

Exhibit No.:
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Witness: *Mark L. Oligschlaeger*
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MISSOURI PUBLIC SERVICE COMMISSION

COMMISSION STAFF DIVISION

AUDITING DEPARTMENT

REBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

MISSOURI-AMERICAN WATER COMPANY

CASE NO. WR-2015-0301

Jefferson City, Missouri
February 2016

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OF
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1 Q. What knowledge, skills, experience, training and education do you have in the
2 areas in which you are testifying as an expert witness?

3 A. I have been employed by this Commission as a Regulatory Auditor for over
4 34 years and have submitted testimony on ratemaking matters numerous times before the
5 Commission. I have also been responsible for the supervision of other Commission employees
6 in rate cases and other regulatory proceedings many times. I have received continuous training
7 at in-house and outside seminars on technical ratemaking matters, since I began my
8 employment at the Commission.

9 Q. What is the purpose of your testimony in this proceeding?

10 A. I will address the Environmental Cost Adjustment Mechanism (ECAM)
11 proposal as discussed in the direct testimony of Missouri-American Water Company (MAWC)
12 witness Kevin H. Dunn. I will also provide rebuttal testimony responding to the proposal
13 contained in Missouri Department of Economic Development – Division of Energy (MDOE)
14 witness Jane Epperson’s direct testimony filed in this proceeding concerning the proposed
15 Energy Efficiency and Water Loss Reduction Deferral Mechanism (“Deferral Mechanism”).

16 **EXECUTIVE SUMMARY**

17 Q. Please summarize your testimony in this proceeding.

18 A. In this testimony, I will state the Staff’s position of not opposing MAWC’s
19 request to establish an ECAM in this rate proceeding, as long as certain conditions are met by
20 MAWC at the time it seeks rate recovery of qualifying costs under the ECAM at a later time.

21 I will also address the reasons for the Staff’s opposition to MDOE’s proposal that a
22 deferral mechanism be allowed to account for capital costs incurred by MAWC in order to
23 increase energy efficiency or to reduce water losses.

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1 Q. Are other Staff witnesses submitting rebuttal testimony on the issues you are
2 addressing?

3 A. Yes. Staff witness Curtis B. Gateley is submitting additional rebuttal testimony
4 concerning MAWC's ECAM proposal. Staff witness James A. Merciel, Jr. is submitting
5 additional rebuttal testimony on the issue of MDOE's deferral mechanism proposal.

6 **ECAM**

7 Q. What is an "environmental cost adjustment mechanism?"

8 A. An ECAM is a single-issue ratemaking mechanism authorized by the Missouri
9 General Assembly that allows Missouri utility companies to obtain recovery of qualifying costs
10 incurred in order to comply with new environmental laws and regulations outside of general
11 rate proceedings under certain circumstances.

12 Q. Please describe in general how an ECAM is intended to operate under applicable
13 Missouri statutes and Commission rules.

14 A. The applicable Missouri statutes¹ and Commission rules² require that a utility,
15 such as MAWC, seek approval from the Commission to establish an ECAM in the context of a
16 general rate proceeding. If approval for an ECAM is granted, then the utility may file for a
17 single-issue rate adjustment at some point after the completion of the general rate proceeding in
18 which the authorization was granted to seek recovery of qualifying environmental costs.
19 The costs potentially allowed recovery under an authorized ECAM would be the incremental
20 costs of environmental activities that were incurred to comply with environmental laws or
21 regulations that became effective after the test year or true-up period cut-off date

¹ Section 386.266.2.

² 4 CSR 240-50.050.

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1 (as applicable) for cost inclusion ordered by the Commission in the utility's last general
2 rate case.

3 Q. If an ECAM is authorized for a utility, is the Commission then obligated to
4 allow recovery of all qualifying environmental costs through an ECAM charge if that is
5 requested by the utility?

