

Exhibit No. _____
Issues: Applicant, Qualifications, Overview of
Nonviable Utility Systems, Capital Structure,
Tariffs and Rates, Public Interest
Witness: Josiah Cox
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: Osage Utility Operating
Company, Inc
File Nos.: WA-2019-0185
Date: September 4, 2019

Missouri Public Service Commission

Surrebuttal Testimony

of

Josiah Cox

On Behalf of

Osage Utility Operating Company, Inc

September 4, 2019

Table of Contents

WITNESS INTRODUCTION..... 1
PURPOSE..... 1
 Testimony of OPC witness Keri Roth..... 1
 Testimony of Cedar Glen witness Kenneth Hulett 8
 Testimony of Reflections witness Anthony Soukenik..... 13

**SURREBUTTAL TESTIMONY OF
JOSIAH COX
OSAGE UTILITY OPERATING COMPANY, INC.**

1 **WITNESS INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Josiah Cox. My business address is 500 Northwest Plaza Drive,
4 Suite 500, St. Ann, Missouri, 63074.

5 **Q. ARE YOU THE SAME JOSIAH COX WHO PREVIOUSLY FILED DIRECT
6 TESTIMONY IN THIS CASE ON BEHALF OF OSAGE UTILITY OPERATING
7 COMPANY, INC. (OUOC)?**

8 A. Yes.

9 **PURPOSE**

10 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

11 A. The purpose of my surrebuttal testimony is to respond to portions of the rebuttal
12 testimonies filed by the Office of the Public Counsel (OPC), Reflections
13 Subdivision Master Association, Inc. (Reflections Association), and Cedar Glen
14 Condominium Owners Association, Inc. (Cedar Glen).

15 **Testimony of OPC witness Keri Roth**

16 **Q. HAVE YOU READ THE REBUTTAL TESTIMONY OF OPC WITNESS KERI
17 ROTH?**

18 A. Yes.

19 **Q. AT PAGE 2, LINES 16-22, THROUGH PAGE 5, LINES 1-22, MS. ROTH
20 DISCUSSES HER CRITICISMS OF THE CUSTOMER NOTICE OUOC**

1 **PROVIDED TO POTENTIAL CUSTOMERS CURRENTLY SERVED BY THE**
2 **OSAGE WATER COMPANY SYSTEMS, AS WELL AS THE REFLECTIONS**
3 **SYSTEMS. IS CUSTOMER NOTICE A REQUIREMENT UNDER THE**
4 **COMMISSION’S RULES WHEN FILING AN APPLICATION TO ACQUIRE**
5 **ASSETS?**

6 A. No, it is not. However, OUOC undertook this voluntary action because the
7 Company understands how a change in utility providers can be a concerning
8 time for customers, and customers often receive misinformation from various
9 sources. OUOC wanted to provide information to potential customers, not only
10 to introduce the Company and its operations, but also to make sure they were
11 receiving correct information about the application process.

12 **Q. IS OUOC WILLING TO CONSIDER RECOMMENDATIONS ON HOW THE**
13 **CUSTOMER NOTICE MIGHT BE IMPROVED?**

14 A. Certainly. While notice is not required, OUOC voluntarily sent out the customer
15 notice and we want that notice to be as helpful to customers as possible. OUOC
16 is willing to discuss and consider any recommendations.

17 **Q. ON PAGE 7, LINES 17-21, THROUGH PAGE 11, LINES 1-19, OPC WITNESS**
18 **ROTH MENTIONS CSWR’S CASES BEFORE THE COMMISSIONS IN**
19 **ARKANSAS, TENNESSEE, KENTUCKY AND LOUISIANA TO EVALUATE**
20 **OUOC’S REQUEST FOR ACQUISITION INCENTIVES IN THIS CASE. DO**
21 **OTHER STATES HAVE THE SAME STATUTES AND RULES AS THE**
22 **MISSOURI PUBLIC SERVICE COMMISSION?**

