

**Exhibit No.:** \_\_\_\_\_  
**Issue(s):** Fire Hydrant Painting Project/  
Unamortized Security AAO Balance  
And Accumulated Deferred Income Tax/  
Rate Case Expense/  
Metropolitan Sewer District Contrast/  
Cedar Hill Sewer Excess Capacity/  
Comprehensive Planning Study/  
FASB 106  
**Witness/Type of Exhibit:** Robertson/Surrebuttal  
**Sponsoring Party:** Public Counsel  
**Case No.:** WR-2010-0131

**SURREBUTTAL TESTIMONY**  
**OF**  
**TED ROBERTSON**

Submitted on Behalf of the Office of the Public Counsel

**MISSOURI-AMERICAN WATER COMPANY**  
**CASE NO. WR-2010-0131**

**\*\* Denotes Highly Confidential Information \*\***

May 6, 2010

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

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

**Case No. WR-2010-0131**

**AFFIDAVIT OF TED ROBERTSON**

STATE OF MISSOURI )  
  ) **ss**  
COUNTY OF COLE     )

Ted Robertson, of lawful age and being first duly sworn, deposes and states:

1. My name is Ted Robertson. I am a Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

*Ted Robertson*

\_\_\_\_\_  
Ted Robertson, C.P.A.  
Public Utility Accountant III

Subscribed and sworn to me this 6<sup>th</sup> day of May 2010.



**JERENE A. BUCKMAN**  
My Commission Expires  
August 23, 2013  
Cole County  
Commission #09754037

*Jerene A Buckman*  
\_\_\_\_\_  
Jerene A. Buckman  
Notary Public

My Commission expires August 23, 2013.

## TABLE OF CONTENTS

Testimony	Page
Introduction	1
Purpose of Testimony	1
Fire Hydrant Painting Project	2
Unamortized Security AAO Balance And Accumulated Deferred Income Taxes	3
Rate Case Expense	5
Metropolitan Sewer District Contract	10
Cedar Hill Sewer Excess Capacity	17
Comprehensive Planning Study	24
FASB 106 - Postretirement Benefits Other Than Pensions	28

1  
2  
3  
4  
5  
6  
7  
8

**SURREBUTTAL TESTIMONY  
OF  
TED ROBERTSON**

**MISSOURI AMERICAN WATER COMPANY  
CASE NO. WR-2010-0131**

9 **I. INTRODUCTION**

10 Q. ARE YOU THE SAME TED ROBERTSON THAT HAS PREVIOUSLY FILED  
11 DIRECT AND REBUTTAL TESTIMONY IN THIS CASE?

12 A. Yes.

13  
14 **II. PURPOSE OF TESTIMONY**

15 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

16 A. I will discuss the Public Counsel's position on the issues presented in the Rebuttal  
17 Testimony of the following parties:

18  
19 1. Company

20  
21 A. Mr. Dennis R. Williams - FASB 106 Postretirement Benefits  
22 Other Than Pensions, Rate Case Expense, Cedar Hill Sewer  
23 Excess Capacity, Comprehensive Planning Study, Security  
24 Accounting Authority Order and Associated Accumulated  
25 Deferred Income Taxes and Metropolitan Sewer District  
26 Contract.

27  
28 B. Mr. Kevin H. Dunn - Cedar Hill Sewer Excess Capacity.

29  
30 C. John S. Young - Comprehensive Planning Study.

31  
32 2. MPSC Staff

33  
34 A. Mr. Jermaine Green - Rate Case Expense.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

- B. Mr. James A. Merciel, Jr. - Cedar Hill Sewer Excess Capacity.
  - C. Ms. Amanda C. McMellen - Security Accounting Authority Order and Comprehensive Planning Study.
  - D. Ms. Kimberly K. Bolin - Security Accounting Authority Order and Associated Accumulated Deferred Income Taxes and Fire Hydrant Painting Project.
3. Metropolitan St. Louis Sewer District
- A. Ms. Janice M. Zimmerman - Metropolitan Sewer District Contract.
  - B. Mr. Keith D. Barber - Metropolitan Sewer District Contract.

**III. FIRE HYDRANT PAINTING PROJECT**

Q. WHAT IS STAFF'S POSITION ON THIS ISSUE?

A. Beginning on page 4, line 19, of the Rebuttal Testimony of Staff Witness, Ms. Kimberly K. Bolin, she explains that Staff's position is essentially the same as the position I expressed in my Rebuttal Testimony. That is, no special ratemaking treatment of the costs is required.