6 A. No. The ECAM statute and rule provide discretion to the Commission as to
7 whether to allow recovery of a qualifying cost in an ECAM or to limit its recovery to base
8 rates. Per the ECAM rule, the criteria that the Commission may consider in determining
9 whether or not a cost should be recovered through an ECAM include, but are not limited to,
10 "the magnitude of the costs, the ability of the utility to manage the costs, the incentive provided
11 to the utility as a result of the inclusion or exclusion of the cost, and the extent to which the cost
12 is related to environmental compliance."³

13 Q. If a utility seeks to charge increased costs of compliance with new
14 environmental rules or regulations to customers through an ECAM, is it obligated under the
15 statute and rule to net such increases against any cost decreases associated with compliance of
16 previously-existing environmental rules or regulations (i.e., in effect prior to establishment of
17 an ECAM)?

18 A. Neither the statute nor the rule requires such an offsetting. As a practical matter,
19 because utilities have been operating under and incurring costs associated with environmental
20 laws and regulations for many years, it would be difficult at best to establish a baseline
21 environmental compliance revenue requirement to incorporate into an ECAM rate calculation.

22 Q. Would it ever be permissible to net environmental compliance cost decreases
23 against any new incremental increases in such costs in the context of an ECAM?

³ 4 CSR 240-50-050(2)(D).

1 A. Yes. The Commission rule makes clear that when a utility makes periodic
2 updates to an ECAM rate, it must net any decreases in costs previously reflected in the ECAM
3 against any new environmental costs for which the utility seeks recovery.

4 Q. Is MAWC's request to establish an ECAM in this proceeding premised upon
5 specific anticipated future environmental compliance costs?

6 A. No. The only costs cited by MAWC that it expects it may seek to charge
7 through future ECAM rate adjustments are expected costs to comply with National Pollutant
8 Discharge Elimination System permit renewals. Per MAWC's response to Staff Data Request
9 No. 0313, incurrence of these costs is not expected for a number of years, and MAWC has not
10 provided a projection of the amount of such costs, if incurred.

11 Q. What is the Staff's position regarding MAWC's request for establishment of an
12 ECAM in this proceeding?

13 A. The Staff is not opposed to the Commission ordering an ECAM be established
14 for MAWC as part of its current rate increase request, though the Staff recommends that the
15 Commission set certain conditions on this approval to be met before MAWC actually seeks
16 future customer rate adjustments under any approved ECAM at a future time. These conditions
17 concern appropriate measurement of net incremental environmental compliance costs
18 recoverable under an ECAM, as well as a materiality standard for future ECAM rate recovery.

19 Q. Please explain the Staff's concern regarding proper quantification of
20 environmental costs to be allowed recovery under the ECAM.

21 A. The Staff believes that the ECAM statute and rule is best understood as allowing
22 qualifying utilities an opportunity to recover certain net incremental environmental cost
23 increases outside of general rate proceedings. In this context, the Staff interprets this to mean

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1 that when a new environmental law or regulation causes a utility to incur higher costs in a
2 given cost area, that increase should be offset against any related cost decreases also
3 attributable to the new law or regulation. For example, the cost of any new plant additions
4 necessitated by environmental requirements should be offset with any plant retirements that
5 also resulted from the new law or regulations. Another example would be if a new
6 environmental regulation required a water utility to substitute a more expensive chemical for
7 water treatment purposes; in that event, the increased cost of the new chemical should be offset
8 against the avoided cost of any prior chemicals that would no longer need to be used by the
9 utility for purposes of ECAM rate recovery.

10 Q. Can a utility claim increased labor costs as part of an ECAM request, if the
11 utility purports to add new positions to its workforce in order to comply with environmental
12 regulations?

13 A. There is no provision in the ECAM rule or statute that would appear to preclude
14 recovery of labor costs as part of the ECAM, as long as these costs otherwise meet the
15 applicable criteria for recovery. However, in the event that a utility claims payroll costs as part
16 of an ECAM request, the utility should present evidence that the expense associated with the
17 new employee is truly an incremental cost to the utility that is not being recovered in current
18 rates. As an example, this approach would preclude recovery through an ECAM of payroll
19 costs associated with a “new employee position” when the new position was filled by a
20 transfer of an existing employee, and there has been no overall net increase to filled positions at
21 the utility.