1 **A.** No. The states of Arkansas, Tennessee, Kentucky, and Louisiana don't have
2 statutes or rules that provide for acquisition premiums, or other incentives, similar
3 to those available under 4 CSR 240-10.085. But the fact OUOC made
4 acquisitions in Missouri prior to the adoption of that rule or that OUOC's affiliates
5 in Arkansas, Tennessee, Kentucky, and Louisiana have made or propose to
6 make acquisitions without premiums similar to those provided in the
7 Commission's rule is not determinative as to application of this Commission rule,
8 nor necessarily representative of the situations in Missouri that drove
9 promulgation of the non-viable utility incentive rule. As of January 30, 2019, the
10 Commission has made available premiums to companies willing to acquire non-
11 viable water and wastewater companies. The decision regarding OUOC's
12 request for a premium in this case should be based solely on that rule and
13 whether OUOC qualifies for a premium under the rule's standards.

14 For many years, this Commission has wrestled with the problem of how
15 companies like Central States Water Resources ("CSWR") and its affiliates, who
16 have the operating and managerial expertise and the capital necessary to
17 convert small non-viable utilities into utilities that consistently comply with
18 applicable regulations and are able to provide safe and reliable service to
19 customers, can be encouraged to acquire, maintain and operate the many non-
20 viable systems operating in this state. In the workshops the Commission held
21 prior to adoption of 4 CSR 240-10.085, CSWR and other similarly-situated
22 companies argued in favor of incentives because viable utilities aren't likely to
23 invest in non-viable utilities unless it makes business sense to do so.

1 Consequently, if viable utilities were going to be enticed to invest in non-viable
2 utilities, some investment incentive needed to be provided. That's why the
3 Commission adopted its rule. OUOC shouldn't be penalized for attempting to
4 now take advantage of those incentives just because those same incentives
5 didn't exist in the past and don't currently exist in other states.

6 In the near future, affiliates of OUOC plan to seek regulatory commission
7 authority to acquire, own, and operate small water and wastewater systems in
8 Texas and North Carolina. Each of those states recently enacted legislation
9 allowing regulators to value rate base for those systems based on the appraised
10 market value of the acquired systems. (Missouri has adopted similar legislation,
11 but it's our understanding that benefit is currently only available to acquisitions by
12 "large water public utilities" (those of 8,000 customers or more)). Would it be fair
13 for regulators in Texas and North Carolina to deny CSWR affiliates in those
14 states the market value rate base available to other acquiring utilities just
15 because their affiliates acquired similar systems in Arkansas, Tennessee,
16 Kentucky, Louisiana, and Missouri where market value treatment isn't available?
17 Of course not. And it's similarly not appropriate for the Commission to deny
18 acquisition incentives in this case just because they haven't been sought
19 previously in Missouri or in other states where premiums aren't available.

20 But there is perhaps an even more compelling reason to reject the
21 argument Ms. Roth is making in this case on behalf of the OPC. If a utility like
22 OUOC is barred from taking advantage of the incentives available under 4 CSR
23 240-10.085 then the rule will be rendered a nullity. That's true because I can't

1 imagine there is any utility who may try to take advantage of that rule in the future
2 that did not make acquisitions in the past when no incentive was available. If
3 those prior acquisitions are a disqualifier – as Ms. Roth seems to argue – then
4 the benefits the rule purports to provide are purely illusory.

5 **Q. AT PAGE 12, LINES 9-23 THROUGH PAGE 13, LINES 1-12, MS. ROTH**
6 **OPINES THAT OUOC HAS NOT MET ITS BURDEN OF PROOF TO SHOW**
7 **THAT THE PURCHASE OF THE OSAGE WATER SYSTEMS AND**
8 **REFLECTIONS SYSTEMS WOULD BE UNLIKELY TO OCCUR WITHOUT THE**
9 **PROBABILITY OF OBTAINING AN ACQUISITION INCENTIVE. DO YOU**
10 **AGREE WITH MS. ROTH’S CONCLUSION?**

