

**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)	<u>Case No. WR-2008-0311</u>
Water and Sewer Service Provided in)	
Missouri Service Areas.)	

OFFICE OF THE PUBLIC COUNSEL'S POSITION STATEMENT

COMES NOW the Office of the Public Counsel (Public Counsel) and states its position on the issues in this case as follows:

REVENUE REQUIREMENT

Rate of Return Issues

Return on Common Equity: What return on common equity should be used for determining MAWC's rate of return?

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

Capital Structure: What capital structure, MAWC stand alone or American Water consolidated, should be used for determining MAWC's rate of return?

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

Rate Base Issues

Cedar Hill Sand Creek Sewage Treatment Plant: Should the capital and depreciation expense costs associated with the capacity expansion project of Cedar Hill Sand Creek sewage treatment facility be disallowed for ratemaking in this proceeding?

Public Counsel did not file testimony on the specific issue of whether capital and depreciation expense costs associated with the capacity expansion project of Cedar Hill Sand Creek sewage treatment facility should be disallowed for ratemaking in this proceeding and reserves the right to base a final position on the testimony provided at hearing.

Public Counsel did file testimony related to the rebuttal testimony of Missouri-American Water Company (MAWC or Company) witness, Mr. Williams, which stated that the Company will have to recognize a loss if the Missouri Public Service Commission (Commission) accepts the Staff's proposal of an excess capacity adjustment. It is Public Counsel's position that the Commission is not required by any authority, accounting or otherwise, to make a finding that the Company should not have constructed the excess capacity or should have delayed the construction in the event it accepts the Staff's recommendation. Further, the Company must follow the accounting requirements of Statement of Financial Accounting Standards No. 71 as referenced in Paragraph 60 of SFAS No. 90 in the event that the Commission authorizes the Staff's recommendations. The accounting requirements of Statement of Financial Accounting Standards No. 71 do not require the Company to record a loss, for financial reporting purposes, if the Commission authorizes the Staff's recommendations.

Cash Working Capital (Management Fee Lag): What is the appropriate amount to be included in MAWC's rate base for cash working capital as it relates to the management fees expense lag?

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

Rate Base for Security Deferral: Should the unamortized balance of deferred Security costs be included in rate base?

It is Public Counsel's position that the unamortized balance of deferred Security costs should not be included in rate base. Rates in Missouri are usually established based upon a historical test period which focuses on four factors: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be earned; (3) the depreciation expense related to plant and equipment; and (4) the allowable operating expenses including income and other taxes. The security costs that the Company was authorized to defer are already represented by each of those four factors. Including the unamortized AAO balance in rate base would provide additional return on the remaining unamortized AAO balance. It is Public Counsel's position that the Company should continue to include in expenses a level of costs pursuant to the amortization period authorized, but that the Commission not approve the Company's request for rate base treatment of the unamortized AAO balance.

Accumulated Deferred Income Taxes Associated with the Security AAO: Should accumulated deferred income taxes associated with the Security AAO be included as an offset to rate base? Does this change if the unamortized balance of the security AAO is not included in rate base?

It is Public Counsel's position that accumulated deferred income taxes (ADIT) associated with the amortization of the AAO balance should be included as an offset in the determination of rate base.

Public Counsel's position that the ADIT associated with the amortization of the AAO balances should be included as an offset in the determination of rate base does not change if the unamortized balance of the security AAO is not included in rate base.

Revenue Issues

Customer Water Usage Normalization (Usage per Customer per Day): What is the appropriate method to use to normalize customer water usage?

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 Normalization (Weather): What is the appropriate weather-normalized revenue?

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

Triumph Foods, LLC: Should an adjustment to revenues be made associated with the Special Service Contract rate paid by Triumph Foods, LLC in St. Joseph pursuant to the Economic Development Rider tariff?

It is Public Counsel's position that an adjustment to revenues should be made associated with the Special Service Contract rate paid by Triumph Foods, LLC in St. Joseph pursuant to the Economic Development Rider tariff. Also, it is Public Counsel's position that an adjustment should also be made to the St. Joseph district revenue calculation resulting in a reduction to the St. Joseph district revenue requirement as described on Page 3, Line 8 of the Rebuttal Testimony of Public Counsel witness Barbara Meisenheimer.

AWR Compensation to MAWC: Does MAWC provide services to American Water Resources? If so, what amount of revenues for services provided to American Water Resources by MAWC should be used to determine MAWC's revenue requirement?