22 Q. Why would it be important for a utility, such as MAWC, to present properly
23 quantified net incremental cost amounts in future ECAM applications?

1 A. The ECAM statute and rule allow the Staff and other parties only a very limited
2 period of time to audit and review claimed ECAM cost increases. This makes it very important
3 that the utility file ECAM rate requests “right” (seeking only recovery of qualifying costs,
4 measured net of associated cost decreases) the first time.

5 Q. What specific condition on this point does the Staff suggest that the Commission
6 impose on any approval of MAWC’s ECAM proposal in this case?

7 A. The Staff suggests that the Commission impose a condition that any future
8 ECAM rate recovery only encompass actual and incremental environmental costs that are not
9 included in MAWC’s previously established general base rates, and that also reflect any
10 offsetting cost decreases directly associated with the new environmental laws or regulations
11 giving rising to the ECAM rate filing.

12 Q. What is the Staff’s concern regarding materiality of future ECAM rate requests?

13 A. The Staff’s position is that a utility should only seek to charge customers
14 through unique ratemaking tools of this nature when it is truly incurring a material level of
15 qualifying costs. For this reason, the Staff suggests that, in the event an ECAM is authorized in
16 this proceeding, that MAWC be ordered to only apply for an actual future ECAM rate when its
17 net incremental eligible ECAM costs reach a level of \$500,000 or more in in environmental
18 compliance revenue requirement on an annual basis.

19 Q. Do other single-issue rate mechanisms currently used by MAWC contain a
20 materiality requirement similar to what is being suggested by the Staff here?

21 A. Yes. The Infrastructure System Replacement Surcharge (ISRS) mechanism
22 currently being used by MAWC for its St Louis County division requires each filing for an
23 ISRS increase to involve no less than \$1 million in claimed ISRS revenue requirement.

1 **MDOE DEFERRAL MECHANISM PROPOSAL**

2 Q. Please generally describe the MDOE’s proposal in this proceeding to implement
3 an Energy Efficiency and Water Loss Reduction Deferral Mechanism (“Deferral Mechanism”)
4 for MAWC.

5 A. Based on the direct testimony of MDOE witness Jane Epperson, as well as
6 subsequent discussions with that party, the Staff’s understanding is that the proposed deferral
7 mechanism would work in the following fashion. Once an amount equal to or greater than
8 \$100 million (“baseline amount”) is expended annually by MAWC for total construction
9 activities, MAWC would be allowed to defer a return amount (“carrying charge”) and
10 depreciation expense on construction expenditures of up to 100 million additional dollars above
11 the baseline amount, as long as the construction expenditures are undertaken specifically to
12 increase energy efficiency and/or to reduce water losses.

13 Q. What would be the practical impact of implementing a deferral mechanism for
14 MAWC as suggested by MDOE?

15 A. If the Commission decides to allow this deferral mechanism, it would establish a
16 regulatory framework under which some construction expenditures would be granted more
17 favorable rate treatment than other construction expenditures. In other words, the Commission
18 would be in the position of implicitly encouraging construction activities undertaken for certain
19 broad purposes over other types of construction undertaken for other purposes.

20 Q. What do you mean by the term “deferral?”

21 A. “Deferral” is an accounting term meaning that a cost normally charged to
22 expense as incurred to a utility’s income statement is instead captured (or “deferred”) on the
23 utility’s balance sheet as an asset, pending a Commission determination of future rate treatment
24 of the cost. In the context of MDOE’s deferral mechanism proposal, the rate of return

1 allowance and depreciation expense associated with qualifying construction expenditures
2 would be allowed to be booked as an asset by MAWC after the asset goes into service, instead
3 of being immediately reflected in MAWC's current earnings amounts, as would normally be
4 the case.