Q. IS THIS ISSUE NOW MOOT?

A. Yes. On May 4, 2010, I received an e-mail from Company representative, Mr. Donald Petry, that the Company is dropping the issue for special ratemaking treatment of the costs.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

**IV. UNAMORTIZED SECURITY AAO BALANCE AND ACCUMULATED DEFERRED INCOME TAXES**

Q. HAS STAFF TAKEN THE POSITION THAT THE UNAMORTIZED DEFERRED BALANCE BE EXCLUDED FROM RATE BASE?

A. Yes. On page 2, lines 3-5, of the Rebuttal Testimony of Staff witness, Ms. Amanda C. McMellen, she states that Staff's Direct Testimony erred in that it included the amount in rate base, but that the error has been corrected and the costs are no longer included in rate base for any of the operating districts.

Q. HAS STAFF TAKEN THE POSITION THAT THE ACCUMULATED DEFERRED INCOME TAX ASSOCIATED WITH THE SECURITY AAO SHOULD BE INCLUDED AS AN OFFSET IN RATE BASE?

A. Yes. On page 2, lines 5-12, of the Rebuttal Testimony of Staff witness, Ms. Kimberly K. Bolin, she states that Staff agrees with my Direct Testimony that the accumulated deferred income tax should be treated as an offset to rate base. She adds that Staff's Direct Testimony erred in that it did not include the cost as an offset to rate base, but that error has been corrected.

Q. ON PAGE 41, LINES 23-24, OF HIS REBUTTAL TESTIMONY, COMPANY WITNESS, MR. DENNIS R. WILLIAMS, STATES THAT, IN ITS DIRECT

1 TESTIMONY, STAFF EXCLUDED THE AAO FROM RATE BASE AND  
2 CONSISTENTLY EXCLUDED THE ASSOCIATED DEFERRED TAXES AS WELL.  
3 IS HIS STATEMENT CORRECT?

4 A. Partially. Staff included the unamortized AAO balance in rate base and excluded  
5 the associated accumulated deferred income tax as an offset. However, Staff, in its  
6 Rebuttal Testimony, identified that those positions were made in error and has  
7 since corrected its recommended rate base to exclude the unamortized AAO  
8 balance and include the accumulated deferred income tax as an offset.

9  
10 Q. WHAT IS THE COMPANY'S POSITION ON THIS ISSUE?

11 A. On page 42, lines 2-3, of Mr. Williams' Rebuttal Testimony, he states:

12  
13 The Company, of course, believes that both the costs and associated  
14 deferred taxes should be included in rate base.  
15  
16

17 Q. DOES PUBLIC COUNSEL DISAGREE WITH COMPANY'S POSITION?

18 A. Yes, for the reasons stated in my Direct and Rebuttal Testimony which I will not  
19 belabor again here in this testimony.  
20  
21  
22

1 **V. RATE CASE EXPENSE**

2 Q. IS IT STAFF'S POSITION THAT REGULATED UTILITIES ARE "ENTITLED" TO  
3 RECOVERY OF RATE CASE EXPENSES INCURRED?

4 A. Yes, if the costs are normalized, known and measurable, reasonable, necessary  
5 and prudently incurred (source: Rebuttal Testimony, Staff witness, Mr. Jermaine  
6 Green, page 4, beginning on line 4).

7  
8 Q. DOES PUBLIC COUNSEL DISAGREE WITH STAFF'S CRITERIA, AS  
9 IDENTIFIED ABOVE, FOR ALLOWING RECOVERY OF RATE CASE EXPENSE?

10 A. No; however, Public Counsel believes that Staff has failed to follow up on at least  
11 three of its stated criteria for cost inclusion. For example, Staff's position implicitly  
12 recognizes that the costs at issue in the instant case are reasonable, necessary  
13 and prudently incurred even though the Company has not provided the support that  
14 would validate such a conclusion. For example, Company's only support for the  
15 costs it has incurred is that it issued a "Request For Proposal" for all consultants  
16 except its depreciation consultant. Other than that, Company just booked the costs  
17 as incurred and Staff accepted them as meeting all its criteria for inclusion.

18  
19 Staff's position, simply stated, is that the Company incurred the costs so they must  
20 be reasonable, necessary and prudently incurred. Staff apparently has not relied  
21 on any other analysis than that to support its position. Furthermore, Staff has not



1 provided a shred of evidence or support that it actually audited the costs with an  
2 eye towards determining the reasonableness, necessity or whether they were  
3 prudently incurred. In fact, Staff has failed to recognize that the utility, and its  
4 affiliates, likely have sufficient resources and personnel to process a general rate  
5 increase in the State of Missouri without utilizing the services of expensive outside  
6 consultants and legal representation. Given that the Company did not support its  
7 cost recovery request with more detailed information, such as a cost/benefit  
8 analysis, and it has refused to provide the MAWC and affiliates personnel  
9 information in response to Public Counsel data requests so that Public Counsel  
10 could perform such an analysis, I can somewhat understand Staff's decision to take  
11 the path of least resistance. However, Mr. Green appears to have based his  
12 conclusion on some undefined "traditional ratemaking concept" and subjective  
13 decision-making rather than explaining to the Commission why each of the  
14 individual costs at issue meet the criteria for cost inclusion.

