

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

|  |   |                              |
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| 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 INITIAL BRIEF**

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COMES NOW Missouri-American Water Company (MAWC, Missouri-American, or Company), and, as its Initial Brief concerning the remaining issues (Lead Service Line Replacement and Water Rate Design), states as follows to the Missouri Public Service Commission (Commission):

### **INTRODUCTION**

The following stipulations have been filed by the parties: Stipulation Jefferson City Issues (February 28, 2018); Stipulation and Agreement (March 1, 2018); Stipulation and Agreement Regarding Rate Design (March 6, 2018); Stipulation and Agreement Regarding Inclining Block Pilot Program (March 8, 2018); and the Stipulation of Fact Related to True-Up and Motion to Suspend True-Up Procedural Schedule (March 26, 2018). All of these stipulations may be treated as unanimous in accordance with Commission Rule 4 CSR 240-2.115.

The remaining rate case issues for the Commission’s consideration and decision are the series of issues identified as “Lead Service Line Replacement (LSLR)” and “Water Rate Design.”<sup>1</sup> MAWC will address these remaining issues in the following pages.

### **LEAD SERVICE LINE REPLACEMENT (LSLR) –**

In Case No. WU-2017-0296, the Commission granted MAWC an Accounting Authority Order to allow it to defer and book to USOA Account 186, its costs associated with the replacement of customer-owned lead service lines completed between January 1, 2017, and May 31, 2018.

The questions for the Commission at a high level are: 1) what to do in regard to the recovery of the amounts that have been deferred pursuant to the Case No. WU-2017-0296 Order; 2) how MAWC should proceed in regard to the LSLR program; and, 3) how the LSLR program costs it

incurs going forward, if any, should be recorded. As further discussed below, the Company recommends that the Commission authorize the Company to 1) include the unamortized balance of the deferral in rate base and amortize it over the average life for service lines (65 years) consistent with Uniform System of Accounts (“USOA”) Account 345 – Services; 2) continue its LSLR program and replace customer-owned lead service lines in conjunction with its main replacements and relocations, as that is the most cost-effective, efficient, and responsible way to continue MAWC’s main replacement program while addressing the health and safety concerns associated with partial lead service line replacements; and, 3) record LSLR costs consistent with the guidance found in the USOA to Account 345 – Services.

**a. LSLR Activity – Should MAWC continue to replace the customer-owned portion of lead service lines (LSL) while performing water main repair and replacement?**

Yes. There is extensive research indicating that no amount of exposure to lead is safe.<sup>2</sup> (Exh. 27, Naumick Reb Rev., Sched. GAN-3 (p. 3)) More specifically, OPC witness Marke states that “both the [Environmental Protection Agency] and the [Center for Disease Control] have said that no amount of lead in water is safe for children . . . .”<sup>3</sup> (Exh. 200, Marke Dir., Sched. GM-3 (p. 9))

Lead seldom occurs naturally in water supplies like rivers and lakes, and is rarely present in water coming from treatment plants. Rather, lead, if present in drinking water, is likely a result of corrosion of plumbing materials containing lead such as lead pipe, copper plumbing containing lead-

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<sup>1</sup> An issue as to the value of the asset created as a result of the Commission’s decision in Case No. WU-2017-0296, as of December 31, 2017, also remains and will be addressed through the true-up process.

<sup>2</sup> Lead is a naturally occurring metal that is harmful if inhaled or swallowed, particularly to children and pregnant women. Lead exposure can cause a variety of adverse health effects. For example, lead exposure can cause developmental delays in babies and toddlers and deficits in the attention span, hearing, and learning abilities of children. Lead exposure can also cause hypertension, cardiovascular disease, and decreased kidney function in adults. (Exh. 1, Naumick Dir., p. 6)

<sup>3</sup> Witness Marke does further observe that “neither agency supported that statement with regulatory action.” *Id.*

based solders, brass faucets, fittings, and other various customer premise fixtures containing lead. The risk for lead contamination arises when water passes through lead service lines and/or premise plumbing fixtures with lead-based solder used to join pipes and faucets. Lead solder was banned for use on water pipes in 1986. Congress has also set limits on the amount of lead that can be used in plumbing. (Exh. 27, Naumick Reb Rev., Sched. GAN-1 (p. 5))

The Company's treatment and sampling efforts have effectively reduced potential lead exposure from drinking water. However, as the research regarding potential exposure to lead has been further developed and refined, the Company has determined it should take additional steps to further mitigate the risk of potential customer exposure to lead in drinking water.

A growing body of research indicates that the galvanic corrosion that can occur after a partial lead service line replacement and the physical disturbance of the lead service line have the potential to increase lead levels following replacement. Now, when the Company encounters a lead service line during the course of its main replacement projects, the Company believes all segments of lead in the service line should be replaced. The full replacement would include both the lead portions owned by the Company and the lead portions owned by the customer/property owner. This work should be done at the same time whenever possible and should be integrated in the Company's water main replacement program. (Exh. 27, Naumick Reb Rev., Sched. GAN-1 (p. 7-8))

In contrast to replacing all lead portions of the service line, replacing only a part of the lead service line may potentially increase the risk of lead exposure through drinking water at the customer's tap. This is because physical disturbance of lead service lines and electrochemical processes both contribute to an increased risk of lead contamination following a partial replacement.

Such physical disturbance results when a lead service line is either physically cut or otherwise disconnected, or when sufficient vibration occurs in close proximity to the line such that the integrity of the interior scale may become vulnerable to breaking. Vibration concerns include when excavation occurs in close proximity to the service line, such as during water main replacement, other nearby underground utility work, or tree removal. (Exh. 27, Naumick Reb Rev., Sched. GAN-1 (p. 10-11))

By removing the entire lead service line from active operation, a source of lead will be removed, further reducing the potential for exposure to lead in the drinking water supplied to customers.

Currently, MAWC is replacing customer-owned lead service lines in conjunction with its main replacement program. Main replacements are currently prioritized by considering a variety of factors, including the condition of the main, gauged by the history of leaks or breaks in the line, pressure and flow conditions, and pipe age and material. MAWC also coordinates with local municipalities to replace mains in conjunction with road projects. It is during this regular main replacement process that MAWC anticipates replacing the lead service lines. Under the LSLR Program, when the Company encounters lead service lines during a main replacement project, it will proactively replace the lead portion of the service line. This may include Company-owned lead service lines and/or lead “goosenecks” as well as customer-owned portions of lead service lines. If only the gooseneck is lead, the Company will replace the service line up to the service shut-off valve. If the service line is lead, the Company will, with the customer’s consent, generally replace the entire service line from the main to the shut off valve within the customer’s premise. (Exh. 2, Aiton Reb., Sched. BWA-1 (p. 5-6)).

The program further includes a flushing protocol, sampling protocol, notification of customers of results, and information for customers as to how to reduce exposure to lead in drinking water. (Exh. 27, Naumick Reb Rev., Sched. GAN-1 (p. 12-15); Exh. 2, Aiton Reb., Sched. BWA-1 (p. 6-7))

In response to a Staff recommendation, MAWC is further in agreement with providing annual reporting of the work it plans to perform and the work that has been performed up to this point. (Tr. 355, Aiton) More specifically, between now and the next general rate case, MAWC would propose to provide by February 15 of each year the details concerning its planned main replacement projects expected to include lead service lines. (Exh. 3, Aiton Sur., p. 7) MAWC would also be willing to update that data with actual information within forty-five days of the end of each calendar quarter. (*Id.*)

Without the recommended ratemaking treatment for LSLRs, MAWC will avoid areas with lead service lines and postpone main replacement projects with known lead service lines to avoid increasing the risk of potential exposure to lead associated with a partial replacement. (Tr. 395, Aiton) Delaying main replacement projects, however, has a downside. Not only can it result in an increased number of main breaks and leaks over time, but it can also be costly and disruptive to customers and the community. As Mr. Aiton explained:

Planned pipe replacements are much less costly on a unit cost basis than the costs of increasing pipe breaks, service disruptions, property damages, health risks from potential drinking water contamination exposure during pipe breaks, related community opportunity costs related to community health and economic development, and the steep increase in future pipe replacements resulting from prior deferral of the replacements. In addition, MAWC works with other entities when pipelines need to be relocated due to the work by other utilities, state and local roadway projects and redevelopment.



