

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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| In the Matter of the Application of Missouri-American |) | |
| Water Company for Approval to Establish an |) | <u>Case No. WO-2004-0116</u> |
| Infrastructure System Replacement Surcharge (ISRS) |) | <u>Tariff No. YW-2004-0274</u> |

CONCURRING OPINION OF CHAIRMAN STEVE GAW AND
COMMISSIONER ROBERT M. CLAYTON III

Although I concur in today's decision, I write separately to express my belief that Staff has correctly identified the unfairness in Missouri-American's method of calculating accumulated depreciation. The statute that permits Missouri-American to impose an ISRS is designed to alleviate the effects of regulatory lag on the company's cost of replacing infrastructure by requiring the Commission to engage in narrow, single-issue ratemaking. But by looking only at the aspect of regulatory lag that harms the company's bottom line, the Commission is unable to examine and consider the other aspect of regulatory lag that harms consumers. Staff points out that depreciation of Missouri-American's plant has the effect of decreasing Missouri-American's revenue requirements while rates remain constant between rate cases, meaning that Missouri-American will, to that extent, be over-earning. Staff has attempted to develop a method to balance that over-earning against the potential for under-earning that the statute addresses.

The new statute upsets the balance traditional ratemaking attempted to strike. There, investments in new plant were not included in the ratebase until the next rate case. However, the depreciation of assets occurring after the last case similarly did not lower

rates for consumers. Such is a likely result of single issue ratemaking, which the legislation approves and is one of the reasons courts in Missouri have disapproved such ratemaking.

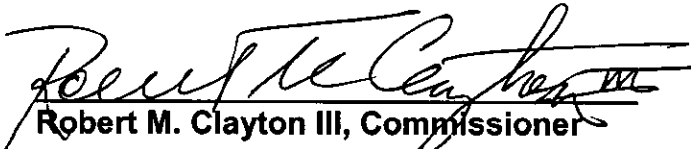
Although Staff's method of calculating accumulated depreciation is offered with the good intention of calculating a fair rate for Missouri-American's customers, that method does not appear to be permitted by the controlling statute. Because the legislature appears to have been clear in its desire for the majority opinion's result, I feel I must concur in the decision.

Respectfully submitted,


Steve Gaw, Chairman

I join in the concurrence of Chairman Gaw.

Respectfully submitted,


Robert M. Clayton III, Commissioner

(SEAL)

Dated at Jefferson City, Missouri,
on this 17th day of December, 2003.