

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

In the Matter of Missouri-American Water	)	
Company's Request for Authority to Implement	)	<u>Case No. WR-2017-0285</u>
General Rate Increase for Water and Sewer	)	Case No. SR-2017-0286
Service Provided in Missouri Service Areas.	)	

**MAWC’S MOTION TO ESTABLISH PROCEDURAL SCHEDULE  
AND, IF NECESSARY, MOTION FOR VARIANCE**

COMES NOW Missouri-American Water Company (MAWC, Missouri-American, or Company), and, states as follows to the Missouri Public Service Commission (Commission) as its Motion to Establish Procedural Schedule and, If Necessary, Motion for Variance:

**INTRODUCTION**

1. On June 30, 2017, MAWC filed its tariffs and direct testimony initiating both Cases Nos. WR-2017-0285 and SR-2017-0286, which were later consolidated. As directed by the Commission’s rules, MAWC’s direct testimony included “all testimony and exhibits asserting and explaining [MAWC’s] entire case-in-chief.” Commission Rule 4 CSR 240-2.130(7)(A).

2. On August 9, 2017, the Commission issued its *Order Regarding Test Year* wherein it directed as follows:

1. The parties shall use a test year of the 12 months ending December 2016, with an update period of the six months ending June 2017, and a true-up period of the six months ending December 2017.
2. All parties shall use actual historic financial data for Missouri-American Water Company to present their positions based upon the periods set in Ordered Paragraph 1.
3. Parties may present further adjustments for the Commission’s consideration based upon projected or forecasted data past December 2017. No party shall be precluded from opposing such adjustments.

3. MAWC's direct testimony is based upon the historical test year ordered by the Commission (the twelve months ending December 2016). The update period specified by the Commission Order ended on June 30, 2017, the date of MAWC's filing. Thus, the update information has been available to the parties since mid-July.

4. MAWC's direct testimony also contained its proposed adjustments for projected or forecasted data past December 2017. Its assumptions for the forecast are available for analysis, assessment, rebuttal testimony and litigation in the primary evidentiary hearing as follows:

- Operating expenses are discussed on Company Accounting Schedule (CAS)-13 and in the direct testimonies of Nikole Bowen, John Watkins, and Brian LaGrand;
- Rate base assumptions are detailed in Brian LaGrand's direct testimony, with additional information about projects in the direct testimony of Bruce Aiton;
- Revenue assumptions are detailed in the direct testimonies of Brian LaGrand and Greg Roach;
- Cost of capital assumptions are detailed in the direct testimonies of Ann Bulkeley and Scott Rungren; and,
- Tax assumptions are detailed in the direct testimony of John Wilde.

#### **NEXT STEP**

5. The next step in the general rate case process is to establish a procedural schedule that will allow the parties to present evidence, identify the issues in controversy, and brief the issues for the Commission's consideration. Within the context of a general rate case, this has generally consisted of the filing of written testimony, followed by an evidentiary hearing. Where a true-up period (such as in this case) has been ordered, this has consisted of a second, shortened process of written true-up testimony and a true-up hearing for the purpose of updating certain accounts to reflect values as of the true-up date. *See State ex rel. Noranda Aluminum, Inc. v.*

*Public Serv. Comm'n of State*, 356 S.W.3d 293, 298 (Mo. App., W.D. 2011) at fn. 5.

6. Commonly, the parties are able to reach an agreement as to a proposed procedural schedule. However, at times they are not, and the Commission must determine a schedule based upon the proposals from the parties. The latter situation is where we find ourselves in this case.

### **SCHEDULE**

7. MAWC has the burden of proof/persuasion as to the rates to be set in this general rate case. As such, a more general litigation schedule would call for a moving party's direct testimony, followed by rebuttal testimony from the non-moving parties, followed by surrebuttal testimony. In fact, Commission Rule 4 CSR 240-2.130(7) contemplates the possibility of such a schedule:

(C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party's direct case.

8. Over the years, the Commission's general rate cases have more commonly had company direct testimony, followed by Staff (and non-Company parties') direct testimony, followed by rebuttal testimony, followed by surrebuttal testimony. More recently, non-company direct testimony and rebuttal testimony have been split into separate filing days for revenue requirement and rate design, resulting in six (6) different testimony filing dates prior to the evidentiary hearing.