Considering the level of coordination normally needed for the various types on infrastructure upgrades by the Company, the Commission should be aware that there could be a wider potential impact if the AAO is not granted.

(Exh 2, Aiton Reb. Rev., Sched. BWA-3 (p.4-5))

Replacing lead service lines in conjunction with main replacements or relocations is not only the most cost-effective, efficient, and responsible way to continue MAWC's main replacement program, it also best addresses the health and safety concerns associated with partial lead service line replacements.

**i. Should the Company prioritize at risk populations?**

MAWC has a program to replace water mains throughout its service areas. The main replacements are prioritized by considering a variety of factors, including the condition of the main, gauged by the history of leaks or breaks in the line, pressure and flow conditions, and pipe age and material. MAWC also coordinates with local municipalities to replace mains in conjunction with road projects. (Exh. 2, Aiton Reb., Sched. BWA-1 (p. 5); see also Tr. 394, Aiton). This coordination saves ratepayer and taxpayer money.

In conjunction with the LSLR program, as proposed, the Company will add the presence of lead service lines to the prioritization process. Thus, where two mains have the same number of leaks, but one has lead service lines and the other may not, MAWC would prioritize the lead service lines, particularly if it has an at-risk population on that block. (Exh. 2, Aiton Reb., Sched. BWA-3 (p. 7); Tr. 395, Aiton)

**ii. Should the Company be required to disclose known lead service line and when should that notification take place?**

The Company will communicate the presence of a lead service line to the homeowner, when such line is confirmed to exist. (Tr. 377, Aiton)

If a customer calls the Company to inquire, the Company will provide the information available to the Company in regard to the composition of the service line. (Tr. 377, Aiton) However, tap card information is not precise. The Company has found lines it thought would be lead, have already been replaced with copper. (Tr. 376, Aiton) Thus, in that context, the only way to confirm that composition is for the customer to contact a plumber and have them investigate.

**iii. Should the Company be required to have a written plan about its LSL replacement program?**

The Company has a written plan for the LSLR program. That plan is contained in Exhibit 40. (Tr. 391-92, Aiton)<sup>4</sup> This information was provided in response to an OPC data request around June 2, 2017 (Tr. 400, Aiton) Additionally, the flowcharts, license agreement and customer notices provided in Case No. WU-2017-0296, and as part of the record in this case, also provide written guidance in regard to the plan. (Tr. 391, Aiton; see also Exh. 2, Aiton Reb., Sched. BWA-1 (Exh. 1-5) and Sched. BWA-3 (BA-SR2-3)).

**iv. Should the Company be required to provide test kits and what testing parameters should be in place including whether the results should be disclosed to the public?**

MAWC does not believe that there is any reason to provide test kits to people outside of where the Company is planning to replace a service line, other than those properties utilized to test lead and copper rule compliance. (Tr. 381, Aiton) The Company's treatment and sampling efforts

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<sup>4</sup> It is applicable state-wide, although the version in Exhibit 40 refers to "St. Louis Operations." (Tr. 400, Aiton)

have effectively reduced potential lead exposure from drinking water. It is when there is a physical disturbance, like a partial LSLR, that there is an increased potential risk of exposure to lead.

To monitor and address, if necessary, the potential risk of lead exposure associated with LSLR, MAWC does test directly after a lead service line is replaced. It does a flush and a test following the replacement, and then another test within 24 to 72 hours to ensure that the line does not show evidence of lead. (Tr. 401, Aiton)

**v. Should the Company be required to do a cost-benefit analysis?**

No formal cost benefit analysis is necessary in this situation. The Company has demonstrated that replacing lead service lines in conjunction with main replacements or relocations is the most cost-effective, efficient, and responsible way to continue MAWC's main replacement program while addressing the health and safety concerns associated with partial lead service line replacements. In addition, MAWC's ability to coordinate the replacement of Company and customer-owned lead service lines will minimize service disruptions, streamline project administration and reduce overall costs. (Exh. 2, Aiton Reb. Rev., Sched. BWA-1 (p. 10))

Further, a key benefit of the LSLR program is the long-term protection of public health and the elimination of risk. Elimination of risk, where possible, is much better protection than merely attempting to mitigate the risk. (Tr. 381, Aiton) Stated another way by Division of Energy witness Hyman, "if there's no safe blood level [for lead] in children, then it makes sense to reduce your potential sources of lead." (Tr. 469, Hyman)

Moreover, it is unclear what cost benefit would be explored. OPC witness Marke suggested that the cost benefit analysis should explore the estimated benefits "based upon avoided effects of lead exposure such as IQ loss in developing children." (Exh. 200, Marke Dir., Sched. GM-4 (p. 24))

Attempting to place a value on a child, his or her family, or the community as a result of IQ loss in developing children seems to be well beyond this Commission's jurisdiction. However, as MAWC witness Aiton stated, the benefit is to the individual who may or may not experience lead poisoning. If we can eliminate the risk of even one person developing this condition from these sources, then there would seem to be a benefit. (Tr. 381-382, Aiton)

**vi. Should the Company be required to comply with OSHA lead standards?**

The Company follows OSHA standards in performing its work. (Tr. 378, Aiton)

**vii. Should the Company be required to have a plan for how they will address excess costs related to unusual site restoration work?**

The Company has such a plan. The flowchart originally provided in Case No. WU-2017-0296 describes MAWC's approach. (Exh. 2, Aiton Reb., Sched. BWA-3 (BA-SR2)) Essentially, MAWC views individual site locations and tries to mitigate these situations, much as it would in a main replacement. The approach is to route the line around trees, utilities and other obstacles, to the extent possible, in order to minimize cost impacts. (Tr. 383, Aiton)

**viii. Should the Company be coordinating activity with other pertinent entities?**

The Company currently coordinates its activities with municipalities with respect to road construction, and often replaces the mains at the same time or, at least, the lead service lines. The latter was the situation when work was performed on Capitol Avenue in Jefferson City. (Tr. 380, Aiton)

**ix. Should the Company be required to remove all lead service lines including vacant properties or inactive accounts?**

MAWC currently attempts to contact the owner when it encounters a vacant property with a lead service line. If the property is completely vacant or has been vacant for an extended period of

time, the Company would cut and cap that line. If someone applied for a new service in the future, MAWC would work at that time to arrange for the new service line. (Tr. 383-84, Aiton)

**x. Should the Company also be replacing worn out customer-owned service lines, copper service lines, and/or galvanized pipes?**

No. There is a known public health risk associated with lead service lines that is not present with the other lines identified in this question. (Tr. 384, Aiton)

**xi. How should costs be allocated?**

Allocation of the LSLR costs will be adequately addressed by the accounting MAWC has recommended. As described below, the Company has proposed to record customer-owned LSLR restoration costs in Account 345 - Services. In a cost of service study, this account is allocated based on something called “Factor 9,” which allocates costs based on the relative cost of service by size and customer classification. (Exh. 16, Heppenstall Reb. RD, p. 16) A factor based on the weighted number of services is a fair way to allocate these costs. (*Id.* at p. 17)

**b. Pilot Program – Should the Commission order the implementation of OPC proposed LSL pilot program?**

No. MAWC’s current approach is the most cost-effective, efficient, and responsible way to address the health and safety concerns associated with partial lead service line replacements. Commission Staff and the Department of Economic Development agree. Staff believes “MAWC’s proposal is a reasonable approach and is consistent with current EPA recommendations.” (Exh. 108, Merciel Reb., Sched. JAM-r2 (p. 8)) “DED is supportive of an immediate response at the time of lead service line discovery during main replacement, which presents a more timely and cost-effective solution.” (Exh. 601, Hyman Reb., Sched. MRH-Reb-RR1 (p. 8))

