

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

In the Matter of Missouri-American        )  
Water Company for a Certificate of        )  
Convenience and Necessity Authoriz-     )  
ing it to Install, Own, Acquire,         )  
Construct, Operate, Control, Manage     )  
and Maintain Water and Sewer Sys-       )  
tems in Christian and Taney Coun-        )  
ties, Missouri                                )

File No. WA-2012-0066

**STATEMENT OF POSITION  
AG PROCESSING INC A COOPERATIVE**

In compliance with the scheduling orders herein and seeking to follow the statement of issues that was filed on June 18, 2012, Intervenor AG Processing Inc a Cooperative (AGP) submits its Statement of Position as follows:

I. CERTIFICATES OF CONVENIENCE AND NECESSITY

Should MAWC be granted certificates of convenience and necessity to provide water and sewer service to the requested territory, which includes the Village of Saddlebrooke?

**AGP Position:**

**AGP does not oppose the grant of authority subject to satisfaction of the conditions set forth below. However, if these conditions are not satisfied, AGP opposes the grant inasmuch as there can be no assurance that the grant would not violate the public interest. Absent satisfaction of the**

conditions stated below, existing customers, in different localities, who are an important element of the public that would be affected by the grant, would be subject to immediate and continuing harm in that there would be an immediate preference granted to customers in the Saddlebrooke district because they would be provided service at something other than fully allocated cost of service rates.

A. Is it reasonable and necessary that the Commission impose conditions on any such approval?

**AGP Position:**

Conditioning of a certificate of convenience is authorized by Section 393.170.3 RSMo.<sup>1/</sup> AGP believes that the following conditions are reasonable and necessary for protection of the public interest, including in particular, the interests of existing customers and localities that are served by Missouri-American Water Company (MAWC).

B. If so, what conditions should be imposed?

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<sup>1/</sup> Section 393.170, subsection 3, provides:

3. The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. **The commission may by its order impose such condition or conditions as it may deem reasonable and necessary.** Unless exercised within a period of two years from the grant thereof, authority conferred by such certificate of convenience and necessity issued by the commission shall be null and void. (Emphasis added)

- a. As a condition of approval, should the approved rates reflect the fully allocated embedded cost of service or alternative concepts?

**AGP Position:**

**The rates should reflect the fully allocated embedded cost of service for the proposed new district with due consideration of all relevant factors, applicable law, and ratemaking principles. No cogent or reasonable alternative has been proposed by any party.**

- i. Should Corporate Overheads be included in the Saddlebrooke cost of service on an incremental or fully allocated basis?

**AGP Position:**

**The fully allocated basis is appropriate for several important reasons. *First*, it is the basis for the other MAWC water and sewer rates of general application. *Second*, to deviate and provide a lower cost approach would unlawfully grant an undue and unreasonable preference to Saddlebrooke customers based on their location. *Third*, a lower incremental rate will produce lower revenues and in turn will necessarily and inevitably produce a lower return for MAWC. This can only speed the onset of another rate case.**

*Fourth*, besides contributing to an earlier need for a rate case, the potential that Saddlebrooke customers would face a sharp or extraordinary cost based future rate change proposal is increased to the extent when rates are set too low temporarily based on a different approach to rates than has been used for other rates for many years. As a part of the saga of past MAWC acquisitions of small systems, the need for sharp or extraordinary increases in smaller water (and sewer) districts has resulted in proposals for subsidies from existing customers. *Fifth*, ensuring that initial rates reflect reasonable costs and nondiscriminatory fully allocated costs is therefore appropriate because rates have long been set on a fully allocated cost basis in Missouri.

- ii. Should income taxes recovered from the Saddlebrooke district be included on a stand-alone or fully allocated basis?

**AGP Position:**

The application of the stand alone concept on this issue has no basis. It is a fiction that is contradicted by the acquisition that would make the subject service territory part

of MAWC. It is apparently intended to produce lower initial rates for potential Saddlebrooke customers with unfair adverse consequences for MAWC and existing customers. Instead, income taxes should reflect the reality that Saddlebrooke operations, among other things, will result in an income tax liability just like any other district. Accordingly, full allocation of MAWC's corporate income tax rate is appropriate.

- b. As a condition of approval, if rates are based on net original cost and an excess capacity adjustment, should a commitment be necessary from MAWC to continue to apply the excess capacity adjustment for a reasonable period of time?