15  
16 Public Counsel does not agree with Staff's conclusion nor its methodology for  
17 reaching that conclusion given that the proper way to determine if a cost should be  
18 included in the cost of service is to audit for verification of the actual amount of the  
19 cost, then analyze and validate the reasons and support for its incurrence, then  
20 review the situation as to whether the cost should have even been incurred and  
21 whether it was incurred in the most cost-efficient manner and then if, and only if, the

1 cost was reasonable, necessary and prudently incurred recommend it be included  
2 in the utility's cost of service for recovery from ratepayers.

3  
4 Q. IS IT STAFF'S POSITION THAT RATE CASE EXPENSES SHOULD BE  
5 ASSIGNED IN PART TO UTILITY SHAREHOLDERS?

6 A. No. Beginning on page 5, line 1, of Mr. Green's Rebuttal Testimony, he states:

7  
8 The Staff believes that, under the regulatory system in this  
9 jurisdiction, the overriding purpose of which is to protect the public  
10 interest, a utility is required to incur certain costs in attempting to  
11 establish new rates, which reflect the company's cost of providing  
12 service to its customer. Give this fact, rate case expenses are just  
13 one of the many necessary costs for utilities to incur in providing utility  
14 service, and prudent rate case expenses should be included in a  
15 utility's cost of service for purpose of setting rates.  
16  
17

18 Q. DOES PUBLIC COUNSEL DISAGREE WITH STAFF'S CONCLUSIONS THAT  
19 THE PURPOSE OF THE REGULATORY SYSTEM IS TO PROTECT THE  
20 PUBLIC INTEREST AND THAT RATE CASE EXPENSE IS A NECESSARY COST  
21 THAT SHOULD BE RECOVERED FROM RATEPAYERS?

22 A. No, with some qualification. The purpose of the regulatory system is to protect the  
23 public interest, but the public interest does not include those of private interests.

24 That is, the Company continues to press for recovery of costs associated with  
25 issues which the Public Counsel, Staff and other intervenors have stated should not

1 be recovered from ratepayers. Company's decisions to press on in the legal  
2 process for its position on these issues requires that it incur additional case costs  
3 which, I believe, are not representative of the costs which Mr. Green identifies as  
4 necessary for the provision of utility service. They are costs incurred by the utility to  
5 exclusively benefit, or protect, the financial standing of private interests (i.e., in this  
6 instance shareholders) and should not be authorized for recovery from ratepayers.

7  
8 In addition, Staff fails to recognize that both shareholders and ratepayers benefit  
9 from the Company review that occurs during a general rate increase request. As  
10 such, the costs associated with the reviews should be shared equally between  
11 these parties. Had the Company utilized the resources of its own personnel, and  
12 those of its affiliates as necessary, to process the entire case, or shown that such  
13 action was not cost beneficial, Public Counsel would not have recommended a  
14 disallowance of the reasonable, necessary and prudently incurred costs incurred,  
15 but would have recommended a sharing of the costs between shareholders and  
16 ratepayers. As it was, Company has not supported the reasonableness, necessity  
17 or prudence of the outside consultant and legal representation costs it has incurred,  
18 thus, Public Counsel recommends that these costs be disallowed in their entirety  
19 and that the remaining costs be shared equally between shareholders and  
20 ratepayers.  
21

1 Q. DOES THE COMPANY EXPRESS THE SAME CONCERNS AS MR. GREEN  
2 REGARDING THE PROTECTION OF THE PUBLIC INTEREST?

3 A. Yes. Beginning on page 31, line 3, of Mr. Williams' Rebuttal Testimony, he restates  
4 pretty much the same concerns as Staff did. However, Public Counsel disagrees  
5 with his conclusions for the same reasons I expressed earlier.

6  
7 Q. DID PUBLIC COUNSEL ATTEMPT TO OBTAIN INFORMATION THAT WOULD  
8 HAVE ALLOWED IT TO ASCERTAIN THE EDUCATION, EXPERIENCE AND  
9 QUALIFICATIONS OF COMPANY EMPLOYEES, AND THOSE OF ITS  
10 AFFILIATES, IN ORDER TO DETERMINE WHETHER THE COMPANY  
11 PERSONNEL COULD HAVE PROCESSED THE CURRENT CASE IN ITS  
12 ENTIRETY?