OPC, on the other hand, recommends denying the Company’s cost recovery of expenses

already incurred and proposes a “Pilot Study”. As further discussed below, a pilot study is not necessary or the most efficient way to proceed in this case. However, MAWC agrees there is value in gaining input from a broad range of stakeholders and recognizes that the health of the public is a primary concern and responsibility that it shares with other entities. MAWC’s ability to effect change with respect to lead exposure is limited, however, to ensuring our water treatment is effective and by doing what the Company can to eliminate lead service lines from the systems it owns. Therefore, MAWC believes it is appropriate to engage in a dialogue with key stakeholders to gain input and refine best practices to best implement its LSLR program rather than engaging in a less focused pilot study. While MAWC supports dialogue, those engaged in the dialogue need to recognize that MAWC bears the ultimate responsibility for providing safe and adequate water service to its customers and, therefore, entities engaged in the dialogue cannot mandate program implementation details because they do not bear the ultimate responsibility for the successful completion of the program.<sup>5</sup> One key area that stakeholders can provide helpful input is the identification and pursuit of alternate funding opportunities. (Exh. 27, Naumick Reb., Sched. GAN-4 (Tr. 140-141))

In addition, there were questions raised about how MAWC prioritizes main replacements, and whether that process might be expanded to take into account other factors such as vulnerable populations (schools, nursing homes, or low income areas). MAWC currently prioritizes its main replacements based on: 1) problems with specific mains such as a history of main breaks and other factors in an attempt to solve problems and prevent service interruptions for customers; and, 2)

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<sup>5</sup> MAWC will follow all applicable rules, regulations and relevant best practices in the implementation of its LSLR program. Within these parameters, detailed implementation decisions need to be made by the Company without undue outside restriction. For example, when MAWC is installing a water main, it needs to determine diameter and material,

government driven projects. (Exh. 27, Naumick Reb., Sched. GAN-4 (Tr. 131-132, 142-143)) Other entities may be in a better position to inform the utility where its most sensitive populations are located and how to meet their specific needs. The Company remains interested in collaborating, and does collaborate with those that do, such as the local Health Departments. (Exh. 27, Naumick Reb., Sched. GAN-4 (Tr. 133-134), Sched. GAN-3 (p. 4)) Through this collaboration, sensitive populations and their location could be identified along with a process by which such locations could be communicated to MAWC by local health departments. As previously discussed, MAWC can then consider that information during its project prioritization process. Similarly, together, stakeholders could also develop a protocol for identifying new and existing child care facilities and other locations where potential exposure to children may exist.

OPC also raised questions about whether and how customers are notified that they have a lead service line. As described above, Mr. Aiton explained that customers are notified in advance of a LSLR. (Exh. 2, Aiton Reb. Rev., Sched. BWA-1 (p. 6)) If a customer calls in to inquire, they are told whether the tap card indicates they have a lead service line and to contact a plumber to confirm whether the record is accurate. (Exh. 135, Tr. 198-199, Aiton) The Company acknowledges this is not a perfect system and welcomes input on how to make the location of lead service lines more accessible to customers while maintaining appropriate control of the information as required for proper system operation. Stakeholders may also have good ideas that will help the Company advance its knowledge of the service line materials that actually exist at customers' premises, allowing the Company to better plan and prioritize its LSLR program.

Targeted collaboration with clear goals like some of those discussed above is preferable to a

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what construction technique to employ, how to disinfect and place the main in service, etc.

“two-year pilot study” to “explore the feasibility, legality and associated policy implications of full lead service line replacement across MAWC’s entire service territory and the state of Missouri with the results presented to the Missouri Public Service Commission, the Missouri Legislature and the Missouri Governor’s Office for consideration.” (Exh. 200, Marke Dir., Sched. GM-2 (p. 5-6))

The OPC recommended pilot study would include five “policy tracks”<sup>6</sup> and be limited to “no more than \$4 million annually (or \$8 million in total) [to] be spent on planned full lead service line replacement and third-party administrative costs associated with the collaborative research efforts.” (Exh. 200, Marke Dir., Sched. GM-2 (p. 5)) The proposed Pilot Study would result in unnecessary delay, cost, and limitation on the replacement process for the following reasons:

**1) OPC’s Recommended Pilot Study is Redundant of Work that has Already Been Performed.**

The United States Environmental Protection Agency (“EPA”) and Water Research Foundation (“WRF”), along with partners from utilities and universities, have performed much research on this topic and have concluded that full lead service line replacement is in the best interest of the public. The WRF has published a summary of its extensive library of research on lead and copper corrosion and the Lead and Copper Rule, and has enlisted research partners, which include EPA, National Science Foundation, and Water Environmental Research Foundation. (Exh. 27, Naumick Reb. Rev., Sched. GAN-2 (p. 4))

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<sup>6</sup> The five “policy tracks” are as follows: (1) an advisory committee, led by a third-party consultant, responsible for issuing a final report taking into account a large range of considerations; (2) a scoping analysis to provide lead service line estimates and information as well as the feasibility of developing a repository to contain lead service line information and water testing results; (3) a two-year lead service line replacement pilot program that includes testing and modeling to verify the link between lead service line removal and lead abatement in drinking water; (4) a review and summary of the advisory committee’s thoughts on communications, disclosure, prioritization, and implementation; and, (5) ancillary considerations such as potential job creation, lead paint and soil abatement, and potential funding sources. (Exh. 200, Marke Dir., Sched. GM-2 (p. 6-11))



The literature OPC recommends be reviewed has been studied extensively and is readily available. Lead has been a topic of intense interest to many health agencies including EPA, the Center for Disease Control, the Department of Housing and Urban Development, National Institute of Health, National Toxicology Program, National Institute of Environmental Health Sciences, and others over the past several years. (Exh. 27, Naumick Reb. Rev., Sched. GAN-2 (p. 4))

Moreover, the EPA has already had extensive engagement with stakeholder groups and the public on the current Lead and Copper Rule methodology and limitations. EPA published the “Lead and Cooper Rule Revisions White Paper” (“LCR Revisions White Paper”) in October 2016 that discusses the key principles for revision to the LCR, the health effects of lead, lead in plumbing materials, a summary of the LCR, key challenges of the current LCR, a summary of the National Drinking Water Advisory Council Recommendations, and a summary of other stakeholder input. (Exh. 27, Naumick Reb. Rev., Sched. GAN-2 (p. 5-6)) The LCR Revisions White Paper recognizes the significant lead exposure risks that can accompany partial service line replacements. (Exh. 27, Naumick Reb. Rev., Sched. GAN-2 (p. 7))

**2) OPC’s Recommended Pilot Study Delays a Public Health Benefit.**

MAWC’s LSLR Program proposes to replace lead service lines within a ten-year period, or roughly 3,000 per year. Using an average cost of \$6,000 per service, MAWC estimates that it could invest approximately \$18 million per year. OPC’s proposal to limit the investment in LSLR to \$4 million per year during the pilot limits MAWC’s ability to replace lead service lines during the proposed pilot. Consequently, the Company’s ability to perform planned main replacement projects

will also be limited.<sup>7</sup> Since partial LSLR has the potential to increase the risk of exposure to lead, the Company will not perform partial LSLR. This means MAWC will not complete the main replacement projects in areas where lead service lines are present, delaying much needed infrastructure replacement and rehabilitation, missing opportunities to coordinate replacements with main replacement projects, and pushing the replacement process out well beyond ten years. (Exh. 2, Aiton Reb. Rev., Sched. BWA-2 (p. 5))

Division of Energy witness Hyman also expressed concern as to the consequence of such limitation. He stated:

. . . one of the issues with the collaborative was that it would limit how many lead service lines could be replaced. I mean, the two possible outcomes from that are, one, that they do – the company does main replacements and doesn't replace lead service lines; therefore, you end up with potential lead contamination. The other possibility being that the company avoids areas with lead service lines when they reach that cap for those one or two years, and then you have mains that need to be replaced that aren't being replaced.

