

*Exhibit No.:*  
*Issue(s):* *Lead Service Line  
Replacement, AAO for LSLR*  
*Witness:* *James A. Merciel, Jr., PE*  
*Sponsoring Party:* *MoPSC Staff*  
*Type of Exhibit:* *Rebuttal Testimony*  
*Case No.:* *WR-2017-0285*  
*Date Testimony Prepared:* *January 17, 2018*

**MISSOURI PUBLIC SERVICE COMMISSION**

**COMMISSION STAFF DIVISION**

**WATER AND SEWER DEPARTMENT**

**REBUTTAL TESTIMONY**

**OF**

**JAMES A MERCIEL, JR., PE**

**MISSOURI-AMERICAN WATER COMPANY**

**CASE NO. WR-2017-0285**

*Jefferson City, Missouri  
January 2018*

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**TABLE OF CONTENTS OF  
REBUTTAL TESTIMONY  
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EXECUTIVE SUMMARY ..... 1  
LEAD WATER SERVICE LINE REPLACEMENTS ..... 2  
ACCOUNTING TREATMENT OF LSL REPLACEMENTS ..... 7

1 **REBUTTAL TESTIMONY**  
2 **OF**  
3 **JAMES A MERCIEL, JR., PE**  
4 **MISSOURI-AMERICAN WATER COMPANY**  
5 **CASE NO. WR-2017-0285**

6 Q. Please state your name and business address.

7 A. My name is James A. Merciel, Jr., PE, and my address is P. O. Box 360,  
8 Jefferson City, Missouri, 65102.

9 Q. By whom are you employed and in what capacity?

10 A. I am employed by the Missouri Public Service Commission ("Commission") as  
11 a Utility Regulatory Engineering Supervisor, in the Water and Sewer Department.

12 Q. Can you please describe your education, work responsibilities, and work  
13 experience?

14 A. Yes. My qualifications, responsibilities, and experience, along with a list of  
15 cases in which I have provided testimony, are included with this rebuttal testimony as  
16 Schedule JAM-r1, and incorporated herein by reference.

17 **EXECUTIVE SUMMARY**

18 Q. What is the purpose of this rebuttal testimony?

19 A. The purpose of this rebuttal testimony is to state Staff's disagreement with the  
20 direct testimony of Office of the Public Counsel ("OPC") witness Dr. Geoff Marke regarding  
21 lead water service line ("LSL") replacements; and to address Staff's position on future  
22 accounting handling of LSL replacement costs.

1 **LEAD WATER SERVICE LINE REPLACEMENTS**

2 Q. Can you briefly describe MAWC's current LSL replacement program?

3 A. Yes. During 2016, MAWC began a program on its own initiative to replace  
4 not only company-owned LSL assets, but also customer owned LSLs as they were  
5 encountered, primarily during main replacement projects. When planning projects designed  
6 to replace aging obsolete water mains that leak or break frequently, MAWC researches its  
7 records of water service lines that connect water mains to customers' premises and undertakes  
8 on-site observations to determine LSL locations on specific properties. For customers who  
9 have any portion of a water service line that has lead components, considered to be a LSL,  
10 MAWC offers to enter into a contract with each involved customer to pay a plumbing  
11 contractor to replace all or a portion, as appropriate, in order to remove all lead. Any such  
12 customer is not required to permit MAWC to pay for replacement of a LSL and may decline  
13 the offer.

14 The LSL replacement issue was addressed in greater detail in Case No.  
15 WU-2017-0296, in which MAWC sought and obtained an accounting authority order (AAO)  
16 as a mechanism to record its expenditures associated with customer-owned assets for future  
17 recovery. My rebuttal testimony in that case is included with this testimony as  
18 Schedule JAM-r2, and that of Water and Sewer Department Staff member Jonathan Dallas is  
19 included as Schedule JAM-r3.

20 Q. Do you agree with Dr. Marke's direct testimony, in which he expresses a  
21 disagreement with MAWC undertaking its lead service line (LSL) replacement program to  
22 pay for the replacement of customer-owned LSLs as they are encountered during main  
23 replacement projects?