13 A. Yes, but Company refused to provide the information.

14  
15 Q. HAS COMPANY PROVIDED A COST/BENEFIT CPS, OR ANY OTHER  
16 SUPPORT, THAT WOULD ACTUALLY SHOW ITS EMPLOYEES OR ITS  
17 AFFILIATE'S EMPLOYEES COULD HAVE PROCESSED THIS CASE IN ITS  
18 ENTIRETY WITHOUT ANY UNDUE BURDEN?

19 A. No.  
20

1 Q. ARE COSTS BEING INCURRED BY COMPANY TO SUPPORT POSITIONS  
2 WHICH STAFF, PUBLIC COUNSEL AND THE OTHER INTERVENORS DO NOT  
3 BELIEVE SHOULD BE RECOVERED FROM RATEPAYERS?

4 A. Yes.

5

6 **VI. METROPLITAN SEWER DISTRICT CONTRACT**

7 Q. WHAT IS THE METROPOLITAN SEWER DISTRICT'S POSITION ON THIS  
8 ISSUE?

9 A. On page 8, lines 6-17, of the Rebuttal Testimony of MSD witness, Ms. Janice M.  
10 Zimmerman, she states:

11

12 MAWC's capital and operating costs associated with installing and  
13 reading its meters are ongoing irrespective of MSD's request for the  
14 water usage data. In other words, if MSD did not need the water  
15 usage data in order to bill its customers, MAWC would incur its data  
16 collection costs in any event. MSD should not be required to  
17 subsidize one-half of MAWC's own data collection efforts, which are  
18 necessary for MAWC's own billing purposes. For several years, MSD  
19 has retrieved the water usage data from information downloaded by  
20 MAWC or one of its affiliated companies on an American Water  
21 website. Should MSD be required to pay MAWC for its provision of  
22 water usage data, MSD believes that the only reasonable charge  
23 should be reimbursement of MAWC's expenses in downloading such  
24 information and maintaining the website and any other additional  
25 incremental expenses incurred by MAWC in affirmatively providing  
26 the water usage data to MSD in a readily ascertainable format.  
27  
28

1 Q. DOES MS. ZIMMERMAN RECOGNIZE THAT MSD IS NOT PAYING ITS FULLY-  
2 DISTRIBUTED SHARE OF THE COSTS MAWC INCURS TO PRODUCE THE  
3 DATA REFERENCED?

4 A. Yes. Her comments that MAWC produces the information for its own needs and  
5 MSD should not subsidize those costs for its needs (though, I believe, she  
6 inaccurately uses the word and meaning of subsidize) clearly indicates that MSD  
7 does not want to pay an equal share of the costs incurred to produce the data.

8  
9 Q. DO THE RATEPAYERS OF MAWC NORMALLY REIMBURSE COMPANY FOR  
10 LESS THAN ONE-HALF OF THE COSTS IT INCURS TO PROVIDE ITS  
11 SERVICES?

12 A. No, that would be an absurd business model. The regulatory process authorizes  
13 that the utility be allowed the opportunity to recover a return on its investment and  
14 reasonable expenses. It does not contemplate for the provision of subsidies  
15 (although, in some general rate increase cases, the parties to the case have agreed  
16 to various subsidies and the Commission has authorized those agreements).

17  
18 Q. WHAT JUSTIFICATION DOES MS. ZIMMERMAN PROVIDE TO SUPPORT HER  
19 POSITION?

20 A. Her primary justification is stated in the prior quote and on page 9, lines 4-6, of her  
21 Rebuttal Testimony as:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

...the fact that the entire costs associated with collecting this data, with the exception of the incremental costs, would be expended by MAWC whether MSD requested the data or not.

Q. IS MS. ZIMMERMAN'S CONCLUSION THAT THE DATA IS PRODUCED ANYWAY JUSTIFICATION FOR MSD RECEIVING THE DATA AT A COST LESS THAN IT TAKES TO PRODUCE IT?

A. No. Ms. Zimmerman clearly desires that MSD not have to pay an equal share of the cost for the production of the data because MAWC needs it anyway. In other words, what MSD wants is some type of "Favored Status" that exceeds the rights and responsibilities of MAWC's normal ratepayer. It is no surprise that Public Counsel does not support such a status for this non-MPSC regulated entity given that any of the costs incurred to produce the data, that MSD does not reimburse to MAWC, must be recovered from MAWC's ratepayers. Public Counsel believes that MSD's needs do not supersede those of MAWC's ratepayers; therefore, if MSD desires to share in the use of the data referenced, it should be required to pay for a full half of its production cost.