(Tr. 463-64, Hyman)

### **3) OPC's Recommended Pilot Study Creates Unnecessary Costs.**

The OPC's suggestion that MAWC solicit a contractor to provide "independent testing and modeling verification of the link between lead service line replacements and lead abatement in water at the tap" would result in costs and work that are duplicative of the work of the Lead Service Line Replacement Collaborative (LSLR Collaborative), which MAWC already has access to and has been utilizing. (Exh. 27, Naumick Reb. Rev., Sched. GAN-2 (p. 4))

The national LSLR Collaborative was formed in 2016 and is a joint effort of national public health, water utility, environmental, labor, consumer, housing, and state and local governmental

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<sup>7</sup> The Company has contracts in place in St. Louis County for the performance of this work. (Tr. 402, Aiton)

organizations to help communities to accelerate full removal of the lead service lines providing drinking water to millions of American homes. (Exh. 27, Naumick Reb. Rev., Sched. GAN-1 (p. 2-3)) One of the purposes of this organization is to avoid duplicative and inefficient studies like the one proposed by OPC. Cities all across the country face the same problem. It does not make sense for every local city or entity to go at it alone. The collaborative was brought together to help provide centralized resources to those communities. (Exh. 27, Naumick Reb. Rev., Sched. GAN-4 (Tr. 115))

**4) OPC’s Recommended Pilot Study Includes Tasks Beyond the Scope of a Water Utility.**

There are several aspects of the proposed OPC Pilot Study that are beyond the expertise and responsibility of MAWC or any water corporation to undertake and would improperly require the Company to expend additional money and resources to evaluate issues outside the scope of the Company’s provision of water service, at an additional cost to Missouri-American’s customers.

Examples include considering:

- “...lead contamination from external sources separate from the distribution system (e.g., lead paint)” (Exh. 200, Marke Dir., Sched. GM-2 (p. 9));
- “. . . real estate and legal implications of Missouri’s Seller Disclosure Statement for properties with lead service lines” (Exh. 200, Marke Dir., Sched. GM-2. (p. 10)); and,
- ... potential job creation as well as lead paint and soil abatement messaging or service offerings.” (Exh. 200, Marke Dir., Sched. GM-2. (p. 10))

(Exh. 27, Naumick Reb. Rev., Sched. GAN-2 (p. 9-10))

**5) OPC’s Recommended Pilot Study is Unclear and Ambiguous.**

It is unclear what will happen at the end of the two year Pilot Study. OPC proposes that the resulting study be presented to the Missouri Public Service Commission, the Missouri Legislature

and the Missouri Governor's Office for consideration. What would happen next, and when, would be anybody's guess. One possible outcome is that all efforts to replace lead service lines might necessarily come to a halt, no matter what the outcome of the study, while the information is considered by the identified bodies.

MAWC has carefully considered its LSLR program in many aspects, including field construction methodology, sampling, flushing, customer communication, and community coordination. (Exh. 2, Aiton Reb. Rev., Sched. BWA-3 (p. 6)) Engaging a third party to repeat these activities would unnecessarily delay the Company's ability to implement its Lead Service Line Replacement Plan, and do so at an additional cost to customers. (Exh. 27, Naumick Reb. Rev., Sched. GAN-2 (p. 3))

However, MAWC agrees there is value in gaining input from a broad range of stakeholders and recognizes that the health of the public is a primary concern and responsibility that it shares with other entities, while recognizing that MAWC's ability to effect change with respect to lead exposure is limited to ensuring its water treatment is effective and by doing what the Company can to eliminate lead service lines from the systems it owns. Therefore, MAWC believes it is appropriate to engage in a dialogue with key stakeholders to gain input and refine best practices to best implement its LSLR program rather than engaging in a less focused pilot study.

**c. LSLR AAO Treatment – What recovery approach, if prudent, should be adopted for the AAO amount from WU-2017-0296?**

The AAO approved in WU-2017-0296 can be considered in two parts: 1) the costs associated with the customer-owned LSLRs that have been performed from January 1, 2017 through December 31, 2017 (within the update and true-up period in this case), and 2) the costs associated with

customer-owned LSLRs during the “stub period” (January 1, 2018 – May 31, 2018).

First, MAWC proposes that the unamortized balance of the deferral amount from 2017 costs be included in rate base and amortized over the average service life for service lines consistent with Account 345, as detailed in section d below. Second, the Company recommends the costs associated with the customer-owned LSLRs during the LSLR AAO “stub period” be transferred into Account 345, also as described below.

The outcome of this issue may impact the revenue requirement to be recovered by the Company in this case as the Stipulation and Agreement between the parties does not include any revenue requirement associated with the lead service line regulatory asset recovery. (Tr, 297-98, Jenkins)

Using the treatment of the existing Account 186 deferral recommended by MAWC actually results in a lower revenue requirement in this case. Staff witness McMellen estimated<sup>8</sup> that Staff’s proposed treatment (10 year amortization, with the unamortized balance included in rate base) would result in an annual revenue requirement of approximately \$260,000. (Tr. 451, McMellen) On the other hand, Ms. McMellen estimates that the Company’s proposal would result in an annual revenue requirement of approximately \$148,000. (*Id.*)

**d. Future LSLR Recovery –What should the Commission authorize in this case for the recovery of future LSLR activity?**

**MAWC Proposal**

On a going forward basis (after May 31, 2018), MAWC proposes to record costs related to the replacement of customer-owned lead service lines in USOA Account 345 – Services. In

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<sup>8</sup> Using a \$1.4 million regulatory asset. All numbers would be slightly greater given the Stipulation of Fact Related to True-Up filed on March 26, 2018, which identified that the regulatory asset will be between \$1.668 million and

accordance with the USOA, capitalized costs include the installation cost of pipes and accessories. (Exh. 19, Jenkins Reb. Rev., p. 37) “Installation costs” include other restoration cost items such as disturbed pavement, pavement base, sidewalks, curbing, etc., that are associated with main installation. Restoration costs also generally include costs related to damages to the property of others, and other general costs relating to restoring areas to a safe or prior condition. (Exh. 21, Jenkins Sur., p. 46-47) In this case, the customer-owned line is restored (replaced with new materials) for safety reasons – to mitigate the potential increased risk of lead contamination following physical disturbances related to infrastructure work. (*Id.*)

This accounting treatment is within the Commission’s authority to order. Section 393.140(8), RSMo, provides that the Commission shall have the power “to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.”<sup>9</sup> As a part of its exercise of this authority, the Commission has promulgated Rule 4 CSR 240-50.030(1), which states as follows:

The uniform system of accounts for Class A and B and for Class C and D water companies, issued by the National Association of Regulatory Utility Commissioners in 1973, as revised July 1976, are adopted and prescribed for use by all water companies under the jurisdiction of the Public Service Commission.

Thus, the Commission has incorporated into its rules by reference the National Association of Regulatory Utility Commissioners (“NARUC”) USOA.

The description of Account 345 of the USOA indicates that this account “shall include the

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\$1.686 million, depending upon the Commission’s decision in this case.

<sup>9</sup> Section 393.140(8), does not contain any express standard for the exercise of this authority and therefore, it is within the Commission’s discretion. Moreover, the courts have recognized the Commission’s authority to issue such orders, and there is nothing in the Public Service Commission Law or the Commission’s regulations that would limit the grant of such order to any particular set of circumstances. *State ex rel. Aquila, Inc. v. Public Service Comm’n of State*, 326 S.W.3d 20,

*cost installed* of service pipes and accessories leading to the customers' premises.” (emphasis added)

MAWC asserts that the replacement of customer-owned service lines is a part of the “cost installed.” As the Office of the Public Counsel witnesses have pointed out, general guidance included in the USOA in regard to plant accounts such as Account 345 is found in Account 101 - Utility Plant in Service. Account 101 states in part that plant accounts are to include the “original cost of utility plant” of “property owned and used by the utility.”