24 A. No, I do not agree with Dr. Marke's position.

1 Q. Why do you disagree with Dr. Marke's position?

2 A. I disagree with Dr. Marke's position as stated in his cost of service  
3 direct testimony, beginning on page 11 line 20 and continuing through page 12 line 26, in that  
4 he states MAWC should cease its present practice of replacing LSLs during main replacement  
5 projects. Dr. Marke alleges the current practice is "haphazard," alleges the current practice  
6 may not be legal and could violate MAWC's approved tariff (ref. MAWC's schedule of rates  
7 and rules MO PSC No. 13 sometimes referred to as MAWC's "consolidated water tariff"),  
8 states that MAWC did not take into consideration policy and financial implications, and  
9 seemingly implies that before undertaking its LSL replacement program, MAWC should have  
10 obtained the Commission's approval before beginning the program. I also disagree that what  
11 OPC refers to as its "proposed pilot program," designed to study LSL replacements, as  
12 described in Dr. Marke's testimony from Case No. WU-2017-0296 that is attached to his  
13 direct testimony in this case, is a reasonable course of action as proposed, and should not be  
14 adopted by the Commission.

15 Q. Why should the Commission not adopt OPC's proposed pilot program, as  
16 outlined by Dr. Marke, regarding LSL replacements in this case?

17 A. While I would agree that reasonable study of issues associated with LSL  
18 replacements would be valuable for a comprehensive LSL replacement program, I disagree  
19 with the implementation of OPC's proposed pilot program for two reasons. First, any such  
20 comprehensive LSL replacement studies should not be predicated upon MAWC cessation of  
21 its current practice of full LSL replacement. And second, OPC's proposed pilot program may  
22 be overreaching, by asserting a workgroup to manage MAWC's work such as selecting

1 MAWC-hired contractors, and addressing non-jurisdictional issues such as lead in house paint  
2 and real estate disclosure.

3 A. A water service line is defined in each water utility's tariff, but it is generally a  
4 pipeline connecting the customer's home or building plumbing to either the water utility's  
5 water distribution main, most often but not always located under or near the street fronting the  
6 property, or to a utility-owned water service line connected to the water main and ending at or  
7 near the customers' property line. A definition for the water service line is provided in  
8 MAWC's own tariff.

9 Q. What does MAWC's water tariff require of customers with regard to water  
10 service lines?

11 A. Customers are required to own and maintain the portion of the water service  
12 line generally from the outdoor water meter or the property line to the house or building,  
13 except in St. Louis County where customers are required to own and maintain the entire water  
14 service line from and including the connection to MAWC's water main to the house or  
15 building. When MAWC gets questions from customers about any problem with a  
16 customer-owned water service line, the normal utility response would be that the customer is  
17 responsible to correct whatever the problem might be. Also, if a customer has a problem,  
18 such as a leak that might cause other problems that could include water pressure, an  
19 introduction of a risk of contamination of water from a source outside the pipe, or leaking  
20 water causing a hazard on a sidewalk or in a street, the utility could enforce a tariff rule  
21 stating the customer must keep customer-owned water-related assets in good repair.

22 Q. What impact do MAWC tariff rules have upon LSL replacements?

1           A.     None. A LSL is simply a water service line that is made of lead or has  
2 components or portions made of lead. Tariff rules regarding water service lines apply as  
3 normal.

4           Q.     What impact do MAWC tariff rules for service lines have upon water main  
5 replacements?

6           A.     None. Water main replacements do not involve tariff rules because the  
7 practice of a water utility undertaking its main replacement projects does not require anything  
8 of customers. Water main replacements inherently involve the utility disconnecting water  
9 service lines from a water main and reconnecting to the new water main, and in some  
10 situations such water service lines are owned by the customers. In that situation, it involves  
11 the water utility working on or causing work to be done on the customer-owned asset by  
12 cutting, shortening or extending pipeline, installing new fittings, and physically connecting  
13 the service line to the new water main, which the utility undertakes and requires no action by  
14 individual customers.

15          Q.     What makes MAWC's current LSL replacement program that is undertaken in  
16 conjunction with water main replacements different from other service line work?

17          A.     The difference involves MAWC completely removing any lead component of  
18 any part of the service line whether MAWC-owned or customer-owned, while a water main  
19 replacement is underway, as opposed to a customer undertaking service line work to address  
20 their own issue, for example, a problem with repetitive leaks. When MAWC replaces a water  
21 main, it must physically disconnect water service lines from the old water main, and  
22 reconnect them to the new water main, and often a small portion of water service line is  
23 replaced with new pipeline. If a LSL is involved, that would often result in a "partial LSL

1 replacement,” where lead pipe might be cut and fastened to other new pipeline or fitting parts,  
2 and portions of lead pipe remain in service. The reason for the complete removal is that  
3 today’s accepted best practice is to undertake “full LSL replacement” as opposed to “partial  
4 LSL replacement.” Partial LSL replacement is undesirable because, not only does lead pipe  
5 remain in service, but a calcium inner coating that insulates lead from potentially corrosive  
6 water can easily be dislodged by the cutting or other disturbance, exposing the lead material  
7 to drinking water. The concept of LSL replacement is a relatively new national issue that has  
8 social and economic implications. This topic was addressed in Case No. WU-2017-0296,  
9 specifically in my rebuttal testimony, included as Schedule JAM-r2, as well as in the  
10 transcript in the hearing held on September 27, 2017.