Q. DO YOU KNOW OF ANY INSTANCES WHERE TWO NON-ASSOCIATED INDEPENDENT BUSINESS ENTITIES WHICH HAVE A NEED FOR THE SAME OPERATIONAL DATA ENTERED INTO AN AGREEMENT TO PRODUCE THE

1 DATA AT AN UNEQUAL SHARING OF THE COSTS FOR ITS PRODUCTION  
2 AND DISSEMINATION?

3 A. Excluding the instant case, I am unaware of any such arrangement occurring  
4 amongst the MPSC regulated utilities operating in the State of Missouri or  
5 otherwise.

6  
7 Q. DOES MS. ZIMMERMAN BELIEVE THAT THE NON-MSD CUSTOMERS OF  
8 MAWC ARE SUBSIDIZING THE COST OF THE DATA PROVIDED TO MSD?

9 A. No. In fact, she states just the opposite; MSD is subsidizing the ratepayers of  
10 MAWC. On page 9, lines 11-14, of her Rebuttal Testimony, she states:

11  
12 More importantly, MSD is not asking the customers of MAWC to  
13 subsidize such costs. On the contrary, because the \$350,000  
14 currently paid by MSD far exceeds the incremental cost of providing  
15 this data, MSD is actually, subsidizing the ratepayers of MAWC.  
16  
17

18 Q. IS HER ALLEGATION THAT MSD IS SUBSIDIZING THE RATEPAYERS OF  
19 MAWC ACCURATE?

20 A. Of course not. Her self-serving misrepresentation of the word subsidy (defined by  
21 *The American Heritage Dictionary 2nd College Edition* as a grant of monetary  
22 assistance) implies MSD is receiving nothing in return for its payments. Which of  
23 course is not true. MSD's payment does exceed the incremental costs identified in



1 the cost analysis I discussed in my Direct Testimony, but it is far below MAWC'S  
2 actual cost to produce the data and likely even more below that of MSD if it were to  
3 choose to produce similar data itself.

4  
5 Q. DID METROPOLITAN SEWER DISTRICT HIRE A BLACH & VEATCH  
6 CONSULTANT TO ASSIST IT IN SUPPORTING ITS POSITION?

7 A. Yes. Mr. Keith D. Barber, a Principal Consultant in the Management Consulting  
8 Division of Black & Veatch, filed Rebuttal Testimony on behalf of MSD.

9  
10 Q. DOES PUBLIC COUNSEL BELIEVE HIS TESTIMONY ADDS ANYTHING TO  
11 THE ISSUE?

12 A. No. Mr. Barber's testimony, for the most part, merely "Parrots" that of MSD's Ms.  
13 Zimmerman; however, I think that the Commission should be made aware of  
14 certain inaccuracies contained within his testimony. For example, on page 6, lines  
15 6-7, he states:

16  
17 Any meter reading or other cost absorbed by MSD could result in  
18 additional profit for MAWC.  
19  
20

21 Of course, that allegation is not true due to the fact that cost analysis discussed in  
22 my Direct Testimony was just that - a cost analysis. It did not include any additional

1 profit incentive or markup other than what is allowed by the normal regulatory  
2 ratemaking process. Thus, Mr. Barber's allegation is purely fiction of his own  
3 making.

4  
5 Furthermore, on page 8, beginning on line 14, he attempts to make an argument  
6 that he states identifies a subsidy flowing from MSD to St. Louis County sewer  
7 customers who do not take service from MSD. Again, this allegation is merely a  
8 "Red Herring" because the cost analysis mentioned earlier was based on pro-ration  
9 of MSD's and MAWC's actual customer numbers at the time of its development.  
10 The St. Louis County non-MSD customers are no more or less a relevant factor in  
11 the calculation than any of the many other MAWC ratepayers. In fact, evidence  
12 shows that St. Louis County sewer customers who do not take service from MSD  
13 but do take service from MAWC along with all other MAWC ratepayers are paying a  
14 subsidy for the data provided to MSD under the current payment schedule. Also,  
15 Mr. Barber shows a distinct lack of understanding of the cost allocation process  
16 within the utility and how it assigns its billing costs to the operating districts. My  
17 statements in earlier testimony clearly explain that if the Company incurs a certain  
18 amount of cost related to this issue and MSD only pays an amount that is less than  
19 its fully-distributed share then the difference will be assigned to all Company  
20 ratepayers within the State of Missouri according to the Company's allocation  
21 process.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Q. WHAT IS THE COMPANY'S POSITION ON THIS ISSUE?