MAWC does not allege that the customer-owned service lines are property owned by the utility. What MAWC suggests is that the cost to replace the customer-owned lead service lines are a part of the “*cost*” of the parts of the project that are owned by MAWC. The USOA instructs the accounting for the cost:

General Instruction 2 (Utility plant to be Recorded at Cost) of the Utility Plant Instructions of the USOA indicates that amounts included in the accounts for utility plants shall be stated at the cost incurred by the utility.

General Instruction 3 (Components of Construction Cost) of the Utility Plant Instructions describes the “cost of construction properly includible in the utility plant accounts.” (Tr. 314-15, Jenkins) One of those components of the cost of construction is found in General Instruction 3 sub part (8) of the Utility Plant Instructions. That subpart includes in cost of construction “Injuries and Damages” – “expenditures or losses in connection with construction work on account of injuries to persons and damages to the property of others . . . .” (*Id.*)

Clearly, the USOA contemplates that there will be costs associated with items not owned by the Company (and beyond “service pipes and accessories leading to the customers' premises”) that

will be included in the Utility Plant in Service accounts when there is “damage to the property of others.” As previously discussed, a partial replacement creates a physical disturbance of, or damage to, the lead service line. In this case, the customer-owned service line is restored (replaced with new materials) for safety reasons – to mitigate the potential increased risk of lead contamination following physical disturbances related to infrastructure work in the area. (Exh. 19, Jenkins Reb. Rev., p. 37) It is includable in Account 345 as a part of the damages associated with construction.

### **Depreciation**

If the costs are placed in Account 345, as suggested by the Company, MAWC acknowledges that there is a depreciation issue associated with those costs. OPC witness Robinett offered comments in his Surrebuttal Testimony (Exh. 217, Robinett Sur., p. 7) suggesting, as an alternative, how to treat depreciation expense should the Commission agree with the Company’s proposal to record customer-owned LSLR costs in Account 345. Mr. Robinett suggested that in this situation the Commission should establish a subaccount within Account 345 to separately track the expenditures for the replacement of customer-owned lead service lines and utilize the existing life rate of 65 years to depreciate these costs of the books. The Company agrees with this alternative approach.

### **Staff Approach**

Staff has recommended that the LSLR costs associated with customer-owned service lines continue to be recorded in Account 186 on a going-forward basis, with the deferred amounts amortized over a ten year period and the unamortized balance included in rate base. (Tr. 436-37, McMellen) While MAWC appreciates that the Staff has proposed a methodology that potentially, depending on future Commission actions in future rate cases and the timing of those cases, could possibly include both a return of and a return on these expenditures, Staff’s proposed methodology



does not give the Company the certainty of recovery it needs to continue the LSLR program as proposed.

The very nature of Account 186 deferrals adds uncertainty to the ultimate recovery of such amounts and would make it difficult for the Company to fully commit to the necessary investment. (Tr. 318, Jenkins; Exh. 21, Jenkins Sur., p. 49) While inclusion of costs in Account 186 provides an opportunity for future recovery, that opportunity necessarily comes with a level of uncertainty as to how the Commission is going to treat those costs on a going-forward basis (both as to return of and return on), as no determination is made until the next rate case. (Tr. 318, Jenkins; Tr. 438, McMellen) It is one thing to accept that risk as it relates to the amounts of LSLR costs MAWC experienced in 2017. It would be a much greater risk if MAWC were to accelerate the replacements as proposed. The uncertainty makes it difficult to commit to replacements on a scale necessary to address replacements in the most cost-effective, efficient, and responsible way to address the health and safety concerns associated with lead service lines.

### **Consequence of No Return**

MAWC's capital program, including the dollars that will be used to fund lead service line replacements, is funded by both debt and equity and those dollars must be paid back to those who lend the money, whether that is a debtholder or an equity holder. If the investment made by MAWC is not provided an overall return that recognizes that dollars are raised by both equity and debt MAWC will do its best to avoid areas with lead service lines and postpone main replacement projects with known lead service lines to avoid increasing the risk of potential exposure to lead associated with a partial replacement. (Exh. 2, Aiton Reb., Sched. BWA-3 (p. 4)) As previously explained , there are several downsides related to this, to include the fact that delaying main

replacement projects can increase the number of main breaks and leaks over time. (*Id.*) This can be costly and disruptive to customers and the community. (*Id.*) Planned pipe replacements are much less costly on a unit cost basis than the costs of increasing pipe breaks, service disruptions, property damages, health risks from potential drinking water contamination during pipe breaks, related community opportunity costs related to community health and economic development, and the steep increase in future pipe replacements resulting from prior deferrals of the replacements. (*Id.* at p. 4-5)

On the other hand, if main replacements go forward, a great opportunity for replacement is missed because replacing lead service lines in conjunction with main replacements is the most cost-effective and efficient way to address the health and safety concerns associated with partial lead service line replacements.

### **WATER RATE DESIGN**

**a. Single Tariff Pricing/District Specific Pricing – Should the Commission keep the current water district structure, adopt single tariff pricing for the water customers, or return to eight water districts?**

Consolidated Tariff Pricing, or Single Tariff Pricing, as proposed by the Company in this case, is the use of the same rates for the same service rendered by the Company regardless of the customer's location. Consolidated rates are based on the long-term rate stability which results from a consolidated tariff, the similar operating characteristics for the equivalent services offered, and the principal of gradualism. (Exh. 15, Heppenstall Dir., p. 14) MAWC recommends the Commission take the final step to consolidate its current three district rate structure into a single tariff rate structure for its water services.

### **The Case for Full Rate Consolidation**

Consolidated rates provide long-term rate stability. Customer rates are designed to recover

the Company's total expenses as well as a return on its rate base. Changes in these expenses and/or rate base, particularly as a result of the Safe Drinking Water Act, have a significant potential for adversely impacting the rates for certain areas served by the Company. The ability to absorb the cost of such projects over a larger customer base is a compelling argument in support of rate consolidation. (Exh. 15, Heppenstall Dir., p. 14-15) This point was clearly demonstrated by an example offered by Company witness Jenkins. If the new Parkville treatment plant investment was born solely by the Parkville customers, it could cost more than \$65 per month. If that cost was spread to District 2 customers, it would still be more than \$10 per month. But, if the cost is spread to MAWC's entire customer base, the rate impact drops to under a dollar a month:

| <b>Customer Group</b> | <b>Customers</b> | <b>Monthly Cost per Customer</b> | <b>Current Bill for 5,000 Gallons</b> | <b>Chg to Typical Monthly Bill</b> |
|-----------------------|------------------|----------------------------------|---------------------------------------|------------------------------------|
| Parkville Stand Alone | 6,291            | \$65.85                          | \$39.02                               | 168.8%                             |
| District 2            | 38,475           | \$10.77                          | \$39.02                               | 27.6%                              |
| All MAWC Customers    | 463,706          | \$0.89                           | \$39.02                               | 2.3%                               |

(Exh. 18, Jenkins Dir., pp. 45-46) The cost of specific programs, like Parkville's plant, should be shared by all customers rather than burdening those in the affected areas. As a result, rate increases will be more stable and major increases in specific serving areas or districts will be avoided.

