

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

In the Matter of the Petition of) Missouri-American Water Company) for Approval to Change an) Infrastructure System Replacement) Surcharge (ISRS))	Case No. WO-2020-0410
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**RESPONSE TO STAFF RECOMMENDATION AND REQUEST FOR AN
EVIDENTIARY HEARING**

COMES NOW the Office of the Public Counsel (“OPC”) and for its *Response to Staff Recommendation and Request for an Evidentiary Hearing*, states as follows:

1. Missouri-American Water Company (“MAWC” or “the Company”) filed its application and petition in the above styled case on August 28, 2020, seeking to change its Infrastructure System Replacement Surcharge (“ISRS”).
2. The staff of the Public Service Commission (“Staff”) filed its *Recommendation* regarding MAWC’s application on October 27, 2020.
3. The OPC now files this response to Staff’s recommendation objecting to Staff’s adjustment related to the non-existent net operating losses (“NOL”) the Company claims it incurred.
4. Specifically, Staff states as follows in the Memorandum attached to its recommendation:

Consistent with its understanding of the IRS’ rulings in the recent PLR, and with the Commission’s Report and Order issued in Case No. WO-2020-0190, due to the continuing existence of an NOL on MAWC’s books during this ISRS period Staff has removed any deduction for accelerated

depreciation associated with ISRS plant additions from its calculation of MAWC's ISRS revenue requirement.

This position is wrong.

5. First, Staff's statement seems to imply that it has removed any deduction for accelerated depreciation associated with ISRS plant additions due to the existence of a net operating loss **carryforward** on MAWC's books.

6. However, the private letter ruling issued by the Internal Revenue Service ("IRS") upon which Staff is basing this recommendation explicitly denied that a net operating loss **carryforward** should be used as an offset to deductions for accelerated depreciation associated with ISRS plant additions.

7. Moreover, MAWC did not suffer an NOL during the pendency of the ISRS period and hence the removal of any deduction for accelerated depreciation associated with ISRS plant additions is incorrect.

8. Staff's recommendation is thus unsound and the Commission should reject the recommendation and order Staff to recalculate MAWC's ISRS revenue by including a deduction for accelerated depreciation associated with ISRS plant additions.

9. Based on the forgoing objection, the OPC believes that an evidentiary hearing will be necessary to resolve this case and hereby requests such a hearing.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept this *Response* to MAWC's applications to change its ISRS and issue an order scheduling an evidentiary hearing for this case.

Respectfully submitted,

OFFICE OF THE PUBLIC
COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this sixth day of November, 2020.

 /s/ John Clizer