5 Q. Have utilities been allowed by the Commission in the past to defer a carrying
6 charge and depreciation expense associated with certain construction expenditures in the past?

7 A. Yes, in limited circumstances. In the past, the Commission has allowed such
8 treatment for construction programs mandated under Commission rules (such as for
9 replacement of gas service pipelines for safety reasons), or to provide assistance to utilities in
10 order to offset the financial impact associated with the gap between the in-service date of
11 certain very large construction projects (usually, electric generating facility additions) and the
12 date such projects were reflected in utility rates. Under both scenarios, the unusual accounting
13 and ratemaking treatments associated with deferral mechanisms were predicated on a finding
14 that the particular construction expenditures in question were deemed by the Commission to be
15 "extraordinary" in nature.

16 Q. What does "extraordinary" mean in the above context?

17 A. "Extraordinary" is usually defined as meaning "unique, unusual and non-
18 recurring."

19 Q. Do the construction expenditures targeted by MDOE's deferral mechanism meet
20 the Commission's traditional criteria of being extraordinary, or related to an extraordinary
21 event, in order to qualify for deferral treatment?

22 A. No. Water utilities incur construction expenditures in order to increase energy
23 efficiency and/or to reduce water losses on a regular, recurring basis.

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1 Q. Are the construction expenditures targeted by MDOE in their deferral
2 mechanism proposal mandated by law or Commission rule?

3 A. No.

4 Q. Does MDOE present any evidence that MAWC is not able to undertake an
5 optimal level of expenditures to improve energy efficiency or to reduce water losses due to
6 financial pressure?

7 A. No.

8 Q. In direct testimony, does Ms. Epperson present MDOE's deferral mechanism
9 proposal in sufficient detail to allow other parties to make a reasonable assessment of its overall
10 appropriateness and feasibility?

11 A. No. In many important respects, MDOE's deferral mechanism proposal is not
12 fully fleshed out. Among other concerns, it is not clear exactly what types of construction
13 expenditures would qualify for deferral; why \$100 million in total construction expenditures
14 would be an appropriate baseline for allowing deferral of qualifying expenditures above that
15 amount; and why allowing application of deferral treatment to up to a cap of \$100 million in
16 qualifying expenditures is reasonable. It is also not clear whether the \$100 million total
17 construction baseline amount above which deferral would be allowed should be assumed to
18 include a "base level" of energy efficiency and water loss reduction expenditures.

19 Q. What is Staff's recommendation in this proceeding regarding MDOE's deferral
20 mechanism proposal?

21 A. The Staff recommends that the Commission not adopt MDOE's proposal, as
22 MDOE has not demonstrated that extraordinary ratemaking approaches are necessary to induce
23 MAWC to reasonably invest in energy efficiency and water loss reduction initiatives, or that

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1 | the amount invested by MAWC in these areas has been inadequate in the past. While
2 | encouraging greater energy efficiency and reducing water losses are certainly worthy goals,
3 | sufficient evidence has not been presented that these particular initiatives deserve more
4 | favorable rate treatment than construction projects entered into for other beneficial reasons.

5 | Q. What does the Staff recommend in the event the Commission sees some merit in
6 | the concepts underlying MDOE's deferral mechanism proposal, but chooses not to approve this
7 | mechanism at this time due to inadequate support or on some other basis?

8 | A. In those circumstances, the Staff recommends that the Commission order
9 | MAWC, the Staff, The Office of Public Counsel, MDOE and other interested parties to meet
10 | after the conclusion of this rate case in order to determine whether agreement can be reached as
11 | to the structure and details of a deferral mechanism for potential implementation in MAWC's
12 | next general rate case.

13 | Q. Does this conclude your rebuttal testimony?

14 | A. Yes, it does.