11 A. No, I do not.

12 **Q. PLEASE EXPLAIN.**

13 A. Ms. Roth states that CSWR bid to purchase the assets of Osage Water
14 Company and then executed the Agreement for Sale of Utility System
15 (Agreement for Sale) before the incentive rule became available. The
16 Agreement for Sale was executed on October 24, 2018. Regulation 4 CSR 240-
17 10.085 became effective January 30, 2019. See Schedule JC-11 attached to my
18 Direct Testimony in this case. Ms. Roth argues that the timeline of events shows
19 the acquisition would occur regardless of the Commission approving a debit
20 acquisition adjustment. What Ms. Roth ignores is that the incentive rule was filed
21 May 30, 2018, so CSWR was aware of the rule’s progress through the
22 rulemaking schedule when it placed its bid at the Bankruptcy Court’s auction.
23 Further, the language in Paragraph 9 (a) on page 8 of the Agreement for Sale

1 that contains the conditions precedent for CSWR to close. The protective
2 language reads:

3 The PSC and DNR shall have, if necessary, authorized or approved
4 the sale, transfer or disposition of the Assets to Buyer from Seller,
5 the proposed financing, and any schedule of compliance for
6 proposed utility improvement projects for regulatory compliance
7 deemed necessary by Buyer, each in form and substance
8 (including without limitation with respect to *the terms and conditions*
9 *contained in such approval*) *acceptable to Buyer in Buyer's sole*
10 *and absolute discretion.*

11 (emphasis added). What this language means is that CSWR may choose to not
12 consummate the purchase if the final commission order makes CSWR's
13 acquisition not feasible from an economic standpoint.

14 **Q. COULD THE COMMISSION STILL APPROVE AN ACQUISITION INCENTIVE**
15 **EVEN IF THE COMMISSION WERE TO ACCEPT OPC'S POSITION THAT**
16 **OUOC HAS NOT MET ITS BURDEN OF PROOF?**

17 A. Yes. 4 CSR 240-10.085(8) allows the Commission to waive any of the
18 regulation's provisions for good cause shown.

19 **Q. IN YOUR OPINION, WHAT IS THE GOOD CAUSE IN THIS CASE?**

20 A. As I discussed in my Direct Testimony, the Commission found Osage Water
21 Company had been effectively abandoned by its owners and directed Staff to file
22 a petition in circuit court for the appointment of a receiver. In 2005, the Camden
23 County Circuit Court placed Osage Water Company into permanent receivership.
24 Osage Water Company was in receivership up until it filed for Chapter 11
25 bankruptcy on October 11, 2017. Reflections has a similar troubled history, with
26 the developer defaulting on the development loan in 2012. Great Southern Bank

1 has held title to the real estate the utility systems are located on since that time.
2 The Osage Water Company and Reflections systems have also had compliance
3 issues with the Missouri Department of Natural Resources throughout the years
4 and require system upgrades. I've included MDNR documentation for each of
5 the systems in **Schedules JC-S1 through JC-S5**. All the while, the customers'
6 needs for safe and adequate utility services over the last fourteen (14) plus years
7 has remained constant. OUOC has the technical, managerial, and financial
8 capability to own and operate the systems and provide safe and adequate
9 service for the customers.

10 Further, should OUOC not be able to close on the Osage Water Company
11 assets, the Trustee has authority to sell the assets to PWSD #5, LAWVA and
12 MWA as the first back-up bidders, subject to receiving all necessary regulatory
13 approval. And as I will discuss in more detail later, the rebuttal testimony of Mr.
14 Soukenik states that MWA and LAWVA are willing to purchase the Reflections
15 systems as well. The acquisition of these systems by PWSD #5, LAWVA and
16 MWA is not in the public interest. As discussed in detail in the surrebuttal
17 testimony of Todd Thomas, these entities have long histories of non-compliance
18 with MDNR regulations designed to protect the health and welfare of the public
19 and environment. If the Commission grants OUOC the authority it seeks in the
20 Amended Application, OUOC and CSWR have access to adequate capital and
21 are willing and able to invest the capital necessary to bring the water and
22 wastewater systems at issue in this case up to standard and maintain
23 compliance with applicable MDNR regulations.

