

In the Matter of the Application of)
Missouri-American Water Company for)
an Accounting Authority Order related to) File No. _____
Property Taxes in St. Louis County and)
Platte County.)

Comes now Missouri-American Water Company (“MAWC” or “Company”) and, for its application for an accounting authority order (AAO), pursuant to §393.140 RSMo., 4 CSR 240-2.060, and 4 CSR 240.50.030, respectfully states as follows to the Missouri Public Service Commission (Commission):

APPLICANT

1. MAWC is a Missouri corporation with its principal office and place of business at 727 Craig Road, St. Louis, Missouri 63141. MAWC is a Missouri corporation in good standing. A certified copy of MAWC's certificate of good standing was provided to the Commission in File No. WU-2017-0296, and is incorporated here by reference in accordance with Commission Rule 4 CSR 240-2.060(1)(G). MAWC currently provides water service to the public in and around the cities of St. Joseph, Joplin, Brunswick, Mexico, Warrensburg, Parkville, Riverside, Jefferson City, and parts of St. Charles, Warren, Jefferson, Morgan, Pettis, Benton, Barry, Stone, Greene, Taney, Christian, and Platte Counties, and most all of St. Louis County, Missouri. As of December 31, 2016, MAWC provides water service to 463,706 customers. MAWC provides

sewer service to 12,437 customers in Callaway, Jefferson, Pettis, Cole, Morgan, Platte, Taney, Stone, Christian, and Warren Counties, Missouri.

2. MAWC is a “water corporation,” a “sewer corporation” and a “public utility” as those terms are defined in Section 386.020 RSMo., and is subject to the jurisdiction and supervision of the Commission as provided by law. MAWC has no overdue Commission annual reports or assessment fees. There is no pending action or final unsatisfied judgment or decision against MAWC from any state or federal agency or court, which involves customer service or rates, which action, judgment or decision has occurred within three years of the date of this Joint Application.

3. Communications in regard to this Application should be addressed to the undersigned counsel and:

Brian LaGrand, Director of Rates and Regulatory Support
Missouri-American Water Company
727 Craig Road
St. Louis, MO 63141
(314) 996-2357
brian.lagrand@amwater.com

BASIS FOR REQUEST

4. For real and personal property owned as of January 1, 2017, MAWC has become aware of a change in practice by St. Louis and Platte Counties, Missouri, that will significantly impact the real and personal property tax to be paid to those counties by MAWC in the fall of 2017.

5. For at least the past 10 years, the referenced counties have utilized different calculations of Modified Accelerated Cost Recovery (MACRs) class lives in their calculation of

assessed value. Both counties are altering their administrative practices in ways that will result in a significant increase in the assessed value of Missouri-American's property and a significant increase in its property tax obligation. MAWC was first notified of these changes in administrative practice by the respective assessor in the month leading up to this filing. More specifically, in completing this year's assessment, the counties have suddenly departed from their past practices. St. Louis County, beginning in 2017, is moving a significant portion of property to a 15 year MACRs class life from the seven year class in 2017, it has used in past years. It further indicates that for 2018 it will transition that property to a 20 year MACRs class. Platte County has indicated that it will move a significant portion of property to a 50 year life in 2017 from the 20 year MACR class life it had been using.

6. The increases resulting from the changes are substantial. It is estimated that these changes will result in the following increases in the tax payments to be made by the Company beginning in the fall of 2017: An estimated increase of \$4.4M to its property tax obligations in St. Louis County for 2017, and \$6.1M for 2018; and, an estimated increase of \$.4M to its property tax obligations in Platte County in both 2017 and 2018. A total increase of \$4.8 for 2017 and \$6.5M for 2018.

7. The property tax expense that was used for rate setting purposes in MAWC's last rate case (WR-2015-0301) was calculated using historical levels. At the time of its last rate case, MAWC had no reason to believe that its property tax expenses would suddenly increase significantly beyond the levels incorporated into MAWC's current rates because of St. Louis and Platte counties unexpectedly making administrative changes in how they assess the Company's property.

