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Issue:

Property Tax AAO

Witness:

Mark L. Oligschlaeger

Sponsoring Party:

MoPSC Staff

Type of Exhibit:

Rebuttal Testimony

Case Nos.:

WU-2017-0351

Date Testimony Prepared:

October 13, 2017

MISSOURI PUBLIC SERVICE COMMISSION

COMMISSION STAFF DIVISION

AUDITING

REBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

**MISSOURI-AMERICAN WATER COMPANY
CASE NO. WU-2017-0351**

Jefferson City, Missouri
October 2017

Staff Exhibit No. 6
Date 11-08-17 Reporter XF
File No. WU-2017-0351

1 **REBUTTAL TESTIMONY OF**

2 **MARK L. OLIGSCHLAEGER**

3 **MISSOURI-AMERICAN WATER COMPANY**
4 **CASE NO. GO-2017-0351**

5
6 Q. Please state your name and business address.

7 A. Mark L. Oligschlaeger, P.O. Box 360, Suite 440, Jefferson City, MO 65102.

8 Q. Please describe your educational background and work experience.

9 A. I attended Rockhurst College in Kansas City, Missouri, and received a
10 Bachelor of Science degree in Business Administration, with a major in Accounting, in
11 1981. I have been employed by the Missouri Public Service Commission ("Commission")
12 since September 1981 within the Auditing Department.

13 Q. What is your current position with the Commission?

14 A. In April 2011, I assumed the position of Manager of the Auditing
15 Department, Commission Staff Division, of the Commission.

16 Q. Are you a Certified Public Accountant ("CPA")?

17 A. Yes, I am. In November 1981, I passed the Uniform Certified Public
18 Accountant examination and, since February 1989, have been licensed in the state of
19 Missouri as a CPA.

20 Q. Have you previously filed testimony before this Commission?

21 A. Yes, numerous times. A listing of the cases in which I have previously filed
22 testimony before this Commission, and the issues I have addressed in testimony in cases
23 from 1990 to current, is attached as Schedule MLO-r1 to this rebuttal testimony.

1 Q. What knowledge, skills, experience, training and education do you have in
2 the areas of which you are testifying as an expert witness?

3 A. I have been employed by this Commission as a Regulatory Auditor for
4 approximately 36 years and have submitted testimony on ratemaking matters numerous
5 times before the Commission. I have also been responsible for the supervision of other
6 Commission employees in rate cases and other regulatory proceedings many times. I have
7 received continuous training at in-house and outside seminars on technical ratemaking
8 matters since I began my employment at the Commission.

9 **EXECUTIVE SUMMARY**

10 Q. Please summarize your testimony in this proceeding.

11 A. In this rebuttal testimony, I will address the application made by Missouri-
12 American Water Company (MAWC or "Company") seeking to defer for future rate
13 recovery certain increases in property tax expense resulting from recent changes in
14 assessment approaches by St. Louis County, MO and Platte County, MO. MAWC's
15 position in this matter is set forth in the direct testimony of MAWC witnesses Brian W.
16 LeGrand and John R. Wilde in this proceeding.

17 In this testimony, I will explain the reasons for Staff's opposition to the Company's
18 AAO request in this proceeding.

19
20 **PROPERTY TAX AAO**

21 Q. What is an accounting authority order (AAO)?

1 A. An AAO is an order from the Commission allowing a jurisdictional utility to
2 account for a reporting item in a different manner than normally prescribed in the utility's
3 uniform system of accounts adopted by the Commission for accounting purposes.

4 Q. What types of costs do AAOs typically address?

5 A. In almost all instances, AAOs are applications made to seek "deferral" of
6 costs associated with "extraordinary events." The accounting term "deferral" refers to
7 treating certain costs as a "deferred asset" or "regulatory asset" on the utility's balance sheet
8 instead of charging the cost as a period expense on the utility's income statement as would
9 be normally required under the USOA adopted by the Commission for accounting purposes.