A. On page 47, lines 3-5, of Mr. Williams' Rebuttal Testimony, he states:

MAWC is proposing no change in the existing amount it charges to MSD for the provision of water usage and customer billing data. For purposes of this case, MAWC has included the full contract price in annualized revenues.

Q. DOES MR. WILLIAMS PROVIDE ADDITIONAL TESTIMONY ON COMPANY'S POSITION SHOULD THE COMMISSION DETERMINE THAT THE MSD CONTRACT RATE IS INAPPROPRIATE?

A. Yes. On page 47, lines 15-19, of his Rebuttal Testimony, he states:

If the Commission believes that the MSD contract rate is inappropriate, it should indicate that to be the case, but should make no adjustment to revenue requirement in this case. The contractual amount established and currently being paid is appropriately included in the revenue requirement request in this case. The contract rate can only be changed in conjunction with the Company's next rate case.

Q. DOES PUBLIC COUNSEL BELIEVE HIS POSITION TO BE APPROPRIATE?

A. No. Mr. Williams has apparently forgotten that it is the MPSC Commission that ultimately decides what rates will be charged by regulated utilities within the State

1 of Missouri. Therefore, if the Commission authorizes the Public Counsel's  
2 recommendation, the revenue requirement should and would be changed in the  
3 instant case to reflect the increased payments by MSD. Mr. Williams' allegation  
4 that the contract rate between MAWC and MSD can only be changed in  
5 conjunction with the Company's next rate case is an issue that only exists between  
6 MAWC and MSD. It does not apply to the Commission or the setting of the  
7 Company's revenue requirement in the instant case. It is not relevant because,  
8 based on my attorney's representations to me, contracts between the utility and  
9 other parties that are found to be inappropriate in the setting of rates cannot be  
10 enforced upon the Commission in its determination of the authorized cost of service  
11 and the development of rates.

12  
13 **VII. CEDAR HILL SEWER EXCESS CAPACITY**

14 Q. HAS THE STAFF CHANGED ITS POSITION ON THIS ISSUE?

15 A. Yes. Beginning on page 2, line 1, of the Rebuttal Testimony of Staff Witness, Mr.  
16 James A. Merciel Jr., he discusses that Staff has changed its position to reflect a  
17 lower amount of capacity disallowance. Staff now recommends a disallowance  
18 based on a calculation that divides the cost of the new plant by both existing and  
19 future customers.

20  
21 Q. DOES PUBLIC COUNSEL AGREE WITH STAFF'S CHANGES?

1 A. No. Based on the Attachment 1 to Mr. Merciel's Rebuttal Testimony there are 185  
2 preexisting customers utilizing 66,000 gpd, 1 actual new customer and 171 future  
3 customers. His calculation sums the 185 preexisting with the 1 actual new  
4 customer and the 172 future customers (i.e., total 357) and divides the identified  
5 expansion cost of \$2,192,626 by the 357 to determine a cost per customer of  
6 \$6,142 (rounded). He then multiplies the \$6,142 by 171 future customers to arrive  
7 at his recommended capacity disallowance of \$1,050,282. Whereas, Public  
8 Counsel believes that the total cost of the expansion should be recovered from the  
9 new and future customers as per Staff's original position. Allocating a portion of the  
10 expansion costs to current customers is not appropriate due to the fact that at the  
11 time of the expansion the system was apparently satisfactory in meeting its service  
12 requirements to preexisting customers, thus, new customers, as they come on line,  
13 should be responsible for payment of the total expansion cost.

14  
15 Q. WHAT IS THE COMPANY'S POSITION ON THIS ISSUE?

16 A. Company witness, Mr. Kevin H. Dunn, summarizes in his Rebuttal Testimony, page  
17 9, beginning on line 18, that the total project costs were \$2,022,005 (approximately  
18 \$170,621 less than Staff identified) of which \$491,820 of contributions in aid of  
19 construction has been received. He also adds that considering the non-treatment  
20 portion of the cost and that half the cost of the replacement of the original plant (due  
21 to changes in the operation of the entire plant), plus a further reduction for CIAC

1           paid by expected new customers in the Lake Tamarack area, the remaining cost of  
2           the capacity of the plant not in service would be approximately \$206,428 which is  
3           less than the 15% reserve cushion proposed by Staff. He continues, given those  
4           conditions that some other measure of allowing the Company to earn on its  
5           investment should be considered if charging the costs directly to the Cedar Hill  
6           customers is not acceptable because of the possible rate shock.

7  
8   Q.    WHAT IS THE PUBLIC COUNSEL'S POSITION REGARDING MR. DUNN'S  
9           TESTIMONY?