Similar operating characteristics support Consolidated Tariff Pricing. There are many similarities in the manner in which the service areas of the Company are operated. All of the systems pump their treated water through transmission lines to distribution areas that include mains, booster pump stations and storage facilities. All of the areas provide water to individual customers through a service line and meter. All of the areas rely on a centralized work force for billing, accounting, engineering, administration and regulatory matters. All of the areas rely on a common source of

funds for financing, working capital and plant construction. Equal rates are appropriate, quite apart from the policy reasons discussed below, when the costs of operation are related to functions in which the operating characteristics are the same. (Exh. 15, Heppenstall Dir., p. 15)

The equivalence of services offered supports Consolidated Tariff Pricing. The use of the same rates in a utility with non-contiguous service areas is supported by the equivalent service rendered in each area. There is no question that the service rendered to a residence in one area is the same as the service rendered to a residence in another area (i.e., water that meets Safe Drinking Water Standards at appropriate pressures). Moreover, residential customers are relatively consistent in their uses of water: cooking, bathing, cleaning, and other sanitary purposes, and lawn-sprinkling. If customers use water for the same purposes, the service offering is the same and should be priced accordingly. Thus, from this perspective, there is no basis for charging different prices to customers in different areas. (Exh. 15, Heppenstall Dir., p. 15-16)

Other cost of service considerations support Consolidated Tariff Pricing. The Company manages its statewide operations from a common location. Common costs which must be assigned or allocated to each operating area to establish district specific revenue requirements include management fees, corporate headquarter costs, office costs, customer service costs, depreciation expense developed on the basis of Company-wide depreciation rates, capital structure, and income tax expense based on total Company financing and tax provisions. The allocations of these common costs, while reasonable, are subject to judgment and may not result in the development of district specific revenue requirements which reflect precisely the cost of serving each area. (Exh. 16, Heppenstall Reb. RD, p. 16-17)

Consolidated Tariff Pricing also provides significant public policy benefits to consumers,

MAWC and the Commission. Consolidation is not just an economies of scale or affordability issue; it is also a quality of service issue. For example, Consolidated Tariff Pricing better enables the implementation of government mandated environmental investment as well as other service quality related investments. (Exh. 18, Jenkins Dir., pp. 39-40; Tr. 607)

Consolidated Tariff Pricing also provides better incentives for larger water utilities to purchase under-performing water utilities. Many smaller water systems simply cannot attain the economies of scale needed to support the necessary investment to meet increasing water quality standards and, as a result, the quality of water suffers. Consolidated Tariff Pricing provides an incentive for investments in these small water utilities as the integration of their customers into a larger community of customers can spread the cost of needed investment over a larger customer base. This promotes a more uniform water infrastructure investment in the state and brings cost-effective, higher quality, water services to a larger number of citizens. (Exh.18, Jenkins Dir., pp. 40-41; Tr. 616-617)

Consolidated Tariff Pricing promotes state economic development goals. In an age of intense regional and global competition, the advent of new clean water standards has added one more dimension to the competition for jobs and population among states. Consolidated Tariff Pricing allows larger utilities to spread the fixed cost of providing quality water service over a larger customer base creating a higher quality of water for the entire system and state. (Exh. 18, Jenkins Dir., p. 41)

Consolidated Tariff Pricing results in lower administrative and regulatory costs: Simplifying rate structures also leads to lower administrative costs as utilities can more easily help consumers who have questions, lower the cost of billing and collections, and reduce the regulatory cost of

separate filings within a single rate proceeding. (Exh. 18, Jenkins Dir., pp. 41-42)

Thus, while cost of service can provide guidance in setting rates, other factors such as affordability, quality of service, and ease of implementation are important and need to be considered.

Consolidated Tariff Pricing is a policy that can prevent rate shock, increase investment, and provide standard water quality to as many citizens as feasible. (Exh. 18, Jenkins Direct, p. 47; Tr. 615)

To that end, there is a national trend toward consolidation and in the American Water family of companies largely in recognition of the benefits from both combining smaller, less financially capable utilities with larger utilities, and to smooth out the necessary investment that has been and will continue to be required in the water industry to create more affordable rates. (Tr. 614-615, Jenkins). Consolidated Tariff Pricing has been recognized by regulators nationally as a policy tool to address the concerns raised by needed investment and the fragmentation of the water industry. (Tr. 615-616). As Company witness Jenkins noted, 11 of American Water Works' 14 jurisdictions have some degree of consolidated pricing, with 3 states where full, Single Tariff Pricing has been implemented (i.e., Iowa, Kentucky and Maryland). (Tr. 613, 624-625)

### **The Company's Proposal**

In its initial filing, the Company proposed to maintain uniform statewide customer charges by meter size for all its Rate A customers. In addition, it proposed uniform volumetric rates for the residential and non-residential customer classes (i.e., residential, small commercial and industrial and other public authorities) and two volumetric rates for Rate B (sale for resale) and Rate J (large industrial) (i.e., one rate for District 1 and another rate for Districts 2 and 3 combined). As a result of the stipulation in this case, which significantly reduced the total revenue requirement for the Company from approximately \$369,000,000 as contained in its initial filing, to the \$318,000,000,

contained in the stipulation, the Company determined that the move to fully consolidated rates for Rates B and J would not be as significant as initially filed and it now proposes to implement consolidated rates for those two rate groups as well. (Exh. 15, Heppenstall Dir., p. 10-11; Exh. 16, Heppenstall, Sur., p. 4; Tr. 601, 642-643)

The Company's proposal to move to fully consolidated tariff pricing is supported by Intervenor City of Riverside (Riverside), City of Joplin (Joplin), and Public Water Supply Districts Nos. 1 and 2 of Andrew County (Water Districts). (Tr. 568-569, 588, 592, 595) The Company's position is also supported by the Commission's decision in its last rate case. In that case, the Commission stated as follows:

The needs of the customers must be met no matter where they happen to live, or how recently the Company's infrastructure in their area was installed or replaced.

Consolidated pricing will help to meet the needs of all customers by sharing the costs of providing needed services among a larger group of customers, making the cost of service more affordable for all. Consolidation will limit rate shock when new infrastructure must be installed in a district with a small population, and all districts will eventually face that prospect.

Consolidation is not without risk. It averages rates and inevitably some customers will pay more than they pay now, and some will pay less. At least in the short term that will be seen by some as unfair, but, over the long term, the effects of consolidation will even out across the state. It is not reasonable to keep patching the current group of rate districts to deal with the needed, but unaffordable, infrastructure repairs and improvements as they occur.

(Case No. WR-2015-0301, Report and Order, p. 27 (issued May 26, 2016))

The Company submits that the reasons enunciated by the Commission in support of its decision to consolidate the Company's 19 water districts into three water districts in its last case are

equally supportive of the move to full consolidation in this case. In fact, full consolidation is the next logical step that was envisioned by the Commission:

Full Single-Tariff Pricing is an attractive option, but since none of the parties proposed that option during the case it was not fully considered by the parties. Because of that lack of scrutiny, the option has many unknowns, and the Commission is not willing to take that leap at this time.

The commission may need to make take (sic) that leap in Missouri-American's next rate case as it will likely be facing the prospect of a major new capital construction project in the Platte County District, a district that will have difficulty affording a major capital expense. For that reason, the Commission will expect the parties to fully examine Single Tariff Pricing in the next rate case.

(Case No. WR-2015-0301, Report and Order, p. 28 (issued May 26, 2016))

Single Tariff Pricing has been fully vetted in this case and the parties have raised no new issues since the last case. (Jenkins Reb., 9:7-11). Exhibit 136 compares rate and billing impacts of both fully consolidated rates versus maintaining the existing three district rate structure, given the stipulated revenue requirement of \$318,000,000. This exhibit shows rate and bill impacts on customer Rate Groups A, B and J at various usage levels. It also depicts rate and bill impacts, along with Exhibits 43, 44, 46 and 47 assuming maintaining monthly customer charges for 5/8" meters at existing levels or changing them to \$10, \$9 or \$8. These exhibits and the testimony in this case provide the Commission with all of the information it needs to find that the move to Single Tariff Pricing is the appropriate step to take at this time and will result in just and reasonable rates as required by Section 393.130, RSMo.