10 Q. What is the Commission's expressed criteria for granting a utility's AAO
11 deferral request?

12 A. In prior cases, the Commission has held that a cost can be deferred by a
13 utility only if it is associated with an extraordinary event. As a secondary consideration, the
14 Commission will also consider whether the cost is material in amount.

15 Q. What are "extraordinary events?"

16 A. Extraordinary events are events that are unusual, unique and not-recurring.
17 The classic example of an extraordinary event impacting utility operations and costs are the
18 occurrence of natural disasters, or so-called "acts of God," such as severe wind and ice
19 storms, and major flooding.

20 Q. Are the costs associated with extraordinary events normally included in
21 utility rates on an ongoing basis?

22 A. No, because such costs are nonrecurring by definition. However, the policy
23 in this state has been to authorize utilities to defer the costs to repair and restore service in

1 the aftermath of natural disasters through issuance of an AAO, and then allow the utility to
2 recover prudently incurred deferred costs through an amortization to expense of the
3 regulatory asset over a reasonable period of time. In most instances, the Commission has
4 not allowed utilities to include the unamortized portion of AAO deferrals in rate base,
5 thereby ensuring that the rate risk associated with the occurrence of extraordinary events be
6 shared to some degree between utility ratepayers and shareholders.

7 Q. What is the advantage to a utility of deferring costs?

8 A. By deferring a cost that would otherwise be charged against net income
9 immediately, the costs are preserved on the utility's balance sheet and the full amount likely
10 can be sought for rate recovery in future rate cases. In other words, deferral of a cost allows
11 the utility to avoid immediate charging of a cost against its income, and also increases the
12 probability that the company can ultimately receive rate recovery of the cost in question
13 even if the cost was incurred outside the ordered test year, update period or true-up period
14 ordered in a general rate proceeding.

15 Q. Does the Commission make ratemaking findings in the context of AAO
16 applications?

17 A. No. The Commission has generally held that AAO applications are for the
18 sole purpose of determining the accounting treatment to be afforded to certain costs. Any
19 decisions regarding rate recovery of deferred costs have always been reserved by the
20 Commission for subsequent rate proceedings.

21 Q. In this application, what costs does MAWC assert should be considered to be
22 extraordinary and subject to deferral?

1 A. MAWC contends that an amount of increased property tax payments it
2 expects to make in the near future to St. Louis County, MO and Platte County, MO should
3 be considered extraordinary and subject to deferral through an AAO.

4 Q. How are property taxes typically assessed on utilities by taxing authorities?

5 A. Property taxes are typically levied by taxing authorities based upon a
6 calculation of the assessed value of the utilities' taxable assets. The asset valuation takes
7 into account an estimated amount of depreciation of the asset over the item's useful life. In
8 a similar manner to how the Commission determines the amount of depreciation expense for
9 assets based upon an estimate of the assets' useful life, Staff understands that taxing
10 authorities place the utilities' taxable assets into different categories based upon assumptions
11 concerning the assets' useful lives for purposes of determining the utilities' assessed
12 property value.

13 Q. What changes in property tax assessment practices by Missouri counties does
14 MAWC claim to be extraordinary in this AAO application?

15 A. In Mr. LaGrand's and Mr. Wilde's direct testimony, MAWC presents its
16 claims that the financial impact of St. Louis County's movement to a 15-year life (in 2017)
17 and a 20-year life (in 2018) for purposes of assessment of some water utility assets that
18 formerly were classified by St. Louis County as having a seven-year life should be
19 considered to be extraordinary. In its direct testimony, MAWC also asserts that Platte
20 County's change in the assumed life of certain water assets from 20 years to 50 years, as
21 well as that taxing authority's decision to begin assessing MAWC's construction work in
22 progress amounts for the purpose of levying property tax, creates financial impacts that
23 likewise should be considered to be extraordinary.

1 Q. What does MAWC project the estimated financial impact of these changes to
2 be?

3 A. Per the direct testimony of MAWC witnesses LaGrand (page 5) and Wilde
4 (page 6), the impact of the St. Louis County assessment practices is projected to be an
5 increase to property tax expense of \$4.4 million in 2017 and \$6.1 million in 2018. The
6 impact of the Platte County changes is estimated to be an increase to property tax expense of
7 \$400,000 annually for both 2017 and 2018.