10   A.    It is Public Counsel's position that the plant was expanded to meet the needs of  
11           future customers which did not materialize as expected and, based on information  
12           OPC has to-date, did not materialize or actually hook-up to the system as of the  
13           end of April 2010 . Company cannot realistically expect its current customers to  
14           reimburse it for costs it incurs based on business events that do not occur as  
15           expected for that is the purpose of the business risk component included in its  
16           authorized rate of return. Therefore, Public Counsel recommends that the total cost  
17           of the expansion be disallowed as an excess capacity adjustment to be recovered  
18           from future customers as they come online to the system.

19  
20   Q.    DID COMPANY WITNESS, MR. DENNIS R. WILLIAMS, ALSO PROVIDE  
21           REBUTTAL TESTIMONY ON THIS ISSUE?

1 A. Yes. Beginning on page 33, line 13, of his Rebuttal Testimony, Mr. Williams  
2 discusses that his testimony is limited to the accounting treatment that would be  
3 required if the Commission adopted the Staff or Public Counsel's recommendation  
4 for this issue (whereas, Staff has modified its position from that presented in its  
5 Direct Testimony and Public Counsel has not).

6  
7 Q. WHAT DOES MR. WILLIAMS STATE REGARDING THE ACCOUNTING  
8 TREATMENT?

9 A. On page 34, lines 6-14, Mr. Williams states:

10  
11 ...the Company has not received an opinion from its outside auditors  
12 as to the appropriate accounting treatment of such a disallowance.  
13 However, an internal review of this issue and outside counsel from a  
14 member of the Financial Accounting Standards Board committee at  
15 the time of approval of Statement of Financial Accounting Standards  
16 No. 90, entitled "Regulated Enterprises - Accounting for  
17 Abandonments and Disallowances of Plant Costs," both concluded  
18 that if the Commission accepts the Staff's position, the Company  
19 would be required to write off to expense the net plant balance less  
20 contributions at the date new rates go into effect.  
21  
22

23 Q. IS MR. WILLIAMS REPRESENTATION OF THE ACCOUNTING TREATMENT  
24 REQUIRED CORRECT?

25 A. No. This is the same position that Mr. Williams took in Company's last general rate  
26 increase case, Case No. WR-2008-0311, only in that case he based the conclusion

1 on his own interpretation of the Financial Accounting Standards Board (FASB)  
2 Statement of Financial Accounting Standards No. 90 (SFAS No. 90), Regulated  
3 Enterprises - Accounting for Abandonments and Disallowances of Plant Costs;  
4 whereas, now, rather than relying on his own previously challenged expertise, he  
5 relies on the expertise of some unknown internal review and FASB committee  
6 outside counsel.

7  
8 Q. IS MR. WILLIAMS' CONCLUSION CORRECT?

9 A. No. SFAS No. 90 is not the governing accounting pronouncement covering this  
10 issue. Mr. Williams failed to explain to the Commission in this case, as he did in the  
11 prior case, that in the event the Commission accepts the Staff or Public Counsel's  
12 recommendation, but does not make a specific finding that the enterprise should  
13 not have constructed that capacity or should have delayed the construction of that  
14 capacity the accounting requirements of Financial Accounting Standards No. 90 do  
15 not apply.

16  
17 Q. DOES THE STAFF OR PUBLIC COUNSEL'S PROPOSAL FOR RATEMAKING  
18 OF THE EXCESS CAPACITY REQUEST A FINDING THAT THE COMPANY  
19 SHOULD NOT HAVE CONSTRUCTED THE EXCESS CAPACITY OR SHOULD  
20 HAVE DELAYED THE CONSTRUCTION?

21 A. No.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

Q. WHAT DOES SFAS NO. 90 ACTUALLY SAY REGARDING THE ISSUE AS RECOMMENDED BY THE STAFF?

A. In Paragraph 60 of SFAS 90 it states, in clear unambiguous language, that the pronouncement does not apply in this instance:

60. Some respondents to the Exposure Draft requested that the Board address "excess capacity" disallowances. Those disallowances relate to part of the cost of service of a recently completed plant and are based on a finding that the utility's reserve capacity exceeds an amount deemed to be reasonable. If an "excess capacity" disallowance is ordered by a regulator **without a specific finding that the enterprise should not have constructed that capacity or should have delayed the construction of that capacity**, the rate order raises questions about whether the enterprise meets the criteria for application of Statement 71, in that it is not being regulated based on its own cost of service. **However, because such a rate order itself is neither a direct disallowance nor an explicit, but indirect, disallowance of part of the cost of the plant, this Statement does not specify the accounting for it.** If an "excess capacity" disallowance is ordered by a regulator with a specific finding that the enterprise should not have constructed that capacity or should have delayed the construction of that capacity, the rate order may be an explicit, but indirect, disallowance of part of the cost of the plant, and the enterprise should account for the substance of that order as set forth in paragraph 7 of this Statement.