**CASE PARTICIPATION OF
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Company Name	Case Number	Issues
Laclede Gas Company	GO-2015-0178	Direct: ISRS True-ups
Kansas City Power & Light Company	EU-2015-0094	Direct: Accounting Order – Department of Energy Nuclear Waste Fund Fees
Union Electric Company d/b/a Ameren Missouri	EO-2015-0055	Rebuttal: Demand-Side Investment Mechanism
Kansas City Power & Light Company	ER-2014-0370	Rebuttal: Trackers Surrebuttal: Trackers; Rate Case Expense
Kansas City Power & Light Company	EO-2014-0255	Rebuttal: Continuation of Construction Accounting
Union Electric Company d/b/a Ameren Missouri	EC-2014-0223	Rebuttal: Complaint Case – Rate Levels
Kansas City Power & Light Company	EO-2014-0095	Rebuttal: DSIM
Union Electric Company d/b/a Ameren Missouri	ET-2014-0085	Surrebuttal: RES Retail Rate Impact
Kansas City Power & Light Company & KCP&L Greater Missouri Operations Co	EU-2014-0077	Rebuttal: Accounting Authority Order
Kansas City Power & Light Company	ET-2014-0071	Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact
KCP&L Greater Missouri Operations Company	ET-2014-0059	Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact
Missouri Gas Energy, A Division of Laclede Gas Company	GR-2014-0007	Surrebuttal: Pension Amortizations
The Empire District Electric Company	ER-2012-0345	Direct (Interim): Interim Rate Request Rebuttal: Transmission Tracker, Cost of Removal Deferred Tax Amortization; State Income Tax Flow-Through Amortization Surrebuttal: State Income Tax Flow-Through Amortization
KCP&L Greater Missouri Operations Company	ER-2012-0175	Surrebuttal: Transmission Tracker Conditions
Kansas City Power & Light Company	ER-2012-0174	Rebuttal: Flood Deferral of off-system sales Surrebuttal: Flood Deferral of off-system sales, Transmission Tracker conditions

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Company Name	Case Number	Issues
Union Electric Company d/b/a Ameren Missouri	ER-2012-0166	Responsive: Transmission Tracker
Union Electric Company d/b/a Ameren Missouri	EO-2012-0142	Rebuttal: DSIM
Union Electric Company d/b/a Ameren Missouri	EU-2012-0027	Rebuttal: Accounting Authority Order Cross-Surrebuttal: Accounting Authority Order
KCP&L Greater Missouri Operations Company	EO-2012-0009	Rebuttal: DSIM
Missouri Gas Energy, A Division of Southern Union	GU-2011-0392	Rebuttal: Lost Revenues Cross-Surrebuttal: Lost Revenues
Missouri-American Water Company	WR-2011-0337	Surrebuttal: Pension Tracker
The Empire District Electric Company	ER-2011-0004	Staff Report on Cost of Service: Direct: Report on Cost of Service; Overview of the Staff's Filing Surrebuttal: SWPA Payment, Ice Storm Amortization Rebasing, S02 Allowances, Fuel/Purchased Power and True-up
The Empire District Electric Company, The-Investor (Electric)	ER-2010-0130	Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Regulatory Plan Amortizations; Surrebuttal: Regulatory Plan Amortizations
Missouri Gas Energy, a Division of Southern Union	GR-2009-0355	Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Rebuttal: Kansas Property Taxes/AAO; Bad Debts/Tracker; FAS 106/OPEBs; Policy; Surrebuttal: Environmental Expense, FAS 106/OPEBs
KCP&L Greater Missouri Operations Company	EO-2008-0216	Rebuttal: Accounting Authority Order Request
The Empire District Electric Company	ER-2008-0093	Case Overview; Regulatory Plan Amortizations; Asbury SCR; Commission Rules Tracker; Fuel Adjustment Clause; ROE and Risk; Depreciation; True-up; Gas Contract Unwinding
Missouri Gas Utility	GR-2008-0060	Report on Cost of Service; Overview of Staff's Filing

