

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

In the Matter of Missouri-American Water)
Company's Request for Authority to)
Implement General Rate Increase for Water)
and Sewer Service Provided in Missouri)
Service Areas)

Case Nos. WR-2022-0303
SR-2022-0304

**RESPONSE TO MOTION TO ESTABLISH TEST YEAR, TRUE-UP DATE, AND
DISCRETE ADJUSTMENTS**

Comes now the Office of the Public Counsel (the “OPC”), pursuant to the Public Service Commission of the State of Missouri’s (the “Commission) Order Granting Request for Extension (the “July 12, 2022 Order,” Doc. 23),¹ and in response to Missouri-American Water Company’s (“MAWC”) Motion to Establish Test Year, True-Up Date, and Discrete Adjustments (the “Motion,” Doc. 19) respectfully states as follows:

The OPC requests that as to the true-up, the Commission include language similar to that included in the Order regarding test year issued in MAWC’s 2020 rate case. The OPC also requests that the Commission deny the discrete adjustments sought by MAWC in the Motion. Alternatively, should the Commission determine that it wishes to allow the adjustments, the OPC requests that the Commission include language similar to that included in the Orders issued in MAWC’s 2017 and 2020 rate cases.

I. Background

On July 1, 2022, MAWC filed a Tariff Revision, the Direct Testimony of sixteen witnesses, and the Motion in the dockets established for both its water and sewer rate cases. (Docs. 2-19). In the Motion, MAWC makes three general requests: (1) establishment of a test year consisting of the twelve months ended June 30, 2022; (2) establishment of a true-up period ending December

¹ References to document numbers represent the document numbers assigned in the Electronic Filing Information System (“EFIS”).

31, 2022; and (3) authorization to include certain discrete adjustments beyond the requested true-up period, through May 31, 2023. (*See generally* Mot.).

On July 11, 2022, the OPC filed a Request for Extension, or in the Alternative, Response to Motion to Establish Test Year, True-Up Date and Discrete Adjustments, requesting that the Commission extend the deadline to respond to the Motion to July 29, 2022 or, alternatively, objecting to the relief MAWC seeks in the Motion. (Doc. 22). In the July 12, 2022 Order, the Commission granted the OPC's request for an extension and extended the deadline to respond to the Motion until July 29, 2022. (July 12, 2022 Order 1).

The next day, on July 13, 2022, the Commission suspended the tariff sheets MAWC filed until May 28, 2023. (July 13, 2022 Order 2, Doc 24).

II. Response

The OPC requests² that as to the true-up, the Commission not include the categories of information that can be trued up and include language in its Order that mirrors language used in the 2020 rate case. Also, because MAWC's request for certain discrete adjustments does not comply with the Commission's Orders issued in MAWC's 2017 and 2020 rate cases as MAWC claims it does and is essentially a disguised request for a future test year, the Commission should deny this request. Alternatively, the Commission should include language similar to that included

² In the Motion, MAWC proposes a historical test year consisting of the twelve months ended June 30, 2022. (*Id.* 2; LaGrand Direct Test. 5, Doc. 4). It states that “[a]t the time of filing, the historical test year is based on nine (9) months of actuals through March 31, 2022, and three (3) months of estimates through June 30, 2022.” (Mot. 2; *See* LaGrand Direct Test. 5). MAWC “expects that within 30 days of filing this case it will provide the parties with the actuals for the historical test year ended June 30, 2022, replacing the estimated June 30, 2022 historical test year.” (*Id.*).

In filing the case and including three months of estimated information that will not be updated for at least one month, MAWC has unilaterally eliminated one month of the opposing parties' review. This creates problems as it compresses the timeline for all parties besides MAWC. MAWC controls the information necessary to complete this rate case. It also controls when it will file the rate case. If MAWC wanted to include information from March 31, 2022—the last date for which it had actual information—to June 30, 2022, it should have waited until the June 30, 2022 information was available before filing the case itself.

The OPC anticipates receiving the updated information no later than July 31, 2022, 30 days after MAWC filed its case. (*See* Mot. 2).

in the Commission’s Orders issued in the 2017 and 2020 rate cases. The Commission should also limit the adjustments to those based only on known and measurable data. The OPC addresses each request in turn.

A. The Commission Should Include Language Similar to that Used in the 2020 Rate Case Pertaining to the True-Up Period

MAWC requests that the Commission “establish a true-up period as of the 12 months ended December 31, 2022.” (Mot. 2; LaGrand Direct Test. 5-6, Doc. 4). MAWC asserts that its “true-up proposal . . . is driven primarily by the significant amount of investment that will be placed into service during the true-up period.” (Mot. 3). MAWC identifies the categories of information, including “items of revenue, expense and investment that the Company proposes to true-up for its existing properties, and any properties acquired prior to the conclusion of the true-up period.” (*Id.* 3-6). Mr. LaGrand asserts that “[i]n general, the historical test year expenses (12 months ended June 30, 2022) were updated to include known and measurable changes or adjusted based on Company experience through the requested true-up period ending December 31, 2022.” (LaGrand Direct Test. 6).

