

Exhibit No.:
Issues: Incentive Compensation, Utility
Coordination of Excavation, Main
Extensions, Capital Investments
Witness: Jeffrey T. Kaiser
Exhibit Type: Rebuttal
Sponsoring Party: Missouri-American Water Company
Case No.: WR-2022-0303
Date: January 18, 2023

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. WR-2022-0303

REBUTTAL TESTIMONY

OF

JEFFREY T. KAISER

ON BEHALF OF

MISSOURI-AMERICAN WATER COMPANY

AFFIDAVIT

I, Jeffrey T. Kaiser, under penalty of perjury, and pursuant to Section 509.030, RSMo, state that I am Vice President of Operations for Missouri-American Water Company, that the accompanying testimony has been prepared by me or under my direction and supervision; that if inquiries were made as to the facts in said testimony, I would respond as therein set forth; and that the aforesaid testimony is true and correct to the best of my knowledge and belief.


Jeffrey T. Kaiser

January 18, 2023
Dated

**REBUTTAL TESTIMONY
JEFFREY T. KAISER
MISSOURI-AMERICAN WATER COMPANY
CASE NO.: WR-2022-0303**

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REBUTTAL TESTIMONY

JEFFREY T. KAISER

I. INTRODUCTION

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Q. Please state your name and business address.

A. My Name is Jeffrey T. Kaiser. My business address is 727 Craig Road, Creve Coeur, MO 63141.

Q. Are you the same Jeffrey T. Kaiser who previously submitted Direct Testimony in this proceeding?

A. Yes.

Q. What is the purpose of your Rebuttal Testimony?

A. I will respond to the Direct Testimony of the Staff and Office of the Public Counsel (OPC) in regard to performance pay, utility coordination of excavations, and capital investments.

II. MARKET BASED TOTAL COMPENSATION

Q. Have Staff, OPC or others taken any position regarding the Company's recovery of performance pay?

A. Yes. Staff recommends disallowing 50% of the Annual Performance Plan (APP) and all of the Long Term Performance Plan (LTPP) sought by the Company.

Q. Do you agree with these adjustments?

A. No, I do not. As discussed in my Direct Testimony,¹ the Company's philosophy is to provide a combination of compensation elements – base salary, benefits, annual performance pay via the APP, and long term performance pay via the LTPP – which

¹ Kaiser DT, p. 3.

1 represents total market based compensation package intended to attract and retain highly
2 qualified and motivated staff. As part of its philosophy, the Company places a portion of
3 the total compensation at risk, driving continued performance across the enterprise.

4 **Q. Is the Company's total market-based compensation, including the performance based**
5 **compensation, a prudent expense?**

6 A. Yes. Breaking the Company's total compensation package into pieces, as the Staff
7 suggests, ignores that the objective of the total compensation package is to attract and retain
8 the qualified workforce that is necessary for the Company to provide the service levels that
9 our customers require. If the employee base wages and salaries were sufficient for us to
10 attract and retain the work force, then it would be the base level of wages and salaries that
11 would be considered prudently incurred. But that is not how our compensation system is
12 structured. As detailed in my Direct Testimony and that of Company witness Mustich, the
13 various comparative studies performed for the Company show that MAWC's total direct
14 compensation programs – including the performance-based pay - are comparable to and
15 competitive with the market practices of other similarly sized utilities. It is the total
16 compensation, including performance-based pay, which is necessary to attract and retain
17 our workforce. I have seen no evidence in this proceeding that contradicts or responds to
18 Witness Mustich's analysis and conclusions in this regard. The fact that the Company
19 places part of those reasonable salaries and wages at risk of performance, does not increase
20 the level of overall compensation that would otherwise be considered prudent, and
21 therefore the performance-based compensation should not be excluded from the prudent
22 expenses of the Company. Otherwise, the Company would be denied recovery of an
23 expense that is necessary for us to provide reasonable and adequate service.

1 **Q. Are the APP awards based solely on financial performance issues?**

2 A. No. There are other factors that are used to determine APP payments, including
3 achievement of safety, customer satisfaction, environmental leadership, and operational
4 efficiency goals.

5 MAWC's performance in these areas over the last several years makes clear the
6 operational improvements that benefit customers.

