Exhibit No.: Issue(s): Witness/Type of Exhibit: Sponsoring Party: Case No.:

Safe and Adequate Service Roth/Supplemental Direct Public Counsel WC-2016-0252

# SURREBUTTAL TESTIMONY

OF

# **KERI ROTH**

Submitted on Behalf of the Office of the Public Counsel

# MOORE BEND WATER UTILITY, LLC

# CASE NO. WC-2016-0252

December 2, 2016

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

The Office of Public Counsel

Complainant,

VS.

Case No. WC-2016-0252

Moore Bend Water Utility, LLC,

Respondent.

# AFFIDAVIT OF KERI ROTH

STATE OF MISSOURI ) ) ss COUNTY OF COLE )

Keri Roth, of lawful age and being first duly sworn, deposes and states:

1. My name is Keri Roth. I am a Public Utility Accountant III for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

Keri Roth

Public Utility Accountant III

Subscribed and sworn to me this 2<sup>nd</sup> day of December 2016.



TIFFANY HILDEBRAND My Commission Expires August 9, 2019 Cole County Commission #15637121

lolellup/

Tiffany Hildebrand Notary Public

My Commission expires August, 2019.

#### SURREBUTTAL TESTIMONY

#### OF

# KERI ROTH MOORE BEND WATER UTILITY, LLC

#### CASE NO. WC-2016-0252

# I. INTRODUCTION

- **Q.** Please state your name and business address.
- A. Keri Roth, P.O. Box 2230, Jefferson City, Missouri 65102-2230.

Q. Are you the same Keri Roth who has filed direct testimony and supplemental direct testimony in this case?

6 A. Yes.

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## **Q.** What is the purpose of your surrebuttal testimony in this case?

A. The purpose of my surrebuttal testimony is to address Moore Bend's rebuttal testimony witness Mr. Hollis H. Brower, Jr. OPC believes Mr. Brower has implied that by purchasing only the assets from the system's prior owner, he is not liable for the Boil Water Order ("BWO") placed on the system under previous ownership, which is still in place today.

#### 12 **Q.** What did Mr. Brower state in his rebuttal testimony?

13 A. Mr. Brower's statement in rebuttal testimony is as follows:

I want to note and emphasize the purchase agreement with MBWC was for *assets only*. Neither Ozark nor MBWU acquired any stock or other ownership interest in MBWC, which means neither of the buyers assumed or succeeded to any obligations or liabilities of the water system's prior owner. Although OPC and witnesses testifying in support of the Complaint seem to gloss over or ignore the legal significance of an asset versus a stock acquisition transaction, that Surrebuttal Testimony of Keri Roth Case No. WC-2016-0252

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distinction is critical insofar as it relates to some allegations made in the Complaint and by witnesses supporting the Complaint.

#### Q. Is it Moore Bend's responsibility to address the BWO, which was placed under previous ownership, even though Ozark International, Inc. ("Ozark") purchased only 4 the assets of the system?

6 A. Yes. Ozark entered into an Assignment and Acceptance of Asset Purchase Agreement with 7 Moore Bend which assigns, transfers and conveys all its rights, title and interest in the Asset Purchase Agreement between Ozark and Moore Bend Water Company, Inc. ("MBWC"), 8 the previous owner of the water system. In case numbered WM-2012-0335, the Missouri 9 Public Service Commission ("Commission") granted Moore Bend a Certificate of 10 Convenience and Necessity ("CCN") and authorized Moore Bend to operate under the 11 existing tariff of MBWC. This became effective October 19, 2013. The BWO was placed 12 on February 5, 2013, eight months prior. Mr. Brower was aware that he was purchasing a 13 system that was going to need repairs to become compliant with Department of Natural 14 15 Resources regulations.

#### 16 Q. Does the structure of Ozark's purchase agreement with MBWC determine the level of service customers should receive? 17

No. Whether or not Ozark purchased only the assets of the system or stock or any other 18 A. 19 ownership interest does not matter. Moore Bend was granted a CCN by the Commission and therefore must operate under Commission rules to provide customers with safe and 20 adequate service. This includes taking on liabilities, such as BWO's, that are in place on a 21 22 system during a purchase agreement.

- Does this conclude your surrebuttal testimony? 23 Q.
- 24 A Yes.