9. One of MAWC's objectives in its proposed schedule is to try and work our way back to a more manageable number of testimony filings. Accordingly, MAWC's proposed schedule consolidates the revenue requirement and rate design rebuttal testimonies into a single

filing date. Splitting testimony (especially rebuttal testimony) into revenue requirement and rate design pieces filed sometimes weeks apart is an unnecessary complication, which results in confusion and delay and clutters the testimony order.

10. More significantly, MAWC seeks a Commission order that parties be directed to respond to MAWC's direct testimony in the non-company "direct testimony" and, to the extent necessary, requests a variance from Commission Rule 4 CSR 240-2.130(7) for this purpose. The reason for MAWC's uncertainty as to whether a variance is needed is found in the true nature of the usual first non-company filing in a rate case. While the phrase "direct testimony" is commonly used to describe the non-company testimony, this testimony filing, separated by 5 months from the Company's direct testimony filing, is different from the situation referred to in Commission Rule 4 CSR 240-2.130(7)(B) ("Where all parties file direct testimony. . . ."). Here, the Company has filed its direct testimony on day 1 (June 30, 2017) and non-company direct testimony under a likely schedule is not due until November 30, 2017 - five months later. There is no reason that non-Company parties should be unable to examine and respond to the Company's direct case over a five month period.

11. The consequence of failing to do so results in the Company not seeing the other parties' responsive positions until approximately mid-January (six and one-half months later) after the filing of the Company's direct testimony. After waiting six and one-half months for the other parties' positions, the Company must then provide its surrebuttal to these responsive positions within only a few weeks. On the other hand, MAWC must provide rebuttal testimony at the six and one-half month point to the Staff's "direct" case. This means that the other parties are also forced to respond in surrebuttal to Company rebuttal testimony within only a few weeks.

12. The result of all this is that in a series of rebuttal and surrebuttal testimony, the parties end up “talking past” one another and not coalescing around issues in a way that would provide the Commission with defined issues to address in the hearing. On the other hand, if at the first non-Company filing parties were required to include their responsive positions, the Company’s full response to all issues could be provided in rebuttal testimony and there would be an opportunity to define issues at a much earlier stage of the case. Such a process should provide for more meaningful conversations between the parties, testimony that focuses on the issues in dispute, and, where necessary, a cleaner hearing record for the Commission.

13. In conjunction with the request that parties be directed to respond to the Company’s direct case in their first testimony filing and, in order to facilitate the parties’ review of the Company’s case, MAWC’s proposed procedural schedule includes a proposal for an expedited schedule for data request responses. The proposed schedule would shorten response times to 14 days as of October 14, 2017; to 10 days as of November 30, 2017 (non-Company direct filing); and, to 5 business days as of January 17, 2018 (rebuttal testimony filing). Because of these shortened response times, MAWC has also proposed a requirement that beginning with the shortened time periods, those data requests served after noon, be deemed served as of the next business day. Because of the time zone location of many MAWC witnesses, late afternoon service takes away a day of processing time on normal days and, on Fridays, essentially takes away 2 days of processing time. This becomes more and more significant as the data request processing times shorten through the case. All parties would benefit from such a rule.

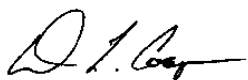
14. Lastly, the time between surrebuttal filing and the start of the evidentiary hearing is always very important to the Company (even more so in the scenario where the non-company

parties do not respond to the Company's direct case until rebuttal). It is helpful to the rate case process to provide a sufficient period of time for discussions and hearing preparation between the filing of surrebuttal testimony and the start of the hearing. For that reason, assuming an evidentiary hearing of February 26, 2018 – March 9, 2018, MAWC proposes that surrebuttal testimony be filed no later February 5, 2018.

15. Attached hereto as **Appendix A** is MAWC's proposed procedural schedule. MAWC moves the Commission to adopt this schedule and, if necessary, grant a variance from Commission Rule 4 CSR 240-2.130(7) such that non-Company parties are directed to respond to MAWC's direct case in their first testimony filing (November 30, 2017).

**WHEREFORE**, MAWC respectfully requests the Commission to issue its order granting the variance described herein and adopting MAWC's proposed procedural schedule.

Respectfully submitted,



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**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 or by U.S. Mail, postage prepaid, on August 24, 2017, to the following:

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