports Staff's position. The Commission should reject MAWC's proposal, in part, because the Company provides no evidence to substantiate its proposal. OPC has concerns with removing the "pilot" status without any evidence that it has accomplished what it set out to do—namely, reduce bad debt expenses.

OPC is also concerned with the unintended consequences of failing to address the entire class of low-income customers. As it stands, the pilot only applies to those who are already receiving a very specific type of assistance—LIHEAP. This would amount to an intra-class subsidy that would make low-income customers who have not received some form of assistance comparatively worse off. For example, there is reason to believe that there are more than the 120 enrolled customers who could confidently be classified as "low-income" living in the greater St. Joseph, Platte County and Brunswick service areas.

Finally, OPC is concerned that approval of such a rate design could be construed as discriminatory and thus be deemed unlawful.

Marke Rebuttal Testimony, p. 3 to p. 4, 1 -15.

Friday, March 9

AMI Implementation – *Should MAWC continue to replace AMR meters with AMI meters?*

No. OPC is concerned that customers are going to be asked to pay for their existing meter being prematurely retired in favor of MAWC's desire to move to AMI technology and then pay for new AMI that replaced their AMR meter. OPC is concerned that this program may, and likely will, create a negative reserve for meter accounts not only at the consolidated zone level but on a total company level.[60]

[60] Missouri Office of the Public Counsel witness John A. Robinett, rebuttal testimony, page 12, lines 11 - 18

<u>Inclining Block Rates</u> –

a. Should the Commission authorize the implementation of inclining block rates?

OPC does not support a residential inclining block rate in any form in this present case. MAWC's current operating environment does not support an inclining block rate design as water is abundant. It is OPC's position that as presently put forward, an inclining block rate will 1) likely not accomplish the stated "conservation" signal hoped to be gained; 2) produce economic inefficiencies in the form of deadweight loss; and 3) stand to be potentially regressive in nature depending on the ultimate design.

OPC would offer, as an alternative, that any consideration for a large departure in pricing water service should be married and supported by substantive long-term resource planning that considers multiple scenarios, investments options and reliable, transparent and consistent data. It should also contain an evaluation that will provide the Commission with information on the effectiveness of the pricing plan. That level of detail and analysis has, to date, been absent and would clearly require a level of time and resources from the utility, regulators, and stakeholders that currently does not exist. Absent that support, it is highly unlikely that the perceived policy objectives (whatever those might be) will be realized.

Marke: Rebuttal Testimony (Revenue Requirement) p. 8, 6-20 to p. p. 13, 13. Rebuttal Testimony (Rate Design) 7, 7 to p. 8, 2 and Surrebuttal Testimony p. 7-10.

b. Should the Commission authorize an inclining block rate pilot program?

No.

Marke: Rebuttal Testimony (Revenue Requirement) p. 8, 6-20 to p. p. 13, 13. Rebuttal Testimony (Rate Design) 7, 7 to p. 8, 2 and Surrebuttal Testimony p. 7-10.

WHEREFORE, OPC submits OPC's Second Position Statement as its positions for this Commission's consideration.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

On this 21st day of February, 2018, I hereby certify that a true and correct copy of the foregoing motion was submitted to all relevant parties by depositing this motion into the Commission's Electronic Filing Information System ("EFIS").

/s/ Ryan D. Smith