#### **The Staff, OPC and MIEC Position**

Staff is proposing to maintain the three district rate groups that the Commission created in the



Company's last rate case. A major reason why Staff does not believe further consolidation should be considered at this time is that the Commission just approved consolidation in MAWC's previous rate case. Staff notes that one of the basic principles of rate design is stability and Staff, therefore, argues that constantly changing rate design does not allow for stability and could lead to greater customer confusion and dissatisfaction. (Exh. 116, Busch Reb., p. 13) On the contrary, MAWC's proposal for full consolidation of rates is not a dramatic change in rate design, but the next logical step in the consolidation process initiated in the last case. More importantly, the move to Single Tariff Pricing in this case will not lead to rate instability. First, it bears noting that 83% of MAWC's residential customers are already consolidated into one rate group, so consolidating the remaining 17% into a single rate group is not that great a departure from the status quo. Second, as can be seen from the comparison of proposed rates submitted by Company and Staff in this case (Exh. No. 136), rates are going to be changing regardless of the rate design chosen by the Commission. The changes resulting from moving to a fully consolidated rate structure will not lead to any greater instability or impact on customers than spreading the rate increase to three districts.

Also, if there is a concern about customer confusion and dissatisfaction, it would have occurred as a result of the last rate case where the Commission consolidated 19 different districts into three rate groups. However, the record in this case and the record from the local public hearings provides no evidence of customer confusion or dissatisfaction over past or future rate consolidation.

The Office of Public Counsel (OPC) and the Missouri Industrial Energy Consumers (MIEC) also support maintaining the three district rate structure. These two groups argue that the current rate structure more closely reflects the cost of providing service in those three districts and that fully consolidated rates will lead to a greater incentive for the Company to overspend or overinvest in its

infrastructure. On the issue of cost causation, it is important to note that the Commission in the Company’s last rate case specifically found that “Missouri-American’s cost to service its customers is one factor to be balanced, but it is not the only factor” in devising an appropriate rate structure. (Report and Order, p. 27) The Missouri Court of Appeals, Western District, in affirming the decision in the Company’s last rate case went so far as to state that, “True cost of service is not required in the making of rates.”<sup>10</sup> Nevertheless, the Commission found in the Company’s last rate case that its annual cost to serve a residential customer is fairly consistent across its then existing districts. (Report and Order, p. 12) Company witness Heppenstall offered similar testimony in this case to show that the cost of serving residential customers in the Company’s three districts is, again, fairly consistent:

**ANNUAL COST OF WATER - RESIDENTIAL CLASS**

|                       | <b>Cost of Service</b> | <b>Number of Customers</b> | <b>Annual Cost</b> |
|-----------------------|------------------------|----------------------------|--------------------|
| District 1            | \$207,659,134          | 335,483                    | \$618.98           |
| District 2            | \$21,815,819           | 34,717                     | \$628.39           |
| District 3            | \$17,491,818           | 34,223                     | \$511.11           |
| Consolidated District | \$250,124,636          | 404,423                    | \$618.47           |

(Exh. 16, Heppenstall Reb., p. 14)

Taking into consideration the imprecise nature of cost allocations, it is clear that the costs of providing service in the three districts is not so disparate as to be an impediment to further consolidation of rates.

OPC’s and MIEC’s concern for over-investment, like their concern in Company’s last case, is purely speculative and lacks any evidentiary support. As the Court of Appeals noted after reviewing

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<sup>10</sup> Missouri Public Service Commission v. Office of Public Counsel, 526 SW3d 253, 269 (Mo. App. W.D., 2017)

the record in the Company's last rate case:

There is no evidence in the record to support OPC's argument that MAWC will engage in unnecessary investment or that the five-year capital expenditure plan adopted by the Commission's Report and Order will be ineffective.<sup>11</sup>

MAWC submits the current record is similarly lacking any evidence to support a conclusion that MAWC has or will engage in unnecessary investment.

### **The Coalition Cities Position**

Finally, the Coalition Cities (Jefferson City, Warrensburg, and St. Joseph) recommend the Commission return to a form of District Specific Pricing by reinstating the eight (8) rate districts that existed before the Company's last rate case. Coalition Cities argue that the eight district rate structure best reflects the cost of service of each of the Company's rate districts and complies with long established utility ratemaking laws and principles. The Coalition Cities even argue that MAWC's proposed Single Tariff Pricing is unlawful as it forces customers in one geographic area to subsidize the rates of other customers in other totally separate areas. (City of Jefferson Statement of Position on the Issues, pp. 1-2; St. Joseph Statement of Position, Part 2, pp. 1-2; City of Warrensburg Statement of Positions, pp. 1-2) The Coalition Cities' position is erroneous as a matter of law, problematic as a matter of fact, and contrary to the public interest.

The Coalition Cities' argument that Single Tariff Pricing or consolidated rates are unlawful has been clearly laid to rest by the Missouri Court of Appeals' decision in the Company's last rate case. After reviewing Section 393.130, RSMo., and the various court cases that have interpreted that section, the Court found that:

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<sup>11</sup> 526 SW3rd 272.

The plain language of section 393.130 does not forbid the Commission from adopting a consolidated tariff pricing structure wherein several water systems are combined to create a single water district wherein all customers, regardless of their water system, pay for the costs of service for the entire water district. And none of the cases cited by OPC supports its position that this type of consolidated tariff pricing structure runs afoul section 393.130.3's prohibition against granting an undue or unreasonable preference or advantage to a locality.<sup>12</sup>

Significantly, the City of Warrensburg's attorney in his opening statement acknowledged that the Commission has the lawful authority to consolidate rates. (Tr. 585) Accordingly, any contention that consolidated or single tariff rates exceeds the Commission's lawful authority or results in undue or unreasonable preference or advantage is simply wrong.

In addition to being erroneous as a matter of law, the Coalition Cities' proposal to return to eight rate districts is problematic as a matter of fact. There is no evidence in the current case to indicate what areas those districts might encompass or what rate levels would appropriately reflect each district's respective cost of service. The eight districts that the Coalition Cities reference were established in the Company's 2011 rate case. Since that time, a number of smaller water districts have been acquired by MAWC, and the Coalition Cities offer no advice or suggestion as to whether those after-acquired properties should be consolidated in one or more of the existing eight districts or should constitute a separate, stand-alone district. (Tr. 672) Even if one were able to group these after-acquired systems into one or more of the former eight districts, there is no cost of service study or other evidence in this case that demonstrate, let alone support, the appropriate cost-based rates to apply to those districts. (Tr. 699)

Finally, the Coalition Cities' proposal to revert back to eight districts is contrary to the public

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<sup>12</sup> 526 SW3d 265.

interest as determined by the Commission in the Company's last case. It is clear that the Commission has made a policy decision that consolidated pricing is the best way to address the various issues facing the water industry in this state. The return to District Specific Pricing would make it difficult, if not impossible, for customers in smaller districts to afford the necessary repairs, replacements and infrastructure required to provide safe and adequate water service in those districts. The return to District Specific Pricing would not provide rate stability, nor would it provide companies such as MAWC with the appropriate incentive to acquire small, troubled systems. As the attorney for the City of Warrensburg candidly stated in his opening statement, "We understand that the train left the station" regarding the issue of consolidated pricing. The only appropriate rate design decision to be made in this case is to direct that the train continue to its logical destination, i.e., full consolidation.

**i. Offset Mechanism – If the Commission orders consolidated tariffs for water service, should it also order the implementation of the Coalition City Offset Mechanism to allow certain service areas to avoid paying certain capital investment costs?**

No. The Commission should not accept the Coalition Cities' proposed offset mechanism for a variety of reasons. First, the proposal is ill-defined. Coalition Cities' witness McGarry explains the offset mechanism as follows:

One way to consider developing it would be to calculate the depreciated capital investment since 2000 for each of the four cities in total and divide that amount by the estimated consumption for the period of the offset. That amount would be applied as a credit to the Coalition Cities on their customers' bills. This would then mean that as MAWC implements its capital plan over the credit period, the Coalition Cities are only paying for capital investment for similar plant. This is the basic issue for the Coalition Cities – having to pay for significant capital investments in other districts that they themselves have already paid.