8 Q. As a rule of thumb, what criteria has the Commission used in the past to
9 determine the materiality associated with AAO requests?

10 A. The Commission has used a general guideline of finding cost deferrals in
11 excess of 5% of utilities' annual net income to be material in considering AAO deferral
12 requests.

13 Q. Are the estimated increases in property tax expense at issue in this
14 proceeding material to MAWC?

15 A. Based upon the property tax increase estimates provided by MAWC, and the
16 amount of MAWC's annual water net income in its 2016 Annual Report to the Commission,
17 Staff considers the costs associated with the St. Louis County assessment changes to be
18 material. The costs associated with Platte County changes considered in isolation are not
19 material.

20 Q. Does Staff consider these costs to be extraordinary in nature?

21 A. No, in several respects.

1 First, utilities have incurred property taxes on an annual basis for many years.
2 Property taxes, when considered as a category of cost, are routine and ongoing, and should
3 be considered to be among the most "ordinary" of costs incurred by a utility.

4 Second, the changes in assessment practices highlighted by MAWC in this
5 application appear to be the result of discretionary judgments by the taxing authorities that,
6 for the most part, are not unprecedented in nature when taking into account the assessment
7 practices of other Missouri County taxing authorities.

8 Q. Please explain your second point above in more detail.

9 A. Per the Company's response to Staff Data Request No. 3 in this case, the
10 actions taken by St. Louis County to place the MAWC assets at issue in this case in a 20-
11 year asset life category would match the current assessment practices of all other 23
12 Missouri counties in which the Company operates.

13 Platte County's approach of assessing MAWC's CWIP balances for property tax
14 purposes is also currently followed by St. Louis County, per the same Staff data request
15 response. However, Platte County's action of attempting to place some of MAWC's
16 property in a 50-year asset life category appears to be unprecedented in Missouri.

17 Q. Based upon the above, should an AAO be granted to MAWC for the property
18 tax amounts at issue in this proceeding?

19 A. Staff's position is "no." The majority of the dollars at issue in this
20 proceeding relate to actions by St. Louis County to implement assessment practices that are
21 currently being followed by every other county in Missouri in which MAWC operates. In
22 short, there is nothing unusual or unique in how St. Louis County proposes to assess MAWC
23 assets for property tax purposes and, accordingly, this particular action by the taxing

1 authority does not appear to meet the Commission's past criteria for deeming certain events
2 to be "extraordinary."

3 Q. Should the Platte County actions to extend the assumed life of MAWC assets
4 for property tax assessment purposes be considered extraordinary?

5 A. The point is at least more arguable, given that Platte County's assumption of
6 a 50-year life for some assets for property tax assessment purposes appears to be
7 unprecedented in this State.

8 However, in general, Staff views that actions taken to change the parameters of how
9 utility assets are assessed by taxing authorities should be considered as part of the ordinary
10 discretion available to those bodies, and should not be considered to be inherently
11 extraordinary in nature.

12 Q. In any event, is the financial impact of the Platte County assessment changes
13 at issue in this proceeding material?

14 A. No.

15 Q. You earlier stated that the impact of the assessment changes made by St.
16 Louis County was material to MAWC. Does that analysis change Staff's recommendation
17 concerning this AAO application?

18 A. No. The key criteria for determining whether AAO approval should be
19 granted should remain whether the costs in question are associated with a true extraordinary
20 event. As discussed previously, St. Louis County's actions in regard to MAWC's property
21 tax assessment cannot reasonably be described as extraordinary. Granting AAOs based
22 solely or largely upon the materiality of the costs in question would transform the use of
23 AAOs in this jurisdiction to a primary purpose of safeguarding utility earnings levels.

1 Q. If an AAO is not granted to MAWC in this case, would the Company have to
2 wait long in order to capture the impact of the increased property taxes at issue in customer
3 rates?