Because it appears consistent with the Commission’s Orders in MAWC’s prior two rate cases, the OPC does not oppose MAWC’s request for a true-up period. (*See* Order Setting Test Year and Adopting Procedural Schedule 4-5, WR-2020-0311, Doc. 44 [hereinafter the “2020 Order”] (establishing “a true-up period of the six months ending December 2020”); Order Regarding Test Year 2-3, WR-2017-0285, Doc. 53 [hereinafter the “2017 Order”] (establishing “a true-up period of the six months ending December 2017”)).

However, similar to the prior two cases, the Commission should not identify in its Order in this case the categories of information that can be trued up. The Commission should include language consistent with its 2020 Order that “[t]he true-up process and hearing will be for the sole

purpose of updating various known and measurable cost of service components” to the true-up date. (See 2020 Order 4, WR-2022-0344).

B. The Commission Should Deny MAWC’s Request for Certain Discrete Adjustments

In the Motion, MAWC seeks “inclusion in its revenue requirement and rates discrete adjustments to certain rate base and expense items beyond the requested true-up date, through May 31, 2023.”³ (Mot. 7). MAWC identifies the adjustments in both its Motion and in the testimony of Mr. Wesley Selinger. (See Mot. 7-8; Selinger Direct Test. 20-25, Doc. 9). Looking to the 2017 Order and the 2020 Order, MAWC asserts that its request is consistent with the approach used by the Commission in those cases. (Mot. 7).

The Commission should deny this request for at least two reasons: (1) MAWC’s request is not consistent with the proposed adjustments allowed in the Commission’s 2017 and 2020 Orders in key ways; and (2) with these adjustments MAWC requests a future test year in all but name, and the Commission has expressly rejected a future test year in both the 2017 and 2020 rate cases.

1. MAWC’s Request for Certain Discrete Adjustments is Not Consistent with the Proposed Adjustments Allowed in the Commission’s 2017 and 2020 Orders

In the Motion, MAWC references the Commission’s Orders regarding test year in its 2017 and 2020 rate cases. (Mot. 7). It states “[i]n both cases, the Commission, while not ordering the use of a future test year, has permitted the parties to present adjustments beyond the true-up period based upon projected or forecasted data.” (*Id.*). MAWC maintains that it makes its request for certain discrete adjustments “[c]onsistent with that approach.” (*Id.*). However, MAWC’s approach

³ The OPC notes that this date is three days passed the date to which the Commission has suspended the tariff sheets in this matter. (July 13, 2022 Order 1 (suspending tariff sheets until May 28, 2023)). Therefore, it appears that MAWC seeks to include data not only beyond its proposed test year and true-up period, but also beyond the effective date of the Commission’s Order in this case.

as described in the Motion does not comply with the Commission's 2017 and 2020 Orders. The Commission should deny MAWC's request for certain discrete adjustments here for this reason.

In the 2017 Order, the Commission stated, in pertinent part, "Parties may present further adjustments for the Commission's consideration based upon projected or forecasted data past December 2017. No party shall be preclude from opposing such adjustments." (2017 Order 3, WR-2017-0285). In that case, December 2017 was the end of the six-month true-up period. (*See id.* 2).

Similarly, in the 2020 Order, the Commission stated, in pertinent part, "the parties may make specific (discreet) adjustments to the June 30, 2020, known and measureable revenue requirement calculation." (2020 Order 4, WR-2020-0344). June 30, 2020 was the end of the update period in that case. (*See id.*).

MAWC's proposal differs from both the 2017 Order and the 2020 Order in key ways. First, here, MAWC proposes that only MAWC be allowed to include the adjustments. (*See Mot.* 7-8). MAWC makes no mention of any other party's ability to propose adjustments. (*See generally Mot.*). Both the Commission's 2017 and 2020 Orders clearly contemplate all parties' ability to propose additional adjustments. (*See* 2020 Order 4, WR-2020-0344 (stating "the *parties* may make specific (discreet) adjustments . . ." (emphasis added)); 2017 Order 3, WR-2017-0285 (stating "*Parties* may present further adjustments for the Commission's consideration . . ." (emphasis added))).

Second, neither of the Commission's prior Orders identify the adjustments that any party may propose. (*See id.*). In this case, it appears that MAWC requests that the Commission, in its Order establishing a test year, authorize MAWC to include the identified adjustments. (*See Mot.* 7-8). In the 2017 and 2020 Orders, the Commission allowed parties to propose additional

adjustments, but did not expressly state whether it would include those additional adjustments and did not identify what type of adjustments the parties may propose. (*See* 2020 Order 4, WR-2020-0344; 2017 Order 3, WR-2017-0285). Further, in the 2017 Order, the Commission explicitly stated that “[n]o party shall be precluded from opposing such adjustments.” (2017 Order 3, WR-2017-0285).