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

Expense Issues

Pension/OPEB Methodology: How should pension and OPEB expense be treated for purposes of the revenue requirement and how should it be accounted for on a going forward basis?

It is Public Counsel's position that the Commission should authorize the Company to begin amortizing the balance to expense over a period not less than five years, subject to two conditions. The two conditions are: (1) effective with the date of a rate change for the last Company rate case prior to the balance becoming fully amortized, the remaining balance amortization amount will be recalculated so that the remaining balance will become fully amortized effective with the date of a rate change in the next subsequent rate case; and (2) that the cost of service upon which that rate change is determined will not include any remaining balance in rate base or amortization amount in expense.

Amortization of Pension/OPEB Assets: What is the appropriate level of expense to be included in MAWC's cost of service related to recovery of the regulatory asset created by the transition to accrual accounting for pensions and OPEBs?

It is Public Counsel's position that if the Commission approved an amortization period of five years, in the current case, the annual amount included in expense would approximate \$150,584. If Company implements a rate change based on a test period four and one-half years later, only four and one-half years of the contribution (i.e., \$677,626) would have been recovered in rates as an expense. Public Counsel's conditions would recalculate the future amortization of the remaining balance - \$75,291 (i.e., \$752,918 less \$677,626) - so that it would be fully expensed based on the effective date of its next rate case rate change.

Insurance Other than Group: What is the appropriate level of expense to be included in MAWC's cost of service related to insurance other than group?

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

Tank Painting Expense: What is the appropriate level of expense to be included in MAWC's cost of service related to tank painting expense?

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

Annual Incentive Program (AIP): What is the appropriate amount of costs associated with MAWC's incentive compensation plan that MAWC should recover from its customers?

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

External Affairs: What is the appropriate level of expense to be included in MAWC's cost of service related to its external affairs department/employees?

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

Fuel & Power/Chemicals/Purchased Water Due to Unaccounted-for Water: What is the appropriate level or percentage for Unaccounted for Water as it relates to fuel & power/chemicals/purchased water expenses?

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

Belleville Lab: What is the appropriate amount of costs to be included in MAWC's cost of service for its use of the Belleville Laboratory facility?

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

Fire Hydrant Painting: What is the appropriate level of expense, if any, to be included in MAWC's cost of service related to fire hydrant painting? Should a tracker be established to track costs incurred for fire hydrant painting?

It is Public Counsel's position that no expense should be included in MAWC's cost of service related to fire hydrant painting.

Public Counsel opposes either implementing a new tracker mechanism, or modifying the existing tank painting tracker, to track costs incurred for fire hydrant painting.

Dues, Donations and Contributions: What dues, donations or contributions should be included in MAWC's cost of 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.

Advertising: What is the appropriate level of expense to be included in MAWC's cost of 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.

Rate Case Expense: Should rate case expense be normalized or amortized and should prior rate case expense be recovered in this rate case? What is the appropriate level of rate case expense to be included in MAWC's cost of 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.

Property Tax: What is the appropriate level of property tax to be included in MAWC's cost of 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.

Waste Disposal: What is the appropriate level of waste disposal expense to be included in MAWC's cost of 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.

Corporate Costs Allocations: What is the appropriate basis upon which to allocate MAWC Corporate Administrative and General Expenses to the various 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.

Management Fee – SOX Compliance: What is the appropriate level to be included in MAWC's cost of service for SOX compliance costs allocated to MAWC from the Service Company through management fees?

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

Management Fee – Labor Costs: What is the appropriate level to be included in MAWC's cost of service for labor costs allocated to MAWC from the Service Company through management fees?

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

Joplin True-up Issue: What items should be examined for the true-up audit? What is the appropriate true-up date? Instead of a true-up, should a fully adjusted test year be utilized?

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

Jefferson City Issue on Joint Task Force Case No. WO-2008-0167: What rate impacts, if any, are being evaluated within the Task Force created by stipulation in Case No. WR-2007-0126?

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

RATE DESIGN/COST OF SERVICE

Inter-District Support or Revenue Contribution: Should or may any district provide a support so that another district may be provided service that is priced below that district's cost of service? If so, which district(s) should receive support and which district should be required to provide that support?

Public Counsel relied on the Staff's determination of fully allocated costs in this case and has not provided testimony on the incremental or stand alone district costs for each district. Public Counsel proposes phase-ins as an alternative to imposing support or subsidy flows between districts.

St. Louis Metro District: Should the St. Louis County, St. Charles, and/or Warren County water districts be combined?