8. While MAWC may challenge the lawfulness of using a 50 year life in the valuation for property taxes, when assessed and upon receiving a final tax bill, it is required to at least pay the challenged taxes “under protest.”

9. The change in practice being implemented by the referenced counties results from unusual and extraordinary actions of government officials that are beyond the control of MAWC’s management. The changes the counties are making to their property tax assessment methodologies were unpredictable and could not have been adequately or appropriately addressed through the ratemaking process.

10. If the Commission grants the AAO that MAWC requests, MAWC would move the new property tax expense into a deferred account. If MAWC is successful in challenging any of the new property tax expense, then the deferred amount would be collected as a refund from the taxing authority with no effect on the Company’s earnings. If, on the other hand, the legality of a new property tax expense is upheld, MAWC would be able to ask the Commission to allow it to recover those deferred costs in its next rate case.

COMMISSION AUTHORITY

11. The Commission, pursuant to Section 393.140, RSMo, has promulgated Commission Rule 4 CSR 240-50.030, which prescribes the use of the Uniform System of Accounts (“USOA”) issued by the National Association of Regulatory Utility Commissioners. The USOA permits the deferral of “unusual and extraordinary” expenses.¹ The Commission held that “. . . that these words are used in an accounting sense and not in the common sense of

¹ National Association of Regulatory Utility Commissioners, Uniform System of Accounts for Class A and B Water Utilities, 1973 (revised 1976), at 61, paragraph 186.A.

‘remarkable.’” *Id.* The USOA defines “extraordinary items” as “those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company.”²

12. An Accounting Authority Order (AAO) is a mechanism used to allow a utility to accrue expenses between rate cases to cover items that were not in effect at the time of the last rate case and were generally unforeseen. Section 393.140(8), which expressly authorizes AAOs, grants the Commission

. . . the power to examine the accounts, books, contracts, records, documents and papers of any such corporation or person, and have power, after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.

The statute does not contain any express standard for the exercise of AAO authority and therefore, it is within the Commission’s discretion. Moreover, the courts have recognized the Commission’s authority to approve an AAO, and there is nothing in the Public Service Commission Law or the Commission’s regulations that would limit the grant of an AAO to any particular set of circumstances. *State ex rel. Aquila, Inc. v. Public Service Comm’n of State*, 326 S.W.3d 20, 27 (Mo. App. 2010)

13. The Commission has in the past issued AAO’s for costs “caused by unpredictable events, acts of government and other matters outside the control of the utility or the Commission.” *In the matter of St. Louis County Water Company’s Tariff Designed to Increase Rates*, MoPSC Case No. WR-96-263, p. 13 (December 31, 1996). The Commission has further stated that it “has periodically granted AAOs and subsequent ratemaking treatment for various

² *Id.*, at 17, General Instruction No. 7.

unusual occurrences such as flood-related costs, changes in accounting standards, and other matters which are unpredictable and cannot adequately or appropriately be addressed within normal budgeting parameters.” *Id.* at p. 14. (emphasis added) The Commission has also granted AAOs for expenses associated with governmental action. For example, the Commission has authorized AAOs for costs associated with: a new property tax on natural gas held in storage in Kansas (*In re Missouri Gas Energy*, 2005 Mo. PSC LEXIS 1191 (GU-2005-0095, 2005); new gas safety rules (GO-97-301, GO-2002-0048); the implementation of FAS 87 for pension expense (*In the matter of Missouri Cities Water Company*, 2 Mo.P.S.C.3d 60, January 8, 1993); the implementation of FAS 106 (*In Re Union Electric*, 1 Mo.P.S.C.3d 328, 330 (EO-92-179) (June 12, 1992); *In Re St. Joseph Light and Power Company*, 2 Mo.P.S.C.3d 248, 270 (ER-93-41, EC-93-252) (June 25, 1993) (In referring to the Western Resources proceeding, “[t]he Commission also found that expenses related to the adoption of FAS 106 are extraordinary or unusual items which qualify for deferral and later amortization.”); *In Re Missouri Gas Energy*, 3 Mo.P.S.C.3d 203 (GO-94-255) (September 28, 1994); *In Re Empire District Electric Company* (EO-93-35) (February 2, 1993)); compliance with the Clean Air Act (*In the matter of the application of Missouri Public Service*, 1 Mo.P.S.C.3d 200, 203-204 (1991)); and the emergency cold weather rule (GA-2002-285, GA-2002-377).

