

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Petition of)
Missouri-American Water Company for) File No. WO-2015-0211
Approval to Change its Infrastructure)
System Replacement Surcharge (ISRS))

**MAWC’S RESPONSE TO PUBLIC COUNSEL
APPLICATION FOR REHEARING**

COMES NOW Missouri-American Water Company (MAWC) and, in response to The Office of the Public Counsel’s (Public Counsel) Application for Rehearing, states as follows to the Missouri Public Service Commission (Commission):

1. On June 17, 2015, the Commission issued its Report and Order, among other things, approving MAWC’s tariff assigned tracking no. YW-2015-0267, for service on and after June 27, 2015. On June 26, 2015, the Public Counsel filed its Application for Rehearing. The Application for Rehearing alleged that the Commission’s Report and Order was unlawful for two reasons: a) Because St. Louis County’s Population is less than one million inhabitants, pursuant to the 2010 census; and, b) Because the Report and Order is inconsistent with the Infrastructure System Replacement Surcharge (ISRS) Statute.

***MAWC’S USE OF THE ISRS IS LAWFUL BECAUSE ST. LOUIS COUNTY HAD
MORE THAN ONE MILLION INHABITANTS AS OF AUGUST 28, 2003***

2. The Public Counsel’s recitation of the Section 393.1003.1, RSMo, neglects to include an extremely important phrase. The full inhabitant requirement in 393.1003.1, RSMo, reads as follows:

... as of August 28, 2003, a water corporation providing water service in a county with a charter form of government and with more than one million inhabitants may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of the water

corporation's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements made in such county with a charter form of government and with more than one million inhabitants

(emphasis added)

3. The emphasized phrase – “as of August 28, 2003” – creates a “snapshot” test for water ISRS qualification. That is, “AS OF AUGUST 28, 2003,” was the applicant: 1) a water corporation; 2) providing service in a charter county; 3) which has more than one million inhabitants?

4. Public Counsel states that “there is no dispute that the applicant is a water corporation providing service in a charter county, and thus meets those two elements of § 393.1003.1’s requirements.” (OPC App for Rehearing, p. 2) This leaves only the question of whether St. Louis County had more than one million inhabitants as of August 28, 2003. According to the 2000 decennial census (effective July 1, 2001) St. Louis County’s population was 1,016,315.¹ (See Section 1.100, RSMo) Therefore, MAWC qualifies to use the ISRS process set forth in Sections 393.1000, RSMo, *et seq.*

5. This interpretation of the Section 393.1003 test as a “snapshot” test is further supported by a review of the natural gas ISRS. Section 393.1012.1, RSMo, states that the natural gas ISRS will be available “*beginning* August 28, 2003.” (emphasis added) The natural gas ISRS does not have a population test because it is applicable state-wide. The General Assembly had contemplated a different situation in regard to water corporations because of the geographical limitation. In doing so, it provided an additional test and changed the introductory language so that that test would be applicable “*as of August 28, 2003.*”

¹ <https://www.census.gov/prod/cen2000/phc-3-27.pdf> . The current St. Louis County population is estimated by the U.S. Census Bureau to be 1,001,876. <http://quickfacts.census.gov/qfd/states/29/29189.html>

6. That geographical/population test having been satisfied for St. Louis County “as of August 28, 2003,” this Commission has jurisdiction to issue the order in this case approving MAWC’s ISRS tariff sheet. Public Counsel’s Application for Rehearing should be denied.

PUBLIC COUNSEL’S INTERPRETATION OF THE ISRS STATUTE IGNORES THE PLAIN LANGUAGE OF THE STATUTE AND THE COMMISSION’S REPORT AND ORDER

7. Public Counsel suggests that the result of the Commission decision “is a distortion of the statute, an authorization to stack ISRS’s, and a guarantee of revenue requirement recovery.” (App. For Rehearing, p. 5) Public Counsel’s argument ignores the language of the ISRS statute, as well as the subject of this case.

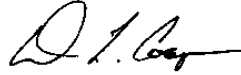
8. First, this case concerns the meaning of the cap language found in Section 393.1003.1, RSMo. MAWC has sufficient qualifying ISRS replacements to justify an ISRS revenue requirement greater than the cap. Thus, the cap serves as a minimum and a maximum amount to be collected. Second, there remains one ISRS tariff and one ISRS rate for each rate class.

9. Lastly, contrary to Public Counsel’s assertion, the ISRS statute very much focuses on amounts collected and whether they are greater or lesser than the ISRS revenue requirement. Section 393.1006.5(2), states: “At the end of each twelve-month calendar period that an ISRS is in effect, the water corporation shall reconcile the differences between the revenues resulting from an ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the revenues reconciliation and a proposed ISRS adjustment to the commission for approval to recover or refund the difference, as appropriate, through adjustment of an ISRS.” Thus, the concept of reconciling revenues collected with targeting recoveries is consistent with the statute.

10. The Public Counsel’s arguments are without support in law or fact.

WHEREFORE, MAWC respectfully requests that the Commission deny The Office of the Public Counsel's Application for Rehearing.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 1st day of July, 2015, to:

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