Public Counsel is not opposed to merging the St. Louis and St. Charles County districts since they are physically and operationally connected. Public Counsel finds it difficult to justify a consolidation that includes Warren County Water.

Allocations: What is the appropriate basis upon which to allocate costs to each customer class?

A) Should there be a small mains adjustment?

In this case, it is Public Counsel's position that there should be a small mains adjustment. Public Counsel's class cost of service (CCOS) studies reflect an adjustment for small mains

based on the Company's review of customers in the St. Louis, St. Joseph and Joplin districts that do not use smaller diameter mains.

B) What is the appropriate basis upon which to allocate purchase power expense?

Public Counsel allocated purchase power expense as a base cost component based on average daily consumption in its CCOS studies.

Rates:

A) Commodity Charge

i) Should the commodity charge be set as a declining block rate or should the commodity charge be uniform for all levels of usage?

It is Public Counsel's position that relative block rates should not be altered in this case.

ii) Should commodity rates be uniform across all classes in a district?

It is Public Counsel's position that relative block rates should not be altered in this case.

B) Customer Charge

i) What is the appropriate way to establish the customer charge?

It is Public Counsel's position that information from the CCOS studies can be used as a guide in establishing the fixed monthly customer charge. The customer charge is usually associated with customer related costs defined as those costs directly related to the number of customers including meters, services, operations and maintenance, and depreciation expenses related to meters and services, meter reading and arguably some portion of customer records expense. Public Counsel's CCOS studies do not support increased Residential or Commercial customer charges in this case.

ii) Should the customer charge be uniform across the districts?

It is Public Counsel's position that the customer charges should not be set uniformly across districts in this case.

iii) Should the customer charge include some amount of usage?

It is Public Counsel's position that customer charges should not be modified to include usage in this case.

Class Identification/Cost of Service: What is the appropriate way in which to identify the customer classes?

Public Counsel agrees with Mr. Johnstone's position that the customer classes used in CCOS studies should include customers that have homogeneous usage patterns and supports his recommendation that, provided it can be completed cost effectively, the Company should be required to collect and submit district specific data on customer demand characteristics.

Phase-in:

(A) Is a phase-in of rates appropriate or lawful?

It is Public Counsel's position that the Commission has the authority to order phase-ins. It is also Public Counsel's position that phase-ins are appropriate for certain districts in this case.

(B) Which, if any, districts should have their rate increase phased in?

Public Counsel recommends that the Commission adopt a three-year phase-in for Warren County Water and Brunswick. The phase-ins would collect 50% of the district deficiency in the first year, with the balance and carrying costs to be recovered in approximately equal amounts in years two and three. Public Counsel does not oppose a similar phase-in for Warren County Sewer but did not file testimony on the issue.

(C) How should any carrying cost associated with a phase-in deferral be recovered and from whom?

It is Public Counsel's position that any unpaid principle plus carrying costs should be paid by the respective district to the Company. Carrying costs would be determined at a rate equal to the Company's Allowance for Funds Used During Construction (AFUDC).

MSD Rate: What is the appropriate rate to charge MSD for customer usage information?

It is Public Counsel's position that, at a minimum, MSD should share the St. Louis system average percent increase based on true-up.

Allocation of Costs to Contract Sales Customers: What, if any, adjustment should be made to the Class Cost of Service Studies associated with contract sales?

It is Public Counsel's position that a revenue imputation equal to the difference between the revenues that would be generated under regular industrial rates and the revenues collected under the special contract discount given to Premium Pork (now Triumph Foods, LLC) should be made to the Industrial Class for the St. Joseph district for purposes of determining relative class cost responsibility.

Revenue Imputation: If a Triumph Foods revenue imputation is approved, how should the imputation be treated in offsetting costs to determine class revenue requirements?

It is Public Counsel's position that a revenue imputation equal to the difference between the revenues that would be generated under regular industrial rates and the revenues collected under the special contract discount given to Premium Pork (now Triumph Foods, LLC) should be made to the Industrial Class for the St. Joseph district for purposes of determining relative class cost responsibility and overall district revenue requirement.

City of Riverside Services Issue: Should the Parkville rate be reduced due to inadequate water service in the City of Riverside?¹

¹ As this issue was filed on October 20, 2008, by Riverside other parties have not yet had an opportunity to determine their responses respectively.

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

WHEREFORE, Public Counsel respectfully submits its Position Statement on the issues in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 23rd day of October 2008:

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