7 Reducing OSHA incidents increases safety—customer safety and employee safety. No
8 one can credibly dispute the benefits of improved safety. Further, reduced accidents reduce
9 the attendant costs—workers' compensation, damage repair, etc.—which mitigates the
10 operating costs that customers pay through rates. MAWC has gone from 70+ recordable
11 injuries per year in the 2006-2008 timeframe to fewer than 10 injuries per year in the 2020-
12 2022 timeframe. MAWC continues to improve its performance in reporting near misses,
13 another illustration of the Company's high-performing safety culture. In 2022, MAWC
14 employees identified and reported 1,866 near miss conditions, 99% of which were
15 addressed within 30 days. Exceptional safety performance reflects an engaged workforce
16 that is focused on providing safe, reliable, and affordable service to MAWC's customers.

17 Maintaining and improving high quality customer satisfaction and service quality also
18 provide customer benefits. MAWC's customer satisfaction performance goals measure
19 customer contacts at MAWC's call centers and in the field. They are benchmarked against
20 other utilities' performance, as reported by third-party customer satisfaction surveys. For
21 2019 and 2020 MAWC was ranked second and in 2021 and 2022 MAWC was ranked third
22 in the Midwest Large Region water supplier category for customer satisfaction in J.D.
23 Power's Water Utility Residential Customer Satisfaction Study. J.D. Power's Overall

1 Water Utility Satisfaction Index measures key performance indicators in six areas: delivery
2 (including quality), price, conservation, billing and payment, communications, and
3 customer service.

4 MAWC's environmental compliance performance is another indicator that providing
5 competitive compensation to attract and retain skilled and knowledgeable experts benefits
6 the customers. MAWC has had only one Notice of Violation for drinking water standards
7 in nearly 10 years. By contrast, since 2017 roughly one third of the community water
8 systems in Missouri received at least one violation per year. MAWC has received the
9 Partnership for Safe Water award recognizing water quality at all our surface water
10 facilities. We also received the Challenge Champions Award from the St. Louis Green
11 Business Challenge in 2018, 2019, 2020, and 2021.

12 Finally, increases in operational efficiency equate to controlled or reduced operating costs.
13 Reduced or controlled operating expenses benefit customers by reducing or controlling the
14 costs ultimately recovered through rates. Financial performance goes hand-in-hand with
15 the operational efficiencies that mitigate costs and, therefore, rate increases.

16 **Q. Did Staff's Direct Testimony discuss performance pay for union employees?**

17 A. Staff Witness Courtney Horton states "Staff recommends removal of 50% of the APP paid
18 in the test year to union and non-union MAWC employees."²

19 **Q. Should any portion of union employees' APP be excluded from recovery?**

20 A. No. As I explained previously, 100% of the performance-based compensation for all
21 employees should be included for recovery because this portion of total compensation is

² Horton DT, p. 9, line 23.

1 necessary for compensation to be at levels necessary to attract and retain the workforce. It
2 is even more so the case with union employees. Section 386.315, RSMo, specifically
3 states that “In establishing public utility rates, the commission shall not reduce or otherwise
4 change any wage rate, benefit, working condition, or other term or condition of
5 employment that is the subject of a collective bargaining agreement between the public
6 utility and a labor organization.”

7 **Q. Is the Union APP part of a collective bargaining agreement?**

8 A. Yes, the APP for union represented employees is established as part of the benefits
9 negotiation process which occurs at a national level with several different unions. A copy
10 of the collective bargaining agreement detailing the APP is included herein as
11 **CONFIDENTIAL Schedule JTK-1 RT**. To exclude 50% of this APP would be in direct
12 conflict with Section 386.315, RSMo.

13 **Q. What is the total amount of the APP paid to union employees that should be included**
14 **in rates?**

15 A. \$966,491 for the period ending 5/31/2023 for MAWC employees.

16 **Q. Should any amount of APP paid to non-union employees be removed as suggested by**
17 **Staff Witness Horton?**

18 A. No. As discussed above and in Direct Testimony of myself and Company Witness Mustich,
19 the APP is part of a total market based compensation package that is competitive with other
20 similarly situated utilities, and necessary to attract and retain highly qualified and skilled
21 employees. It is the total compensation level that is needed for the Company to attract and
22 retain its workforce, and the fact that the Company chooses to make this portion of
23 compensation “at-risk” does not negate the prudence of the cost.