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Company Name	Case Number	Issues
Laclede Gas Company	GR-2007-0208	Case Overview; Depreciation Expense/Depreciation Reserve; Affiliated Transactions; Regulatory Compact
Missouri Gas Energy	GR-2006-0422	Unrecovered Cost of Service Adjustment; Policy
Empire District Electric	ER-2006-0315	Fuel/Purchased Power; Regulatory Plan Amortizations; Return on Equity; True-Up
Missouri Gas Energy	GR-2004-0209	Revenue Requirement Differences; Corporate Cost Allocation Study; Policy; Load Attrition; Capital Structure
Aquila, Inc., d/b/a Aquila Networks-MPS-Electric and Aquila Networks-L&P-Electric and Steam	ER-2004-0034 and HR-2004-0024 (Consolidated)	Aries Purchased Power Agreement; Merger Savings
Laclede Gas Company	GA-2002-429	Accounting Authority Order Request
Union Electric Company	EC-2002-1	Merger Savings; Criticisms of Staff's Case; Injuries and Damages; Uncollectibles
Missouri Public Service	ER-2001-672	Purchased Power Agreement; Merger Savings/Acquisition Adjustment
Gateway Pipeline Company	GM-2001-585	Financial Statements
Ozark Telephone Company	TC-2001-402	Interim Rate Refund
The Empire District Electric Company	ER-2001-299	Prudence/State Line Construction/Capital Costs
Missouri Gas Energy	GR-2001-292	SLRP Deferrals; Y2K Deferrals; Deferred Taxes; SLRP and Y2K CSE/GSIP
KLM Telephone Company	TT-2001-120	Policy
Holway Telephone Company	TT-2001-119	Policy
Peace Valley Telephone	TT-2001-118	Policy
Ozark Telephone Company	TT-2001-117	Policy
IAMO Telephone Company	TT-2001-116	Policy
Green Hills Telephone	TT-2001-115	Policy

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Company Name	Case Number	Issues
UtiliCorp United & The Empire District Electric Company	EM-2000-369	Overall Recommendations
UtiliCorp United & St. Joseph Light & Power	EM-2000-292	Staff Overall Recommendations
Missouri-American Water	WM-2000-222	Conditions
Laclede Gas Company	GR-99-315 (remand)	Depreciation and Cost of Removal
United Water Missouri	WA-98-187	FAS 106 Deferrals
Western Resources & Kansas City Power & Light	EM-97-515	Regulatory Plan; Ratemaking Recommendations; Stranded Costs
Missouri Public Service	ER-97-394	Stranded/Transition Costs; Regulatory Asset Amortization; Performance Based Regulation
The Empire District Electric Company	ER-97-82	Policy
Missouri Gas Energy	GR-96-285	Riders; Savings Sharing
St. Louis County Water	WR-96-263	Future Plant
Union Electric Company	EM-96-149	Merger Savings; Transmission Policy
St. Louis County Water	WR-95-145	Policy
Western Resources & Southern Union Company	GM-94-40	Regulatory Asset Transfer
Generic Electric	EO-93-218	Preapproval
Generic Telephone	TO-92-306	Revenue Neutrality; Accounting Classification
Missouri Public Service	EO-91-358 and EO-91-360	Accounting Authority Order
Missouri-American Water Company	WR-91-211	True-up; Known and Measurable
Western Resources	GR-90-40 and GR-91-149	Take-Or-Pay Costs

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Cases prior to 1990 include:

<u>COMPANY NAME</u>	<u>CASE NUMBER</u>
Kansas City Power and Light Company	ER-82-66
Kansas City Power and Light Company	HR-82-67
Southwestern Bell Telephone Company	TR-82-199
Missouri Public Service Company	ER-83-40
Kansas City Power and Light Company	ER-83-49
Southwestern Bell Telephone Company	TR-83-253
Kansas City Power and Light Company	EO-84-4
Kansas City Power and Light Company	ER-85-128 & EO-85-185
KPL Gas Service Company	GR-86-76
Kansas City Power and Light Company	HO-86-139
Southwestern Bell Telephone Company	TC-89-14