4 A. No. MAWC has a general rate application being currently processed, Case
5 No. WR-2017-0285, and new rates from that case will go into effect no later than the end of
6 May 2018. That creates a maximum lag of five months between MAWC's payment of any
7 increased property tax expense at issue in this AAO filing and approval of new customer
8 rates incorporating the higher expense levels.

9 Q. In Mr. Wilde's direct testimony, he references a previous AAO application
10 by a Missouri utility pertaining to property taxes. Are you familiar with that case?

11 A. Yes, I am. An application by Missouri Gas Energy (MGE) before the
12 Commission for a property tax AAO was docketed as Case No. GU-2005-0095, and
13 pertained to an attempt by the state of Kansas to assess property taxes on gas held in storage
14 by natural gas utilities. In that case, Staff recommended approval of MGE's AAO
15 application, and the Commission ultimately authorized MGE to defer the property tax
16 amount in question.

17 Q. Are there any major distinguishing characteristics between the prior MGE
18 AAO application and the current MAWC property tax AAO filing?

19 A. Yes, there are several.

20 First, the actions taken by the state of Kansas to assess and tax natural gas utilities'
21 gas held in storage were, in my recollection, unprecedented. For this reason, Staff
22 recommended that the Commission find the actions by the state of Kansas to be
23 extraordinary in nature.

1 Second, MGE and other interested parties made extensive efforts in the state and
2 federal court systems to overturn the actions taken by the state of Kansas. While the
3 existence of a legal challenge by a utility to increased property tax assessments is not
4 sufficient in and of itself to justify deferral of the increased costs, deferral of such costs does
5 provides financial support for the utility challenging the taxes, in that the utility in question
6 would not have to recognize the financial loss associated with the increased property taxes
7 as long as the regulatory commission approved the deferral.

8 Q. Is MAWC pursuing challenges to the increased property tax assessments
9 levied by St. Louis County and Platte County in the courts or before the State Tax
10 Commission?

11 A. Not at this time, to Staff's knowledge.

12 Q. Does this conclude your rebuttal testimony?

13 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Laclede Gas Company's)	
Request to Increase Its Revenues for)	Case No. GR-2017-0215
Gas Service)	
In the Matter of Laclede Gas Company)	
d/b/a Missouri Gas Energy's Request to)	Case No. GR-2017-0216
Increase Its Revenues for Gas Service)	

AFFIDAVIT OF DAVID M. SOMMERER

STATE OF MISSOURI)	
)	ss.
COUNTY OF COLE)	

COMES NOW DAVID M. SOMMERER and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing Rebuttal Testimony; and that the same is true and correct according to his best knowledge and belief.

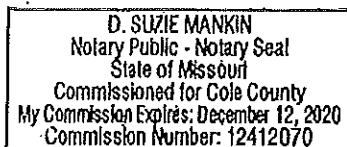
Further the Affiant sayeth not.

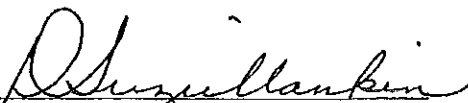


DAVID M. SOMMERER

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 13th day of October, 2017.





