

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held by telephone  
and internet audio conference  
on the 24th day of November,  
2020.

In the Matter of the Petition of	)	
Missouri-American Water Company for	)	<b><u>File No. WO-2020-0410</u></b>
Approval to Change an Infrastructure	)	Tariff No. YW-2021-0048
System Replacement Surcharge (ISRS)	)	

**ORDER ON PETITION TO CHANGE  
INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE**

Issue Date: November 24, 2020

Effective Date: December 4, 2020

On August 28, 2020, Missouri-American Water Company (MAWC) filed a petition requesting the Commission authorize MAWC to change its infrastructure system replacement surcharge (ISRS) to recover the cost of eligible infrastructure system replacement in St. Louis County during the period April 1, 2020, through September 30, 2020,<sup>1</sup> as permitted by sections 393.1003 and 393.1006, RSMo (2016).<sup>2</sup>

With its petition, MAWC filed a revised tariff, assigned Tariff No. YW-2021-0048, with an effective date of September 27, 2020. MAWC requests the Commission approve any tariff sheets implementing an ISRS change to be effective no later than December 22, 2020. In addition, MAWC requests the Commission approve notices to be provided to customers under Commission Rule 20 CSR 4240-3.650(8),(9).

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<sup>1</sup> *Staff Recommendation*, ¶2 (Oct. 27, 2020). MAWC's petition does not specify a particular period, although dates are indicated by attachments to the petition.

<sup>2</sup> Subsequent references to Missouri statute cite the Revised Statutes of Missouri (2016) unless otherwise noted.

As required by Section 393.1006, the Commission on August 31, 2020, provided notice of MAWC's petition. The Commission established an intervention deadline<sup>3</sup> and directed Staff's examination of MAWC's petition, consistent with Section 393.1006.2(2). In addition, the Commission on August 31 suspended the tariff sheet, assigned Tariff No. YW-2021-0048, until December 26, 2020, or until otherwise ordered by the Commission.

In its recommendation filed on October 27, 2020, Staff advised the Commission to approve ISRS revenues in the incremental pre-tax revenue amount of \$3,429,008, with a total current and cumulative ISRS amount of \$34,523,721.<sup>4</sup> The petition included actual infrastructure replacement costs from April 1 through July 31, 2020, with cost estimates for August and September 2020. Staff's recommendation is based on review of workpapers and additional documentation for the period August and September 2020.

Staff recommended the Commission reject the tariff sheet, Tariff No. YW-2021-0048, filed on August 28, 2020. Staff's recommendation included a rate design calculation.<sup>5</sup> In addition, because the recommended cumulative ISRS surcharge would result in total ISRS revenue equaling the 10 percent maximum revenue limit under Section 393.1003.1, Staff recommended the Commission direct MAWC, as proposed in the company's petition, to submit a reconciliation on a monthly basis and require MAWC to file a new tariff sheet to discontinue ISRS collection, should it appear that MAWC will meet the statutory revenue cap.

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<sup>3</sup> No applications to intervene were received as of the September 30, 2020, intervention deadline.

<sup>4</sup> *Staff Recommendation*, ¶6 (Oct. 27, 2020); *Memorandum to Staff Recommendation*, p. 7 (Oct. 27, 2020). This amount includes cumulative ISRS revenues of \$31,825,616 and total reconciled amounts of \$2,698,105. *Id.* at p. 6 (figure stated as \$2,698,106), but see *Unanimous Stipulation and Agreement*, ¶3 n.1 (Nov. 13, 2020).

<sup>5</sup> *Memorandum to Staff Recommendation: Appendix A-1*.

For residential customers, applying Staff's recommended ISRS revenue amount and rate design would increase the ISRS by approximately \$0.11 per 1,000 gallons,<sup>6</sup> increasing the monthly charge from approximately \$0.96 per 1,000 gallons<sup>7</sup> to approximately \$1.07 per 1,000 gallons.<sup>8</sup>

On November 6, 2020, the Office of the Public Counsel (OPC) objected to Staff's recommendation. OPC's objection asserted that Staff's calculation improperly "offset deductions for accelerated depreciation associated with ISRS plant additions" and should not have removed any deduction for accelerated depreciations because, OPC argues, MAWC did not experience net operating losses during the ISRS period.<sup>9</sup> OPC's objection included a request for hearing.