1 **Q. IS OUOC STILL SEEKING BOTH A RATE OF RETURN PREMIUM ALONG**
2 **WITH A DEBT ACQUISITION ADJUSTMENT AS PART OF THIS CASE?**

3 A. OUOC originally asked for both a rate of return premium along with a debt
4 acquisition adjustment. After further consideration, and in consideration of the
5 Staff's opposition to the proposed rate of return premium, OUOC will drop its
6 request for a rate of return premium.

7 **Q. WITH THAT CHANGE, DO YOU BELIEVE OUOC'S POSITION IS**
8 **CONSISTENT WITH THE STAFF'S RECOMMENDATION AND DIRECT**
9 **TESTIMONY IN THIS CASE?**

10 A. Yes.

11 **Testimony of Cedar Glen witness Kenneth Hulett**

12 **Q. HAVE YOU READ THE REBUTTAL TESTIMONY OF CEDAR GLEN WITNESS**
13 **KENNETH HULETT?**

14 A. Yes.

15 **Q. ON PAGE 2, LINES 21-23, MR. HULETT STATES THAT APPROVAL OF**
16 **OUOC'S APPLICATION WOULD BE DETRIMENTAL TO THE PUBLIC**
17 **INTEREST. DO YOU AGREE?**

18 A. No, I do not agree. OUOC'S proposed acquisition of the specified assets of
19 Osage Water Company and the related transactions are not detrimental to the
20 public interest of the State of Missouri.

21 CSWR Missouri companies Hillcrest Utility Operating Company, Inc. Raccoon
22 Creek Utility Operating Company, Inc. Elm Hills Utility Operating Company, Inc.,
23 Confluence Rivers Utility Operating Company, Inc., and Indian Hills Utility

1 Operating Company, Inc. have acquired small Missouri water and sewer
2 companies, brought capital to improve those systems, upgraded the services
3 provided to customers and delivered safe and adequate service where that was
4 not the case prior to acquisition. CSWR companies have purchased multiple
5 systems in Missouri that were in state appointed receivership, with numerous
6 MDNR violations, and brought those systems back into regulatory compliance for
7 the provision of safe and reliable service.

8 **Q. HAS THE COMMISSION RECENTLY APPLIED THE NOT DETRIMENTAL**
9 **STANDARD IN RELATION TO OUOC AFFILIATE CONFLUENCE RIVERS**
10 **UTILITY OPERATING COMPANY, INC.?**

11 A. Yes. The Commission recently applied the standard of “not detrimental to the
12 public interest” in its order for a case involving Confluence Rivers Utility
13 Operating Company, Inc. (Commission Case No. WM-2018-0116 (February 14,
14 2019)). As the Staff of the Commission reminded parties in an earlier pleading,
15 in the Confluence Rivers order the Commission found that the proposed sale to
16 OUOC’s affiliate was not detrimental to the public interest and stated in support
17 as follows:

18 Considering the present troubled nature of the systems at issue,
19 the Company’s sound track record in rehabilitating similarly situated
20 systems, the Company’s ability to acquire, maintain, and operate
21 the systems, and the statutory obligation of the Commission to
22 ensure safe and adequate service, allowing the Company to
23 acquire the Selling Companies’ assets per the terms and conditions
24 of the Stipulation will not be detrimental to the public.

25 The elements referenced by the Commission could easily be applied to this case.

1 **Q. DOES CSWR'S EXPERIENCE NOW EXTEND BEYOND THE STATE OF**
2 **MISSOURI?**

3 A. Yes. In addition to Missouri, CSWR affiliates own and operate water and sewer
4 systems in Arkansas and this month will close on systems in Kentucky. CSWR
5 affiliates are further in the process of acquiring systems in Tennessee, and
6 Louisiana.