Notary Public

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
Missouri Gas Energy and Laclede Gas Company	GO-2016-0332 and GO-2016-0333	Rebuttal: ISRS Updates; Capitalized Incentive Compensation; Hydrostatic Testing
Kansas City Power & Light Company	ER-2016-0285	Rebuttal: Tracker Proposals; Use of Projected Expenses; Expense Trackers in Rate Base
Laclede Gas Company and Missouri Gas Energy	GO-2016-0196 and GO-2016-0197	Rebuttal: ISRS True-ups
Union Electric Company d/b/a Ameren Missouri	ER-2016-0179	Rebuttal: Transmission Tracker; Noranda Deferral; Regulatory Reform
KCP&L Greater Missouri Operations Company	ER-2016-0156	Rebuttal: Tracker Proposals; Use of Projected Expenses; Tracker Balances in Rate Base; Deferral Policy
Missouri-American Water Company	WR-2015-0301	Rebuttal: Environmental Cost Adjustment Mechanism; Energy Efficiency and Water Loss Reduction Deferral Mechanism Tracker
Laclede Gas Company	GO-2015-0178	Direct: ISRS True-ups
Kansas City Power & Light Company	EU-2015-0094	Direct: Accounting Order – Department of Energy Nuclear Waste Fund Fees
Union Electric Company d/b/a Ameren Missouri	EO-2015-0055	Rebuttal: Demand-Side Investment Mechanism
Kansas City Power & Light Company	ER-2014-0370	Rebuttal: Trackers Surrebuttal: Trackers; Rate Case Expense
Kansas City Power & Light Company	EO-2014-0255	Rebuttal: Continuation of Construction Accounting
Union Electric Company d/b/a Ameren Missouri	EC-2014-0223	Rebuttal: Complaint Case – Rate Levels
Kansas City Power & Light Company	EO-2014-0095	Rebuttal: DSIM
Union Electric Company d/b/a Ameren Missouri	ET-2014-0085	Surrebuttal: RES Retail Rate Impact
Kansas City Power & Light Company & KCP&L Greater Missouri Operations Co	EU-2014-0077	Rebuttal: Accounting Authority Order
Kansas City Power & Light Company	ET-2014-0071	Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
KCP&L Greater Missouri Operations Company	ET-2014-0059	Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact
Missouri Gas Energy, A Division of Laclede Gas Company	GR-2014-0007	Surrebuttal: Pension Amortizations
The Empire District Electric Company	ER-2012-0345	Direct (Interim): Interim Rate Request Rebuttal: Transmission Tracker, Cost of Removal Deferred Tax Amortization; State Income Tax Flow-Through Amortization Surrebuttal: State Income Tax Flow-Through Amortization
KCP&L Greater Missouri Operations Company	ER-2012-0175	Surrebuttal: Transmission Tracker Conditions
Kansas City Power & Light Company	ER-2012-0174	Rebuttal: Flood Deferral of off-system sales Surrebuttal: Flood Deferral of off-system sales, Transmission Tracker conditions
Union Electric Company d/b/a Ameren Missouri	ER-2012-0166	Responsive: Transmission Tracker
Union Electric Company d/b/a Ameren Missouri	EO-2012-0142	Rebuttal: DSIM
Union Electric Company d/b/a Ameren Missouri	EU-2012-0027	Rebuttal: Accounting Authority Order Cross-Surrebuttal: Accounting Authority Order
KCP&L Greater Missouri Operations Company	EO-2012-0009	Rebuttal: DSIM
Missouri Gas Energy, A Division of Southern Union	GU-2011-0392	Rebuttal: Lost Revenues Cross-Surrebuttal: Lost Revenues
Missouri-American Water Company	WR-2011-0337	Surrebuttal: Pension Tracker
The Empire District Electric Company	ER-2011-0004	Staff Report on Cost of Service: Direct: Report on Cost of Service; Overview of the Staff's Filing Surrebuttal: SWPA Payment, Ice Storm Amortization Rebasing, SO2 Allowances, Fuel/Purchased Power and True-up
The Empire District Electric Company, The-Investor (Electric)	ER-2010-0130	Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Regulatory Plan Amortizations; Surrebuttal: Regulatory Plan Amortizations