On November 13, 2020, the parties filed a *Unanimous Stipulation and Agreement* ("Agreement"),<sup>10</sup> which provides the agreement is intended to "settle only the issues of the ISRS revenue requirement to be approved by the Commission" in this case, File No. WO-2020-0410. All parties in this case – MAWC, Staff and OPC – joined the Agreement, which provides for ISRS revenue in the "incremental pre-tax revenue amount of \$3,429,008, with a total current and cumulative ISRS surcharge of \$34,523,721."<sup>11</sup> These amounts are identical to the figures proposed in the *Staff Recommendation*. In addition,

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<sup>6</sup> The current and proposed ISRS rates are calculated to the fifth decimal place; for the largest group of MAWC customers, the difference between the current rate and Staff's recommended rate is \$0.10615 per 1,000 gallons of water. This figure is "rounded up" to \$0.11 for purposes of summary only. See *Staff Recommendation, Appendix A-1* (Oct. 27, 2020).

<sup>7</sup> The current monthly ISRS charge per 1,000 gallons for the largest group of MAWC customers is \$0.96287, which, for purposes of summary only, may be "rounded down" to \$0.96.

<sup>8</sup> For the largest group of MAWC customers, the proposed monthly ISRS charge per 1,000 gallons, as calculated by Staff's recommendation, is \$1.06902, which can be "rounded up," for purposes of this summary, to \$1.07.

<sup>9</sup> *Response to Staff Recommendation and Request for an Evidentiary Hearing*, ¶¶5-8 (Nov. 6, 2020).

<sup>10</sup> On November 16, 2020, MAWC, on behalf of the parties, filed a *Joint Notice of Clarification* to correct an error in Paragraph 9 of the Agreement, which refers to "536.500 RSMo." The joint notice clarifies that the correct citation is to Section 386.500, RSMo.

<sup>11</sup> *Unanimous Stipulation and Agreement*, ¶3 (Nov. 13, 2020).

the Agreement provides the approved revenue requirement “shall be allocated to the rate classes pursuant to the rate design described in Staff’s Memorandum filed on October 27, 2020.”<sup>12</sup>

The Agreement provides that OPC’s objection to the *Staff Recommendation* need not be decided by the Commission in this case because the dispute has no practical consequence. The parties agree, OPC “acknowledges that MAWC has presented evidence of ISRS eligible plant additions in an amount that exceeds the statutory limits imposed on ISRS recovery,” such that decision on OPC’s objection would have no “practical effect” in the ISRS petition now before the Commission.<sup>13</sup>

Section 393.1006.1(3) provides for hearing on ISRS petitions. A hearing requirement is met when the opportunity for hearing has been provided. The Agreement expressly disposes of the only issues raised by OPC’s objection and request for hearing. Thus, no issue remains in dispute and opportunity for hearing has been provided.

After reviewing the Agreement, the Commission independently finds and concludes that the Agreement is a reasonable resolution of (1) the ISRS revenue requirement to be established pursuant to MAWC’s petition; and (2) allocation of the revenue requirement by rate class. In addition, the Commission finds and concludes, consistent with the Agreement, that the Commission need not decide OPC’s objection regarding net operating losses in this case because the parties agree such a decision would not change the result. The Commission will approve the Agreement.

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<sup>12</sup> *Agreement*, ¶4.

<sup>13</sup> *Id.* at ¶5.

MAWC's petition poses three issues not resolved by the Agreement: the use of monthly ISRS revenue reports; approval of customer notices; and disposition of MAWC's tariff filing. None of these issues are subject to objection from any party.

Section 393.1003.1 limits ISRS revenue in a 12-month period to no more than 10 percent of a water corporation's base revenue level approved by the Commission in the company's most recent general rate proceeding.<sup>14</sup> Staff's recommendation endorses MAWC's proposal to file monthly reports in this case to ensure the company's ISRS revenue does not exceed the 10 percent cap. The Commission will adopt that proposal and, as recommended by Staff, will direct MAWC to file a new tariff sheet to discontinue ISRS charges authorized in this case should it appear that MAWC will reach the revenue cap.