(Exh. 325, McGarry Dir., p. 14-15)

Beyond general examples and vague narrative, Mr. McGarry offers no specifics as to how the offset mechanism would be calculated or applied. It would appear that the offset mechanism is nothing more than a round-about way to re-establish a form of District Specific Pricing where customers in each service area would be charged different rates for service based on past investments made in those service areas. As noted above, this is contrary to the Commission's policy decision in the Company's last case to move toward consolidated rates where "(t)he needs of the customers must be met no matter where they happen to live, or how recently the Company's infrastructure in their area was installed or replaced." (Report and Order, p. 27)

The Coalition Cities' offset mechanism is also inequitable in that it only would apply to three cities and ignores other communities or service areas that have received large capital investments since 2000. (Exh. 17, Heppenstall Sur., p. 5) The offset mechanism is further premised on the false assumption that certain of the Coalition Cities have "already paid" for capital improvements in their service area. As Company witness LaGrand explains, the water treatment plant and well fields placed in service in St. Joseph in 1998 have depreciable lives ranging from 43 to 53 years and, as a result, it would take that long for customers to fully pay for those investments. The total utility plant-in-service for the new plant and well fields was \$52.9 million, and the current net book value is \$28.0 million. Since that plant was placed in service 20 years ago, the customers have paid 47% of the plant, but still have 53% of its original cost remaining to be recovered. (Exh. 25P, LaGrand Sur., p. 6) For all the foregoing reasons, the Commission should reject the Coalition Cities' proposal to establish an offset mechanism.

**b. Impacts of Pricing Districts on Cities/Service Areas**

**i. If the Commission adopts either MAWC's or Staff's rate district proposal, should the Commission establish a working group or collaborative process to determine a rate offset for cities/service areas that have borne the costs of their own system upgrades since 2000?**

**ii. If the Commission adopts either MAWC's or Staff's rate district proposal, should the Commission establish a working group or collaborative process to explore capital expenditure tracking mechanisms?**

No, on both accounts. Creating a working group to address an offset is unnecessary since the Coalition Cities had ample opportunity to address this issue in its proper forum—this rate case. More importantly, however, the Commission should reject the concept of an offset mechanism as inappropriate for the same reasons the Commission should not revert back to District Specific Pricing or implement an offset mechanism in this proceeding in this case. For similar reasons, the concept of a capital tracker, as the Company understands this proposal, would essentially lead to an offset mechanism and, as such, is equally inappropriate. These proposals represent a complete reversal of the clear policy direction this Commission established in Company's last case. Consequently, a working group or collaborative process envisioned by the Coalition Cities would therefore be a waste of the parties' time and resources.

**c. Customer Charge – What is the appropriate customer charge for each customer classification?**

An appropriate customer charge is one that recovers the customer-related, fixed costs (i.e., costs associated with meters, service lines, and billing and collections). In the Company's last case, the Commission established uniform, statewide customer charges for each customer class and meter size. For example, the Commission adopted a customer charge for the residential class of \$15.33 per month per 5/8 inch meter. (Customer charges increase as meter sizes increase.) In this case, both

Company's and Staff's class cost of service studies establish that customer costs exceed the \$15.33 per month charge. In fact, the Company's Cost of Service Study supports a customer charge of \$18.68 per month for a 5/8" meter. (Exh. 15, Heppenstall Dir., Sched. LEH-1, page II-35; Tr. 856). (Tr. 856, 857, 869) While Staff is proposing to keep the current customer charges, its Cost of Service Study supports a customer charge of \$17.33 per month for a 5/8" meter (Tr. 867). The Company, however, is proposing to reduce the customer charge to \$10.00 per month per 5/8" meter in order to facilitate the conversion of its quarterly billed Rate A customers to monthly billing concurrent with the installation of Advanced Metering Infrastructure (AMI). Currently, Rate A customers in St. Louis County are billed \$22.35 per quarter for a 5/8 inch meter. This amounts to a monthly-equivalent customer charge of \$7.45. The Company's proposal to lower its monthly customer charge for residential customers to \$10.00 for 5/8 inch meter would represent a \$2.55 per month increase to the quarterly billed customers (or \$7.65 per quarter).

The overall increase in revenues due to this increase in customer charges to the quarterly billed customers is largely offset by the decrease in the monthly billed customer charges in the Company's other districts. As can be seen from Staff Exhibit 136, total fixed charge revenue on a consolidated basis, with no change to existing customer fixed charges, is \$61,836,162. Total fixed charge revenue on a consolidated basis, if customer charges were reduced to \$10.00, amounts to \$61,757,104. The proposed reduction in customer charges from \$15.33 to \$10.00 per month is intended to be fixed charge revenue neutral to the Company. (Tr. 815) The advantage of the MAWC's proposal is that it allows the Company to move its quarterly billed customers to monthly billing without those customers incurring a significant increase to their customer charge (e.g., \$2.55 per month).



The Company's proposal to reduce its current customer charge is specifically driven by its proposal to convert quarterly billed customers to monthly billing as they are equipped with AMI meters. Company witness Clarkson describes the benefits associated with the implementation of AMI. They range from improved billing accuracy to improved employee safety and the redeployment of employees to further improve other areas of operation and overall quality of service delivered to customers. The implementation of AMI will increase billing accuracy and reduce the likelihood of estimated bills (e.g., due to weather events or other obstacles to accessing customer meters) by automatically providing timely, accurate reads through the network. In addition, re-reads will be reduced due to the human factor being removed from obtaining the actual meter reading. AMI also has the potential to provide customers with a view to their personal consumption more frequently than monthly, allowing them to monitor their usage – be it for conservation purposes or to identify and address unusually high usage. The transition of customers from quarterly to monthly billing not only will make it easier for customers to manage their household budgets, it will also allow MAWC's St. Louis County quarterly billed residential customers the option of paying bills under the Company's Budget Billing Plan as they transition to monthly billing. (Exh. 11, Clarkson Dir., p. 22)

As Staff witness Busch notes, the Company has already deployed between 100,000 and 150,000 AMI meters in the St. Louis County area and expects to reach full deployment of AMI meters by 2020. (Exh. 121, Busch Sur., p. 7; Tr. 820) However, there is no reason to wait until the Company has fully deployed AMI meters to begin the conversion of quarterly billed customers to monthly billing as suggested by Staff. The conversion can begin immediately, with the Company converting those customers who have already received AMI meters to monthly billing. And, as new

AMI meters are installed in the future, the Company will convert those customers to monthly billing as well. In order to facilitate the immediate transition of quarterly billed customers to monthly billing, the Company believes its proposal to reduce customer monthly charges from \$15.33 to \$10.00 is necessary and appropriate and should be approved.

After the close of the hearing, the Commission directed the Company to submit two additional exhibits in a similar format to Exhibit 136. The only difference is that the monthly customer charge for Rate A customers served by a 5/8" meter would be reduced to \$8 or \$9 (Exhibits 46 and 47, respectively). While the Company has no objection to either of these proposals, it would prefer the \$9.00 charge as it shifts less cost recovery responsibility to the volumetric rates. In any event, Company's willingness to reduce the customer charge below its indicated cost of service is contingent on its ability, at the conclusion of this case, to begin converting its quarterly billed customers to monthly billing as they are equipped with AMI meters.

**d. Commodity Charge – What is the appropriate commodity charge for each customer classification?**

All parties agree that the appropriate commodity charge is primarily an arithmetical exercise. Once the Commission has determined (1) the appropriate rate structure (e.g., fully consolidated rates or three district rates) and (2) the appropriate customer charge, the commodity rate can then be determined by dividing the residual revenue requirement by the stipulated billing determinants to arrive at an appropriate commodity or volumetric rate.

**WHEREFORE**, MAWC respectfully requests the Commission consider this Initial Brief.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail on March 30, 2018, to the following:

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