**AGP Position:**

**Yes. Absent such a commitment there could be an application for a sharp or extraordinary increase for Saddlebrooke customers, with the consequent potential for proposals for rates that would mitigate the impact on Saddlebrooke customers at the expense and detriment of existing customers.**

- c. As a condition of approval, should a commitment be necessary from MAWC that it will never seek to increase rates to other MAWC districts so that the

Saddlebrooke water or sewer district may be served at below-cost rates?

**AGP Position:**

**Yes. Past acquisitions of small districts have resulted in below-cost rates for those districts so that sharp or extraordinary increases could be mitigated only through seeking subsidies from other water and sewer districts. An example is the community of Brunswick.<sup>2/</sup> It would be unreasonable and harmful to the element of the public interest that is comprised of existing customers to grant certificates without protections from a repeat of the pattern of history that has been detrimental to them.**

II. RATES.

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<sup>2/</sup> *State ex rel. City of Joplin v. Public Service Commission*, 186 S.W.3d 290 (Mo. App., W.D. 2005) remanding the WR-2000-281 case to the Commission for the entry of findings of fact and conclusions of law justifying apparent discrimination against Joplin district ratepayers. Therein the Court stated:

Under section 393.130.3, water corporations are forbidden from granting undue preference or advantage to any ratepayer, just as they may not unduly or unreasonably prejudice or disadvantage any ratepayer in the provision of services. Hence, **the Commission lacks statutory authority to approve discriminatory rates, and its approval of the rates herein, required Joplin ratepayers to pay significantly more than the actual cost of service in that district for the express purpose of subsidizing the services provided in other Company districts** that were only paying for the actual cost of service arguably exceeded its authority.

*Id.* at 296 (emphasis added).

- A. Should the rates to be charged by MAWC within the subject territory approximate the cost of service associated with providing service to that territory?

**AGP Position:**

**The rates should reflect the fully allocated embedded cost of service with due consideration given to all relevant factors, applicable law, and ratemaking principles.**

- B. In assessing the cost of service:

- a. What tax rate should be used?

**AGP Position:**

**Please see the discussion above for Issue**

**I.B.a.ii.**

- b. What return on equity should be used?

**AGP Position:**

**AGP respectfully reserves its position in anticipation of testimony that will be offered in the hearing.**

- c. Should rate base be based upon net original cost or the purchase price?

**AGP Position:**

**The ratepayers should be protected from rates that would unreasonably and unjustly enrich MAWC shareholders based on a rate base value that exceeds the MAWC shareholder investment. The valuation purportedly based on net original cost is directly**

**controverted by the valuation reflected in the purchase price submitted with MAWC's testimony.**

- d. If rate base is based upon net original cost, under what conditions should plant held for future use be added to rate base in future rate cases?

**AGP Position:**

**AGP respectfully reserves its position in anticipation of testimony that will be offered in the hearing.**

- e. Should rate base include the \$31,000 in future capital improvements not yet in service designed to address security, reliability and DNR non-compliance letters?

**AGP Position:**

**The \$31,000 is an appropriate component of rate base under the particular conditions of these applications.**

- f. Should the rate include expenses associated with incremental or full corporate allocations?

**AGP Position:**

**The rate should reflect the fully allocated embedded cost, the same basis that is used for all MAWC water rates of general application.**

- C. What initial rates should be used by MAWC to serve the subject territory?

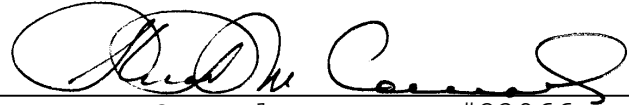
**AGP Position:**



Just and reasonable rates should reflect a fully allocated embedded cost basis and be free of undue discrimination to the detriment of either Saddlebrooke customers or existing customers. An appropriate consideration for this case is the consolidation and simplification of rates for the smaller service areas that was recently approved in WR-2012-0337.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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ATTORNEYS FOR AG PROCESSING INC A  
COOPERATIVE

**CERTIFICATE OF SERVICE**

I certify that I have served a copy of the foregoing pleading on the designated attorneys or representatives of each party in accord with Commission Orders and the service list maintained in this proceeding by the Secretary of the Commission on EFIS.

Dated: June 21, 2012



Stuart W. Conrad, an attorney for  
AGP