1 **Q. Staff Witness Horton states “Staff also recommends disallowing the entirety of the**
2 **LTPP amount, as this plan is primarily tied to MAWC’s and AWWC’s financial**
3 **performance.”³ Is the LTPP based upon the financial performance of the Company?**

4 A. Only a portion of the LTPP is tied to Company financial performance. As Ms. Horton
5 properly states, the LTPP for MAWC and AWWC employees is comprised of both
6 Restricted Stock Units (RSUs) and Performance Stock Units (PSUs). PSUs, which
7 comprise 65 percent of the LTPP are based on American Water’s total shareholder return.
8 However, the RSUs, which comprise 35 percent of the LTPP, are not subject to
9 performance conditions and vest in equal increments on January 31 of each of the three
10 years following the year in which the RSUs were granted subject only to the continued
11 employment of the recipient through each vesting date. The RSU’s are necessary for us
12 to retain the employees who receive them, since vesting depends upon continued
13 employment. Accordingly, the RSU’s are not tied to financial performance and I disagree
14 with Witness Horton’s recommendation. The entirety of the LTPP should be recoverable
15 because, again, it is part of total compensation and is therefore needed for us to attract and
16 retain these employees. At a minimum, however, the 35% of the LTPP represented by the
17 RSU should be allowed as it is simply deferred compensation and not based upon the
18 financial performance of the Company.

19 **Q. What is the total amount of the annual RSU award paid to employees that you testify**
20 **at a minimum should be included in Company expense?**

21 A. \$627,382 total RSU awards for both MAWC and Service Co. employees.

22 **Q. Do you agree with Staff Witness Horton that the PSU portion of the LTPP be excluded**

³ Horton DT, p. 9 line 26.

1 **in Company Expense?**

2 A. On the same basis described above that APP should be included in its entirety, the PSU
3 portions of the LTPP are part of the same overall compensation package that is a prudent
4 expense comparable to and competitive with salary and wages of other similarly situated
5 utilities. As such, the PSU should also be included in Company expense in its entirety.

6 **Q. What is the total amount of the annual PSU award paid to employees that should be**
7 **included in Company expense?**

8 A. \$1,140,073 total PSU awards for both Service Co. and MAWC employees.

9 **Q. Have MAWC's customers benefited from MAWC's at-risk APP and LTPP**
10 **compensation?**

11 A. There are clear direct and indirect benefits to customers included within the at-risk
12 compensation driven by financial performance measures in that financial goal-based
13 performance pay mitigates the long-term cost of service to customers.

14 First, the ability of the Company to meet financial performance targets demonstrates its
15 ability to gain efficiencies and control its operating expenses and capital expenditures,
16 which ultimately manifests itself in long-term savings for customers.

17 Second, water and wastewater operations are capital intensive and include significant
18 requirements to attract capital to finance these investments. The financial performance of
19 the Company is a key component of support for external credit metrics, which drive the
20 Company's ability to obtain external financing at reasonable cost rates. Moody's current
21 rating methodology for utilities has significant focus on financial strength and liquidity,
22 along with the utility's ability to recover costs and earn allowed returns. These financing
23 costs impact customers directly via the Company's cost of debt, and it is important to focus

1 utility employees on the financial health of the organization to provide that performance
2 stability for external financing.

3 **Q. Are there other tangible benefits to customers from the Company's performance pay**
4 **programs?**

5 A. Yes. In addition to those benefits I have already addressed, customers receive a benefit
6 when a utility retains a talented workforce. A stable workforce avoids the costs of hiring
7 and training new employees. Because MAWC's performance pay program makes MAWC
8 employees' total market-based compensation competitive with the market, the Company's
9 performance pay helps ensure that stable workforce.

10 **Q. Does the financial performance aspect of the APP and LTPP incentivize employees to**
11 **control and reduce operating expenses?**

12 A. Yes.

13 **Q. How does that benefit customers?**

14 A. Where MAWC can reduce operating expenses, it can increase investment in infrastructure
15 without increasing rates. Every dollar of annual operating expenses saved can fund over \$8
16 of investment. Therefore, customers also benefit from MAWC's enhanced ability to invest
17 in the infrastructure that it needs to meet its service obligations to customers. It is simply
18 wrong and short-sighted to assume that customers receive no appreciable benefit from
19 financial goal-based performance pay, which is a component of the reasonably incurred
20 total market based compensation package.

21 **III. UTILITY COORDINATION OF EXCAVATION**

22 **Q. OPC Witness Geoff Marke recommends "the Commission order MAWC to**
23 **document, report and ultimately benchmark its efforts taken and savings incurred**

1 from coordination with public and private actors impacted by any excavation of its
2 distribution system.”⁴ Do you agree with this recommendation?

3 A. No, I do not. OPC Witness Marke correctly states earlier in his Direct Testimony that
4 MAWC already coordinates Company projects with various municipal and state
5 authorities.⁵ There is no indication that creating an additional report on these activities,
6 attempting to extrapolate savings estimates, or benchmarking would provide any additional
7 value or offer tangible benefits to customers.