MAWC's petition also seeks approval of customer notices attached to the petition.<sup>15</sup> Use of approved customer notices is required by 20 CSR 4240-3.650(8),(9). Because no objections to the notices have been received, the Commission will approve the example customer notices attached to MAWC's petition on the condition that the notices are consistent with the ISRS approved in this order.

Section 393.1006.1(3) requires a Commission order on a petition to change a water utility ISRS and any associated rate schedules to become effective no later than 120 days after the petition is filed. Therefore, the Commission's order in this matter must be effective no later than December 26, 2020. In addition, MAWC has requested any tariff sheets resulting from this proceeding take effect no later than December 22, 2020. To

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<sup>14</sup> MAWC's most recent general rate proceeding is File No. WR-2017-0285. MAWC currently has a general rate proceeding pending in File No. WR-2020-0344.

<sup>15</sup> Commission Rule 20 CSR 4240-3.650(9) provides for review and approval of customer notices pursuant to a petition to establish an ISRS.

allow adequate time for the filing, review and approval of any tariff sheets required by this order, the Commission will issue this order with an effective date fewer than 30 days from the date of issuance.

**THE COMMISSION ORDERS THAT:**

1. The *Unanimous Stipulation and Agreement*, filed on November 13, 2020, is approved. A copy of the Agreement is attached to this order and incorporated by reference.

2. MAWC, Staff and the Office of the Public Counsel shall comply with the terms of the Agreement.

3. Pursuant to the Agreement, MAWC is authorized to change its ISRS sufficient to recover ISRS revenue in the incremental pre-tax revenue amount of \$3,429,008 with a total current and cumulative infrastructure system replacement surcharge of \$34,523,721.

4. Pursuant to the Agreement, MAWC is authorized to file an ISRS rate for each customer class as described in *Staff Recommendation* and consistent with this order.

5. The following tariff sheet, assigned Tariff No. YW-2021-0048 and filed by MAWC on August 28, 2020, is rejected:

**P.S.C.] MO NO. 13**

14th Revised Sheet No. RT 10, Cancelling 13th Revised Sheet No. RT 10

6. Until such time as MAWC files a tariff to discontinue the ISRS authorized by this order, or until such time as new rates are established for the company in a general

rate case, MAWC shall file in this case monthly reports stating the trailing 12 months of ISRS revenue.

7. At such time as it appears MAWC may exceed the revenue cap imposed by Section 393.1003.1, RSMo (2016), MAWC shall file a tariff sheet to discontinue ISRS collection authorized by this order.

8. Customer notices submitted with MAWC's petition are approved on the condition the notices are consistent with the ISRS approved by this order.

9. This order shall be effective on December 4, 2020.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and  
Holsman CC., concur.

Jacobs, Regulatory Law Judge

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

In the Matter of the Petition of	)	
Missouri-American Water Company for	)	<b>File No. WO-2020-0410</b>
Approval to Change its Infrastructure	)	
System Replacement Surcharge (ISRS)	)	

**UNANIMOUS STIPULATION AND AGREEMENT**

COME NOW Missouri-American Water Company (MAWC), the Office of the Public Counsel (OPC), and the Staff of the Missouri Public Service Commission (Staff) (together, the Parties), and submit this *Unanimous Stipulation and Agreement* (Stipulation and Agreement):

**BACKGROUND**

1. On August 28, 2020, MAWC filed a *Petition to Change its Infrastructure System Replacement Surcharge & Motion For Approval of Customer Notice*. By this filing, MAWC requested an adjustment to its ISRS rates and charges for ISRS-eligible infrastructure system replacements and relocations.

2. The Parties agree and intend this *Unanimous Stipulation and Agreement* to settle only the issues of the ISRS revenue requirement to be approved by the Commission in the above captioned cases. This settlement is the product of extensive negotiations aimed at an amicable resolution of the present cases and none of the signatories to this *Unanimous Stipulation and Agreement* concede any issue of law or fact not expressly stated herein.