7 **Q. DID THE KENTUCKY PUBLIC SERVICE COMMISSION MAKE FINDINGS**
8 **CONCERNING CSWR'S EXPERIENCE AND ABILITY TO OWN, IMPROVE**
9 **AND OPERATE WATER AND SEWER SYSTEMS WHEN IT APPROVED**
10 **THOSE ACQUISITIONS?**

11 A. Yes. In Kentucky PSC Case No. 2019-00104, the Kentucky PSC concluded that
12 CSWR's affiliate Bluegrass Water Utility Operating Company, LLC, subject to
13 certain conditions, "has the financial, technical, and managerial abilities to
14 provide reasonable service to those persons located in the acquired systems."

15 **Q. ARE THERE IMPROVEMENTS IN SERVICE THAT CUSTOMERS OF OSAGE**
16 **WATER COMPANY AND THE REFLECTIONS SYSTEMS WILL EXPERIENCE**
17 **AS A RESULT OF OUOC'S ACQUISITION OF THOSE SYSTEMS?**

18 A. Yes. Most obviously, OUOC will be able to correct and improve the infrastructure
19 of these systems in a way that has not been possible over the last several years.
20 This is especially true as to the Osage Water Company systems, as they have
21 been in receivership and bankruptcy over the past 14 years. Additionally,
22 customers will have multiple channels in which to interact with OUOC. First
23 customers will have a 24-hour phone line to report any utility service issues.

1 Those service issue calls are then transferred into the computerized
2 maintenance management system (CMMS) and converted into work orders,
3 which creates a history with the reported service issue and works to quickly and
4 efficiently deal with any actual issues for customers. Second OUOC has
5 customer service representatives available during business hours to talk about
6 any customer concerns. Additionally, OUOC will have a utility-specific webpage
7 and dedicated email address that will keep customers informed about their utility
8 service. Mirroring the relevant utility homepage information, OUOC will also
9 have a dedicated social media page in order to offer another avenue of
10 communication with customers about utility matters. The social media account
11 will be manned by customer service representatives that can answer customer
12 questions. Finally, OUOC will also offer online bill paying options to customers
13 including e-checks, debit card, and credit cards.

14 **Q. WOULD YOU SUMMARIZE THE COMPANY'S POSITION AS TO THE PUBLIC**
15 **INTEREST ASSOCIATED WITH THE PROPOSED TRANSACTIONS?**

16 A. A grant of the requested certificates of convenience and necessity associated
17 with the proposed acquisition of the specified assets of Reflections and the
18 related transactions are in the public interest of the State of Missouri. The
19 assets would be acquired by OUOC and be subject to the jurisdiction of the
20 Commission. OUOC is fully qualified, in all respects, to own and operate the
21 systems to be acquired and to otherwise provide safe and adequate service –
22 something that is not present at the current time. OUOC and CSWR have the
23 resources to rehabilitate the systems it proposes to acquire, and the managerial,

1 technical, and financial capabilities to safely and adequately operate the systems
2 going forward.

3 **Q. AT PAGE 3, LINES 9-11, MR. HULETT STATES THAT CEDAR GLEN**
4 **CUSTOMERS WOULD BE BETTER SERVED BY PWSD #5. DO YOU**
5 **AGREE?**

6 A. No, I do not agree. As discussed in the surrebuttal testimony of Todd Thomas,
7 PWSD # 5 operates only two water and wastewater systems, Clearwater
8 Condominiums (Clearwater) and Cedar Heights. And yet, PWSD #5 has
9 received communication from MDNR at least 13 times over the last four (4) years
10 for notices of violation, findings of non-compliance, or letters of warning related to
11 compliance with MDNR regulations. Also, as of May 14, 2019, PWSD # 5 was in
12 Enforcement for delinquent 2018 and 2019 permit fees.