11 Q. Why do you disagree with Dr. Marke’s statements pertaining to whether or not  
12 MAWC’s current practice of replacing customer-owned LSLs may violate its own tariff?

13 A. I am not in a position to offer any legal conclusion. I am in a position to speak  
14 about tariff compliance from the standpoint of my practical experience with tariffs, which  
15 includes authoring proposed rules, reviewing proposed rules for reasonableness and  
16 compliance with Commission regulations, recommending Commission approval of proposed  
17 rules, and applying approved tariff rules to actual situations involving customer-utility  
18 relations as questions and complaints arise. That said, I disagree with Dr. Marke’s position  
19 regarding MAWC’s alleged tariff violation. Very simply, MAWC is not taking any action  
20 that is not authorized by the tariff. MAWC’s actions could be a prudency issue in a future  
21 case, depending perhaps upon the justification, but it is not a tariff violation.



1 **ACCOUNTING TREATMENT OF LSL REPLACEMENTS**

2 Q. Does Staff have any recommendation on future accounting treatment of  
3 customer-owned LSL replacement cost?

4 A. Yes. The accounting treatment is explained in the rebuttal testimony of Staff  
5 witness Amanda C. McMellen. Also, as a part of its recommendation for future ongoing LSL  
6 replacement costs, and as stated in Ms. McMellen's testimony, Staff recommends MAWC  
7 prepare annual plans regarding LSL replacement expectations, for evaluation of interested  
8 parties of what MAWC's planned action and expenses will entail.

9 Q. Do you have recommendations on what MAWC's annual plans should  
10 include?

11 A. Yes. Exact details of the annual plan need to be developed by interested  
12 parties so that meaningful information that is also readily available can be provided. Staff's  
13 idea is that the annual plan should be prepared and submitted to the Staff and OPC by  
14 February 15th each year for main replacement projects expected to be undertaken during that  
15 calendar year. Each project should be described by specific location, footage of main, number  
16 of customer connections, the number of LSL replacements including footage of service lines  
17 replacement, and estimated cost of LSL replacement. All of this is to be estimated based on  
18 MAWC records. Then, as project planning is refined and actual field work begins, including  
19 exploratory excavation related to LSL work, MAWC should update the plan report regarding  
20 LSL activity and cost as necessary but at least quarterly.

21 Q. Does this conclude your rebuttal testimony?

22 A. Yes.

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

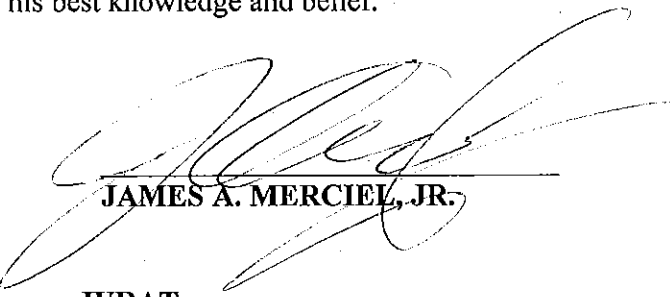
In the Matter of Missouri-American Water )  
Company's Request for Authority to ) Case No. WR-2017-0285  
Implement General Rate Increase for Water )  
and Sewer Service Provided in Missouri )  
Service Areas )

**AFFIDAVIT OF JAMES A. MERCIEL, JR.**

STATE OF MISSOURI     )  
  )  
COUNTY OF COLE     )       ss.

COMES NOW JAMES A. MERCIEL, JR. 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.

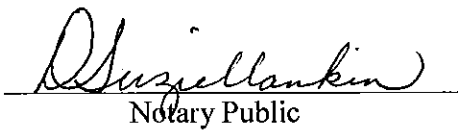
Further the Affiant sayeth not.

  
\_\_\_\_\_  
**JAMES A. MERCIEL, JR.**

**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 16<sup>th</sup> day of January, 2018.

D. SUZIE MANKIN Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: December 12, 2020 Commission Number: 12412070
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Notary Public