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
Missouri Gas Energy, a Division of Southern Union	GR-2009-0355	Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Rebuttal: Kansas Property Taxes/AAO; Bad Debts/Tracker; FAS 106/OPEBs; Policy; Surrebuttal: Environmental Expense, FAS 106/OPEBs
KCP&L Greater Missouri Operations Company	EO-2008-0216	Rebuttal: Accounting Authority Order Request
The Empire District Electric Company	ER-2008-0093	Case Overview; Regulatory Plan Amortizations; Asbury SCR; Commission Rules Tracker; Fuel Adjustment Clause; ROE and Risk; Depreciation; True-up; Gas Contract Unwinding
Missouri Gas Utility	GR-2008-0060	Report on Cost of Service; Overview of Staff's Filing
Laclede Gas Company	GR-2007-0208	Case Overview; Depreciation Expense/Depreciation Reserve; Affiliated Transactions; Regulatory Compact
Missouri Gas Energy	GR-2006-0422	Unrecovered Cost of Service Adjustment; Policy
Empire District Electric	ER-2006-0315	Fuel/Purchased Power; Regulatory Plan Amortizations; Return on Equity; True-Up
Missouri Gas Energy	GR-2004-0209	Revenue Requirement Differences; Corporate Cost Allocation Study; Policy; Load Attrition; Capital Structure
Aquila, Inc., d/b/a Aquila Networks-MPS-Electric and Aquila Networks-L&P- Electric and Steam	ER-2004-0034 and HR-2004-0024 (Consolidated)	Aries Purchased Power Agreement; Merger Savings
Laclede Gas Company	GA-2002-429	Accounting Authority Order Request
Union Electric Company	EC-2002-1	Merger Savings; Criticisms of Staff's Case; Injuries and Damages; Uncollectibles
Missouri Public Service	ER-2001-672	Purchased Power Agreement; Merger Savings/Acquisition Adjustment
Gateway Pipeline Company	GM-2001-585	Financial Statements
Ozark Telephone Company	TC-2001-402	Interim Rate Refund
The Empire District Electric Company	ER-2001-299	Prudence/State Line Construction/Capital Costs
Missouri Gas Energy	GR-2001-292	SLRP Deferrals; Y2K Deferrals; Deferred Taxes; SLRP and Y2K CSE/GSIP

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
KLM Telephone Company	TT-2001-120	Policy
Holway Telephone Company	TT-2001-119	Policy
Peace Valley Telephone	TT-2001-118	Policy
Ozark Telephone Company	TT-2001-117	Policy
IAMO Telephone Company	TT-2001-116	Policy
Green Hills Telephone	TT-2001-115	Policy
UtiliCorp United & The Empire District Electric Company	EM-2000-369	Overall Recommendations
UtiliCorp United & St. Joseph Light & Power	EM-2000-292	Staff Overall Recommendations
Missouri-American Water	WM-2000-222	Conditions
Laclede Gas Company	GR-99-315 (remand)	Depreciation and Cost of Removal
United Water Missouri	WA-98-187	FAS 106 Deferrals
Western Resources & Kansas City Power & Light	EM-97-515	Regulatory Plan; Ratemaking Recommendations; Stranded Costs
Missouri Public Service	ER-97-394	Stranded/Transition Costs; Regulatory Asset Amortization; Performance Based Regulation
The Empire District Electric Company	ER-97-82	Policy
Missouri Gas Energy	GR-96-285	Riders; Savings Sharing
St. Louis County Water	WR-96-263	Future Plant
Union Electric Company	EM-96-149	Merger Savings; Transmission Policy
St. Louis County Water	WR-95-145	Policy
Western Resources & Southern Union Company	GM-94-40	Regulatory Asset Transfer
Generic Electric	EO-93-218	Preapproval
Generic Telephone	TO-92-306	Revenue Neutrality; Accounting Classification

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
Missouri Public Service	EO-91-358 and EO-91-360	Accounting Authority Order
Missouri-American Water Company	WR-91-211	True-up; Known and Measurable
Western Resources	GR-90-40 and GR-91-149	Take-Or-Pay Costs

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Cases prior to 1990 include:

<u>COMPANY NAME</u>	<u>CASE NUMBER</u>
Kansas City Power and Light Company	ER-82-66
Kansas City Power and Light Company	HR-82-67
Southwestern Bell Telephone Company	TR-82-199
Missouri Public Service Company	ER-83-40
Kansas City Power and Light Company	ER-83-49
Southwestern Bell Telephone Company	TR-83-253
Kansas City Power and Light Company	EO-84-4
Kansas City Power and Light Company	ER-85-128 & EO-85-185
KPL Gas Service Company	GR-86-76
Kansas City Power and Light Company	HO-86-139
Southwestern Bell Telephone Company	TC-89-14