13 **Q. ON PAGE 6, LINES 1-3, MR. HULETT STATES THAT COST IS JUST ONE OF**
14 **THE FACTORS THAT INFLUENCE THE VALUE OF A CONDOMINIUM TO A**
15 **PROSPECTIVE BUYER. IN YOUR EXPERIENCE, WHAT OTHER FACTORS**
16 **INFLUENCE MARKET VALUES?**

17 A. In my experience in the drinking water industry, having reliable access to safe
18 drinking water is one of the most influential factors on the value of property.
19 Additionally, the Lake of the Ozarks is important for tourism and outdoor
20 recreational activities including boating, swimming and fishing, and the
21 fundamental reason for the location of these condominiums. Many housing units
22 are built near the water and make use of onsite wastewater treatment facilities.
23 As surrounding communities continue to grow and develop, water quality

1 maintenance in the lake should be an increasingly serious concern. The Missouri
2 State Operating Permits for both Cedar Heights and Clearwater allow the
3 wastewater facilities to discharge effluent into tributaries of Lake of the Ozarks.
4 This means that exceedances of permitted effluent limits, due to ineffective
5 facility management, have real potential to enter the Lake of the Ozark and
6 create events that limit owners use and enjoyment of the lake. The Lake of the
7 Ozarks has had historical issues with water quality based on under treated
8 wastewater, which shows how important investment in water infrastructure is for
9 the community and the state.

10 **Testimony of Reflections witness Anthony Soukenik**

11 **Q. HAVE YOU READ THE REBUTTAL TESTIMONY OF REFLECTIONS**
12 **WITNESS ANTHONY SOUKENIK?**

13 **A.** Yes.

14 **Q. ON PAGE 3, LINES 3-23, REFLECTIONS STATES IT HAS TERMINATED THE**
15 **AMENDED AGREEMENT TO SELL THE SYSTEMS ASSETS TO CSWR.**
16 **WHAT IS OUOC'S RESPONSE?**

17 **A.** CSWR provided the Reflections entities an opportunity to terminate in January of
18 this year. Those entities chose not to terminate at that time and CSWR advised
19 the Reflections Parties at that time that it would not be for the entities to then
20 later terminate after OUOC had invested time and money in the application
21 process. In response to the purported termination found in rebuttal testimony,
22 CSWR has informed the Reflections entities of its belief that under applicable law
23 those entities no longer have authority to unilaterally terminate the Agreement.

1 Because CSWR considers the Agreement to remain in full force and effect and
2 no court has invalidated the agreement, OUOC intends to pursue its application
3 for a certificate of convenience and necessity and Commission approval of the
4 acquisition contemplated by the Agreement.

5 To enforce and protect its rights under the Agreement, on August 15, 2019,
6 CSWR filed a Petition for Injunction & Declaratory Relief against the Reflection
7 Parties in the Circuit Court of Camden County (Case No. 19CM-CC00158). I
8 have attached a copy of the Petition to my testimony as Schedule JC-S6. That
9 case continues and CSWR intends to seek injunctive relief to prevent the
10 Reflections Parties from attempting to sell to any third-party those assets subject
11 to the Agreement. CSWR also has filed a *lis pendens* to inform any potential
12 purchasers of the pending Circuit Court litigation.

13 **Q. ON PAGE 3, LINE 23, CONTINUING ON TO PAGE 4, LINES 1-3, MR.**
14 **SOUKENIK STATES THAT GREAT SOUTHERN BANK REQUESTED THE**
15 **REFLECTIONS CCN REQUEST BE BIFURCATED FROM THE OSAGE**
16 **WATER COMPANY ACQUISITION PROCEEDING AND CSWR/OUOC**
17 **REFUSED TO DO SO? IS MR. SOUKENIK'S STATEMENT ACCURATE?**

18 A. No. OUOC did not have the power to either grant or deny such a request at the
19 time made. Only the Commission could do so. While OUOC did not move for
20 such bifurcation, it also never filed a pleading opposing Great Southern Bank's
21 request for bifurcation.