**RESOLUTION**

3. **ISRS Revenue Requirement:** The Parties agree that, subject to the below paragraphs, the Commission approve ISRS surcharge revenues in this case in the incremental



pre-tax revenue amount of \$3,429,008, with a total current and cumulative ISRS surcharge of \$34,523,721.<sup>1</sup>

4. **Rate Design:** The revenue requirement shall be allocated to the rate classes pursuant to the rate design described in Staff's Memorandum filed on October 27, 2020.

5. **Resolution of OPC objection to Staff recommendation:** The OPC raised an issue challenging the recovery of amounts related to a deferred tax asset (Net Operating Loss ("NOL")) in its objection to the Staff *Recommendation* filed on October 27, 2020. While the OPC maintains that Staff and the Company have erred in failing to include an offset to the ISRS revenue requirement to account for accelerated deferred income taxes due to the misapplication of an alleged NOL, the OPC also acknowledges that MAWC has presented evidence of ISRS eligible plant additions in an amount that exceeds the statutory limits imposed on ISRS recovery, thus negating the practical effect of this error on the ISRS revenue requirement to be approved. The parties agree that because the error alleged by the OPC will not have a practical effect on the ISRS revenue requirement, there is no need for further adjudication of this issue in this case. This provision does not constitute an admission of error or fault on the part of any signatory and shall not be construed to impede any legal claim, argument, or defense regarding this matter to be made in any other ISRS case.

### **GENERAL PROVISIONS**

6. Unless otherwise explicitly provided herein, none of the Parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation to, any other method of cost determination or cost allocation or revenue-related methodology. Other than as explicitly provided herein, none of the Parties shall be prejudiced or bound in any manner in this or any other proceeding by the terms

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<sup>1</sup> This amount includes total cumulative ISRS revenues of \$31,825,616 and total reconciled amounts of \$2,698,105.

of this Stipulation and Agreement regardless of whether this Stipulation and Agreement is approved.

7. This Stipulation and Agreement has resulted from negotiations among the Parties and the terms hereof are interdependent. If the Commission does not approve this Stipulation and Agreement unconditionally and without modification, then this Stipulation and Agreement shall be void and no Party shall be bound by any of the agreements or provisions hereof.

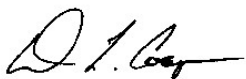
8. If the Commission does not unconditionally approve this Stipulation and Agreement without modification, and notwithstanding the provision herein that it shall become void, neither this Stipulation and Agreement nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Party has for a decision in accordance with §536.080 RSMo or Article V, Section 18 of the Missouri Constitution, and the Parties shall retain all procedural and due process rights as fully as though this Stipulation and Agreement had not been presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this Stipulation and Agreement shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any purpose whatsoever.

9. In the event the Commission unconditionally accepts the specific terms of this Stipulation and Agreement without modification, the Parties waive the following rights only as to the issues resolved herein: 1) their respective rights to present oral argument and written briefs pursuant to §536.080.1 RSMo; 2) their respective rights to seek rehearing, pursuant to §536.500 RSMo; and 3) their respective rights to judicial review pursuant to §386.510 RSMo. This waiver applies only to a final unappealed Commission order unconditionally approving this Stipulation

and Agreement issued in this proceeding and only to the issues that are resolved hereby. It does not apply to any matters raised in any prior or subsequent Commission proceeding or any matters not explicitly addressed by this Stipulation and Agreement.

**WHEREFORE**, for the foregoing reasons, the undersigned Parties respectfully request that the Commission issue its Order approving the terms and conditions of this *Unanimous Stipulation and Agreement*.

Respectfully submitted,

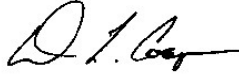
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## **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 13<sup>th</sup> day of November, 2020, to:

Office of the General Counsel  
Governor Office Building  
Jefferson City, MO 65101  
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Office of the Public Counsel  
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[opcservice@opc.mo.gov](mailto:opcservice@opc.mo.gov)



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**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission,  
at Jefferson City, Missouri, this 24<sup>th</sup> day of November, 2020.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**November 24, 2020**

**File/Case No. WO-2020-0410**

**Missouri Public Service  
Commission**

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***Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).***

***Sincerely,***



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.