

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

In the Matter of the Application and Petition)	
Of Missouri-American Water Company)	
Requesting the Commission Promulgate)	File No. WX-2015-0209
A Revenue Decoupling Mechanism)	
For the Water and Sewer Industry.)	

**RESPONSE TO STAFF AND
MIEC RECOMMENDATIONS**

COMES NOW Missouri-American Water Company (MAWC) and, in response to the recommendations provided by the Missouri Industrial Energy Consumers (MIEC) and the Staff, states as follows to the Missouri Public Service Commission (Commission):

SUMMARY

MAWC herein responds to the recommendations of the Staff and MIEC concerning MAWC's proposed Revenue Stabilization Mechanism (RSM) and suggests that in the alternative to immediate promulgation of a rule, the Commission open a workshop docket, with a specified date for a report from the participants, in order to provide interested persons and entities with a convenient forum to discuss the issues raised by MAWC, Staff, and MIEC.

BACKGROUND

1. On February 27, 2015, MAWC filed an Application and Petition for Promulgation of Rule. The Commission issued an Order Directing Staff to Investigate and File a Recommendation on March 2, 2015, and, therein directed Staff to recommend whether the Commission should proceed with a rulemaking by April 1, 2015. The Order also provided that other persons or entities could provide comments by April 1, 2015.

2. On April 1, 2015, recommendations were filed by both the Staff and MIEC. MAWC will respond to those recommendations.

MIEC RECOMMENDATION

3. The MIEC Recommendation suggested that the variables MAWC cited in support of the rule – weather and declining usage – were not sufficient justification. MIEC alleged that weather was a known risk for utilities and that the fact that customers may choose to use “slightly less” of a utility’s product does not entitle the company to collect more revenues.

4. In regard to weather, while it is true that weather has traditionally been a risk for utilities, it is unclear why this must continue be the case. Weather and the corresponding higher or lower than “normal” usage has very little to do with a water and sewer company’s costs. Thus, weather is a risk that arbitrarily creates winners and losers between a water and/or sewer company and its customers. Warm weather is likely to result in customers paying more than the utility’s revenue requirement (to the disadvantage of the customers) and cooler weather is likely to result in customers paying less than the utility’s revenue requirement (to the disadvantage of the utility). MAWC believes that removal of this variable would benefit both customers and utilities.

5. As to MIEC’s characterization that customers are using “slightly less” of MAWC’s product, MAWC would emphasize that usage per customer is steadily declining between 1.5% and 2.0% annually. Missouri’s experience is consistent with a national trend of declining water usage per customer. Two percent may sound to some like a “slight” change. However, for MAWC this is the equivalent of approximately \$3.9 Million less in annual revenue in the first year after a rate case. Over the course of three consecutive years, the approximate cumulative amount would be \$23.4 Million.¹ This is not an insignificant issue.

¹ \$3.9M in year one, \$7.8M in year two, and \$11.7M in year three for a total of \$23.4M. These figures are made up of residential, commercial, sale for resale, and other public authority accounts. It does not include industrial customers.

STAFF RECOMMENDATION

6. Staff's Recommendation suggests that the Commission should not proceed with the proposed rule because the mechanism proposed by MAWC is "unlawful under Missouri law." Staff further suggests that the Commission should wait to see if the General Assembly enacts a statute that specifically deals with a RSM.

7. Staff's position is a surprise to MAWC. The mechanism proposed by MAWC is essentially a "tracker" mechanism. The amounts above and below a water or sewer company's Commission authorized revenue requirement would be booked annually and the net of those amounts considered for recovery through an amortization in MAWC's next rate case.

8. Trackers are commonly used by the Commission through its authority found in Section 393.140.4, RSM (the Commission shall, "Have power, in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by gas corporations, electrical corporations, water corporations and sewer corporations. . . ."). *See State ex rel Noranda Aluminum, Inc. v. PSC*, 356 S.W.3d 293, 320 (Mo.App.S.D. 2011) (" . . . the tracking provision does not simply set up a future situation where rates will be set retroactively. The tracking mechanism works to account for both under- and over-expenditures on vegetation/infrastructure expenses that are incurred in complying with the new regulations. The Commission will consider the net result in the next rate case, in which it may be possible for AmerenUE to prospectively recover up to 10% of \$64.8 million in additional expenses. This is not retroactive ratemaking.").