22 **Q. ON PAGE 4, LINES 22-23, CONTINUING ONTO PAGE 5, LINE 1, MR.**
23 **SOUKENIK STATES THAT "THE ASSOCIATIONS AND THE BANK HAD**

1 **AGREED TO TRANSFER THE UTILITY SYSTEMS TO CSWR FOR ONE**
2 **DOLLAR, IN ORDER TO ALLOW RATES TO BE MAINTAINED AT THE MOST**
3 **ECONOMICAL LEVEL” AND OUOC HAS “SOUGHT TO INCREASE RATES**
4 **BEYOND WHAT IS REQUIRED TO MAKE THE NEEDED IMPROVEMENTS**
5 **TO THE SYSTEMS.” ARE MR. SOUKENIK’S STATEMENTS ACCURATE?**

6 A. OUOC has no knowledge and cannot speak to what discussions took place
7 between the Associations and the Bank regarding motives for the sale or
8 determination of sale price. However, I can say that OUOC has requested an
9 acquisition incentive, as allowed by Commission regulation 4 CSR 240-10.085,
10 and there is nothing in the agreement that prohibits us from making such a
11 request. Mr. Soukenik’s statement also suggests that he is not familiar with the
12 rate making process for regulated utilities. Our application makes clear we intend
13 to maintain current rates for the period immediately following our acquisition of
14 the Reflections assets. But as we have also made clear in our application, the
15 Reflections systems have not been properly operated for many years and are in
16 need of significant investment to bring them into compliance with applicable
17 Commission and Missouri Department of Natural Resources regulations.
18 Therefore, even without an acquisition incentive, rates charged for water and
19 wastewater service to the Reflections Condominiums will have to be increased in
20 the future because, as the Commission is well aware, rates must cover the
21 utility’s costs plus an approved rate of return. This having been said, no increase
22 in rates will occur, at any time, until a rate request has been fully vetted by the

1 Commission, which is required by law to set rates that are fair and reasonable to
2 both the serving utility and its customers.

3 **Q. ON PAGE 5, LINES 2-5, MR. SOUKENIK STATES “THE IMPROVEMENTS**
4 **DISCUSSED BY OSAGE UTILITY OPERATING COMPANY, INC. INCLUDE**
5 **ITEMS THAT ARE NOT REQUIRED BY THE MISSOURI DEPARTMENT OF**
6 **NATURAL RESOURCES (“DNR”); AGAIN ADDING TO THE COSTS THAT**
7 **WOULD BE RECOVERED THROUGH FUTURE RATES.” IS MR. SOUKENIK**
8 **CORRECT?**

9 A. No, he is not. Attached to my testimony as Schedule JC-S5 is an August 29,
10 2017, letter from MDNR to Great Southern Bank detailing a report of inspection
11 and finding the facility in non-compliance with Missouri Safe Drinking Water
12 Regulations. The report includes required actions, along with recommendations.

13 **Q. ON PAGE 5, LINES 5-12, MR. SOUKENIK STATES REFLECTIONS’**
14 **CONCLUSION THAT IS IN THE PUBLIC INTEREST FOR MWA AND LAWVA**
15 **TO ACQUIRE THE REFLECTIONS SYSTEMS AND PROVIDE SERVICE. DO**
16 **YOU AGREE?**

17 A. No, I do not agree. As discussed in the surrebuttal testimony of Todd Thomas,
18 MWA and LAWVA have long histories of non-compliance with MDNR safe
19 drinking water regulations, as well as clean water regulations.

20 It remains in the public interest for OUOC to acquire the Reflections systems.
21 OUOC will complete the plant improvements necessary to make these systems
22 viable. OUOC has already reached out to MDNR regarding the negotiation of
23 Agreements on Consent to establish reasonable compliance timeframes for any

1 necessary improvements after the closing. OUOC anticipates further discussions
2 occurring with MDNR.

3 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

4 A. Yes, it does.