Third, neither of the Commission’s prior Orders identify the time period through which Parties may propose adjustments. (*See* 2020 Order 4, WR-2020-0344; 2017 Order 3, WR-2017-0285). Here, MAWC requests that the Commission allow it to include “adjustments to certain rate base and expense items beyond the requested true-up date, through May 31, 2023.” (Mot. 7). This date—three days beyond May 28, 2023, the date to which the Commission has suspended the tariffs—is five months passed the true-up date that MAWC requests, and eleven months past the end of MAWC’s requested test year.⁴ (*Id.* 2, 7; July 13, 2022 Order 2).

Because MAWC’s proposal is not consistent with the proposed adjustments allowed in the 2017 and 2020 Orders, the Commission should reject MAWC’s proposal to include certain discreet adjustments here.

2. MAWC’s Request for Certain Discrete Adjustments is Functionally a Request for a Future Test Year

Because MAWC’s request for certain discrete adjustments is a disguised request for a future test year and the Commission has rejected the use of a future test year in both the 2017 and 2020 Orders, the Commission should reject MAWC’s request here as well.

⁴ MAWC choose to file its rate case on July 1, 2022. This is similar to the filing date of its 2017 and 2020 rate cases. If MAWC knew that substantial increases in certain categories of information existed beyond what would likely be established as the test year and true-up period, it should have waited to file its case so that these increased costs would be captured within the test year and true up period.

In both of its last two rate cases, MAWC requested that the Commission establish a future test year. (*See generally* MAWC Mot. to Establish Future Test Year, WR-2020-0344, Doc. 17; MAWC Mot. to Establish Future Test Year, WR-2017-0285, Doc. 18).

The Commission denied MAWC's request in both cases. (*See* 2020 Order 4-5, WR-2020-0344; 2017 Order 2-3, WR-2017-0285).

MAWC's request for certain discrete adjustments as described in the Motion and Mr. Selinger's testimony is a request for a future test year in all but name. The categories of information identified in MAWC's Motion and Mr. Selinger's testimony capture nearly every major cost component of a rate case. This includes: (1) every capital investment;⁵ (2) depreciation; (3) property taxes; (4) capital structure; and (5) all major cost components to MAWC's operations and maintenance. (*See* Mot. 7-8; Selinger Direct Test. 20-25). The only major difference between what MAWC proposes in this case and a future test year is the inclusion of projected revenues. These projected revenues would offset the increased costs identified by MAWC. MAWC's proposal, therefore, is a request to use a future test year without any benefit to its ratepayers.

Because MAWC's request for certain discrete adjustments effectively constitutes a request for a future test year, which the Commission has expressly rejected twice before, the Commission should deny MAWC's request for certain discrete adjustments for this reason as well. (*See* 2020 Order 4-5, WR-2020-0344; 2017 Order 2-3, WR-2017-0285).

⁵ Although MAWC states that it seeks to update only "[s]elect capital projects that are not eligible for WSIRA," the OPC notes that WSIRA-eligible capital items will be updated through their inclusion in the WSIRA. (Mot. 7); *see* § 393.1506 (stating "Notwithstanding any provisions of chapter 386 and this chapter to the contrary, a water or sewer corporation that provides water or sewer service to more than eight thousand customer connections may file a petition and proposed rate schedules with the commission to establish or change a WSIRA . . ."). For this reason, MAWC need not update the WSIRA-eligible capital items through a discrete adjustment because they will, presumably, be included in its WSIRA. If the Commission grants MAWC's proposed adjustment, all MAWC's capital projects will be updated.

Should the Commission decide that it wishes to allow the parties to propose certain discrete adjustments, the OPC alternatively requests that the Commission issue an Order consistent with the 2017 and 2020 Orders by allowing *all* parties to propose certain discrete adjustments beyond the December 31, 2022 true up date, and allowing *all* parties to oppose the adjustments of other parties. The Commission should also limit the discrete adjustments to those that are based on both known and measurable data.

III. Conclusion

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission: (1) as to the true-up period, not include the categories of information that can be included in the true-up period and include a limitation similar to that in the 2020 Order that “[t]he true-up process and hearing will be for the sole purpose of updating various known and measurable cost of service components;” and (2) deny MAWC’s request for certain discrete adjustments through May 31, 2023; or, alternatively, issue an Order consistent with the 2017 and 2020 Orders by allowing all parties to propose certain discrete adjustments and allowing all parties to oppose the adjustments of other parties. Should the Commission allow these adjustments, it should limit them to adjustments based on known and measurable data.

Respectfully submitted,

/s/ Lindsay VanGerpen
Lindsay VanGerpen (#71213)
Associate Counsel

Missouri Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
Telephone: (573) 751-5565
Facsimile: (573) 751-5562
E-mail: Lindsay.VanGerpen@opc.mo.gov