8 **Q. OPC witness Marke further recommends “that the commission consider ordering a
9 working docket that results in a reoccurring annual workshop in which invitations
10 are extended to all regulated utilities, the Missouri Municipal League, the Missouri
11 Department of Transportation, and other relevant actors to examine the possibility
12 for cost savings.” Witness Marke goes on to solicit feedback from other intervenors
13 on this topic.⁶ Do you agree with this recommendation?**

14 A. No. The focus of his recommendations, coordination of excavation activities across the
15 various utilities, appears to not be MAWC specific, but a larger issue for the whole
16 regulated and non-regulated utility industry. This is an issue that would be more
17 appropriately discussed in a general proceeding that includes other utilities, rather than this
18 rate case.

19 **CAPITAL INVESTMENTS**

20 **Q. Are you aware that Staff witness Randall Jennings and OPC witness David Murray
21 have used the American Water Works Company (AWK) consolidated capital**

⁴ Marke DT, p. 15, line 4.

⁵ *Id.* at p. 14, line 16.

⁶ *Id.* at pp. 15 and 20, respectively.

1 **structure, rather than MAWC’s actual capital structure in their rate making**
2 **proposals in this case?**

3 A. Yes, I am generally familiar with the positions that Staff and OPC have taken as well as
4 the Company’s response. Please also refer to the Rebuttal Testimony of MAWC witness
5 Bulkley for a further discussion of the Company’s position.

6 **Q. If less capital were to be available to the Company as a result of Staff’s and OPC’s**
7 **proposed consolidated capital structure for setting rates, how, if at all, would that**
8 **impact MAWC’s planned capital investments?**

9 A. MAWC has submitted to the Commission its most recent 5-year plan capital plan, which
10 indicates that MAWC plans to investment approximately \$ 2.8 billion over the next five
11 years to allow MAWC to continue to provide safe and reliable service for our customers.
12 Included within our capital plan are investment dollars to support proactive system
13 improvements, e.g., investments in aging infrastructure and acquisitions. If the necessary
14 capital to complete this capital plan were to be unavailable to the Company as a result of
15 unfavorable regulatory treatment, MAWC’s investment strategy and five-year capital plan
16 will need to be re-evaluated.

17 **Q. Explain what you mean by “re-evaluated”?**

18 A. MAWC will need to re-evaluate whether to continue to make investments in troubled
19 systems and proactive system improvements in a regulatory environment where there is no
20 incentive to do so. MAWC will only have the capital that is available to it, and if not
21 enough capital is available to complete the capital plan in the desired time frame, the
22 Company will need to prioritize its investments. Of course, MAWC will continue to make
23 all investments currently necessary to ensure safe and reliable service. All other capital

1 investments would be prioritized based upon the capital that is available, meaning some
2 investments could be delayed or withheld.

3 **Q. Can you provide an example of a proactive system investment that could be delayed**
4 **or withheld?**

5 A. Yes, the Joplin reservoir is an excellent example of a planned infrastructure project that
6 will serve to address future water supply requirements. However, this project will require
7 substantial capital investment that if delayed, may require interim, alternative conservation
8 measures. Those alternative conservation measures could include usage restrictions. A
9 utility can impose usage restrictions due to lack of water supply and still be providing safe
10 and reliable service, but those usage restrictions are an inconvenience to our customers.
11 Another example would be main replacements. A utility can delay replacing a main even
12 though it would be reasonable to do so. But if it does delay the replacement, the old main
13 is likely to experience more main breaks, which will result in isolated service interruptions,
14 pressure losses, and boil water advisories. The service is still safe and reliable, but the
15 level of service would be inconvenient for our customers.

16 **Q. Will delayed or forgone investments impact MAWC's customers?**

17 A. In isolated circumstances, it is possible, as I have just explained. Of equal importance,
18 proactive system investments result in lower costs to serve customers than replacing assets
19 at or near the point of failure or continual repair of aging infrastructure. Thus, proactive
20 system investments serve the long-term best interest of our customers by keeping costs
21 low. In addition, a Water Research Foundation report indicates that every \$1 million spent
22 on water and wastewater investments supports the creation of 15 jobs for the benefit of the

1 State's economy.⁷ MAWC's current five-year capital plan has the potential to create
2 40,500 new jobs in the State, which will not otherwise exist if MAWC investment is
3 delayed.

4 **Q. Does this conclude your Rebuttal Testimony?**

5 A. Yes.

⁷http://thevalueofwater.org/sites/default/files/Economic%20Impact%20of%20Investing%20in%20Water%20Infrastructure_VOW_FINAL_pages.pdf

Schedule JTK-1 RT has been marked CONFIDENTIAL in its entirety in accordance with Commission Rule 20 CSR 4240-2.135(2)(A).4 and 6.