9. The rule proposed by MAWC would create a tracker that, while different in subject matter, is not different in operation than any number of trackers that are currently in place.

WORKSHOP

10. MAWC understands that the Commission may have some reservation about

promulgating the rule proposed by MAWC without further discussion. MAWC is aware of at least two instances recently where the Commission has responded to petitions for rulemaking by establishing a workshop (with time limitation) for the further discussion of the issues raised by rulemaking petitions (Files Nos. WW-2013-0347 (Environmental Cost Adjustment Mechanism) and EW-2014-0239 (Electric Utility Applications for CCN).

11. MAWC would not object to a similar process in regard to its proposal. Such a process would allow time for the parties to meet and discuss the issues raised by MAWC, as well as the concerns identified by Staff and MIEC. If this process were initiated by the Commission, MAWC would further suggest that the Commission ask for a report from the workshop participants approximately four months after the creation of such a workshop.

WHEREFORE, MAWC respectfully requests that the Commission consider the information provided herein and, thereafter, promulgate the Revenue Stabilization Mechanism Rule attached hereto as Appendix A or, in the alternative, open a workshop docket for the purpose of providing a forum for discussion of the issues and concerns that have been raised.

Respectfully submitted,

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**ATTORNEYS FOR MISSOURI-
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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 April 7th 2015, to the following:

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APPENDIX A

4 CSR 240-50.060 Revenue Stabilization Mechanism

PURPOSE: This rule allows the establishment of a Revenue Stabilization Mechanism (RSM), which permits water and sewer corporations to defer under- and/or over-collection of a Commission authorized revenue requirement for recovery or refund in a future general rate case.

(1) Applications to Establish or Modify an RSM. Only water and sewer corporations, in a general rate proceeding, may file an application with the commission to establish, modify, or discontinue an RSM by filing tariff schedules. Any party in a general rate proceeding in which an RSM is proposed or in effect may seek to continue, modify, support, or oppose the proposed or existing RSM. After a full hearing in a general rate proceeding, the commission shall approve, modify, or reject the application to establish or modify an RSM. The final approved RSM shall be designed to permit the water or sewer corporation to track on a monthly basis actual revenues against the Commission authorized revenue requirement during the period between general rate cases. If MAWC acquires a new water or sewer corporation, its revenue requirement will be adjusted to account for the newly acquired customers.

(A) The water or sewer corporation shall include in the general rate case in which an RSM is first proposed, a description of how the water or sewer corporation proposes the RSM would operate and the applicable customer rate classifications. Industrial customers will not be considered an applicable customer rate classification included in the RSM.

(B) The RSM will account for both under- and over-collection of the Commission authorized revenue requirement by rate classification of revenues and production costs (power, chemicals, purchased water, and waste disposal). The under- and over-collections shall be netted against each other and deferred for recovery or refund in the utility's next general rate case.

(C) RSM over-collections for each applicable rate classification will be divided equally by the number of customers in the rate classification and refunded, and RSM under-collections for each applicable rate classification will be charged proportionally based on customer volumetric billed amounts within the rate classification.

(2) Application for Discontinuation of an RSM. An RSM shall be discontinued only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that affect the cost or overall rates and charges of the petitioning water or sewer corporation. Any party to the general rate proceeding may oppose the discontinuation of an RSM on the grounds it would result in a detriment to the public interest. If the commission finds that discontinuance of the RSM is not in the public interest, the commission shall not permit the RSM to be discontinued, and shall order its continuation or modification. To continue or modify the RSM under such circumstances, the commission must find that it provides the water or sewer corporation a sufficient opportunity to earn a fair rate of return.