14. The Commission has historically used the “Sibley” test when determining whether to grant an AAO, which requires that the expenses to be deferred are “extraordinary, unusual and unique, and not recurring.” *In the Matter of the Application of Missouri Public Service*, 1 Mo.P.S.C.3d 200, 205 (1991).

RELIEF REQUESTED

15. As a consequence of the Court of Appeals' decision and subsequent Commission action on remand, the Company requests a Commission order granting an AAO containing the following language:

- a) That Missouri-American Water Company is granted an Accounting Authority Order whereby the Company is authorized to record on its books a regulatory asset, which represents the increase from 2016 to 2017 in Missouri property taxes for the counties of St. Louis and Platte associated with the counties' change in the calculation of MACRs class lives.
- b) That MAWC may maintain this regulatory asset on its books until the effective date of the Report and Order in MAWC's next general rate proceeding and, thereafter, until all eligible costs are amortized and recovered in rates.

MOTION FOR WAIVER

16. Commission Rule 4 CSR 240-4.020(2) states as follows:

Any regulated entity that intends to file a case likely to be a contested case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case. Such notice shall detail the type of case and issues likely to be before the commission.

Commission Rule 4 CSR 240-4.020(2)(B) further states that a "party may request a waiver of this section for good cause."

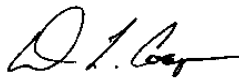
17. It is unclear whether this case will be a contested case within the meaning of Commission rule 4 CSR 240-4.020(2). However, in the event that the Commission nevertheless concludes that the filing of this Application is likely to be a contested case, MAWC requests a waiver of the sixty (60) day notice for good cause shown as permitted by Commission rule 4 CSR 240-4.020(2)(A).

18. The timing of this request relates to MAWC's efforts to work with the subject counties to resolve and minimize the property taxes. It was only after certain effort in this regard

that MAWC could assess the need for an AAO application. This Application was filed after a reasonable assessment of those efforts and the regulatory needs of the Company.

WHEREFORE, MAWC respectfully requests that the Commission issue an Accounting Authority Order as described herein, and issue such further orders as the Commission should find reasonable and just.

Respectfully submitted,



Dean L. Cooper MBE#36592
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
(573) 635-7166
(573) 635-3847 (facsimile)
dcooper@brydonlaw.com

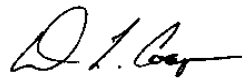
ATTORNEYS FOR MISSOURI-AMERICAN
WATER COMPANY

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail on June 29, 2017, to the following:

Office of the General Counsel
Governor Office Building
Jefferson City, MO 65101
gencounsel@psc.mo.gov

Office of the Public Counsel
Governor Office Building
Jefferson City, MO 65101
opcservice@ded.mo.gov



AFFIDAVIT

State of Missouri)
) ss
County of St. Louis)

I, Cheryl Norton, having been duly sworn upon my oath, state that I am the President of Missouri-American Water Company, that I am duly authorized to make this affidavit on behalf of Missouri-American Water Company, that the matters and things stated in the foregoing Application is true and correct to the best of my information, knowledge and belief.

Cheryl D. Norton

Subscribed and sworn before me this 29th day of June, 2017.



Mary Beth Hercules
Notary Public