(Emphasis by OPC)

1 Q. IS THE COMMISSION REQUIRED BY ANY AUTHORITY, ACCOUNTING OR  
2 OTHERWISE, TO MAKE A FINDING THAT THE COMPANY SHOULD NOT  
3 HAVE CONSTRUCTED THE EXCESS CAPACITY OR SHOULD HAVE DELAYED  
4 THE CONSTRUCTION IN THE EVENT IT ACCEPTS THE STAFF OR PUBLIC  
5 COUNSEL'S RECOMMENDATION?

6 A. No.

7  
8 Q. SINCE STATEMENT OF FINANCIAL ACCOUNTING STANDARDS NO. 90 DOES  
9 NOT APPLY TO THE STAFF OR PUBLIC COUNSEL'S RATEMAKING  
10 PROPOSAL FOR THE EXCESS PLANT CAPACITY, WHAT IS THE RELEVANT  
11 ACCOUNTING PRONOUNCEMENT THAT COMPANY MUST FOLLOW IN THE  
12 EVENT THAT THE COMMISSION AUTHORIZES EITHER OF THOSE  
13 RECOMMENDATIONS?

14 A. Company must follow the accounting requirements of FASB Statement of Financial  
15 Accounting Standards No. 71 as referenced in Paragraph 60 of SFAS No. 90.

16  
17 Q. WILL THE ACCOUNTING REQUIREMENTS OF STATEMENT OF FINANCIAL  
18 ACCOUNTING STANDARDS NO. 71 REQUIRE COMPANY TO RECORD A  
19 LOSS, FOR FINANCIAL REPORTING PURPOSES, IF THE COMMISSION  
20 AUTHORIZES THE STAFF OR PUBLIC COUNSEL'S RECOMMENDATION?

21 A. No, it does not.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

**VIII. COMPREHENSIVE PLANNING STUDY**

Q. HAS STAFF TAKEN THE POSITION THAT THE COSTS ASSOCIATED WITH THIS ISSUE BE DISALLOWED?

A. Yes. Beginning on page 3, line 16, of the Rebuttal Testimony of Staff witness, Ms. Amanda C. McMellen, she states that Staff has not included any costs of the Comprehensive Planning Study ("CPS") in its recommended cost of service because the CPS has not been completed and its associated impacts are not used and useful.

Q. WHAT IS THE COMPANY'S POSITION ON THIS ISSUE?

A. Beginning on page 34, line 24, of Mr. Williams' Rebuttal Testimony, he states that Company witness, Mr. John S. Young, has provided testimony supporting the purpose of the Comprehensive Planning Study while his comments are limited to the accounting impact if the costs are disallowed recovery.

Q. WHAT ARE THE IMPACTS THAT MR. WILLIAMS DISCUSSES IN HIS TESTIMONY?

A. His testimony identifies three impacts, 1) the cost amount - \$930,862, 2) by disallowing the costs the Commission would be sending a message to the Company that it does not see the need for the improvements and enhancements

1           that the CPS supports, and 3) that the project solutions addressed by the CPS  
2           would be jeopardized.

3  
4   Q.    DOES PUBLIC COUNSEL AGREE WITH MR. WILLIAMS' ASSESSMENT OF  
5           THE IMPACTS?

6   A.    No. Regarding item #1, the cost which he identifies does not balance to the  
7           amounts provided in response to OPC interrogatories or to the amount identified on  
8           page 3 of Mr. Young's Rebuttal Testimony. However, since the CPS has only  
9           recently been completed, I'm reasonably sure Company will be able to provide  
10          updated information to OPC that can then be reconciled to the actual cost support.  
11          As for item #2, I do not believe that his comments are relevant to this case. Any  
12          disallowance of the cost, should a disallowance be authorized, would not be based  
13          on whether or not the Commission thought the alleged improvements and  
14          enhancements that the CPS supports were needed. It would be based on  
15          recommendations of the Public Counsel, Staff or other intervening parties as to  
16          whether or not the costs of the CPS itself were determined to be known and  
17          measurable, reasonable, necessary and prudently incurred for regulatory  
18          ratemaking purposes. Micromanagement of the utility's business decisions, to my  
19          understanding, is not within the realm of the regulatory ratemaking process. Lastly,  
20          again, whether or not the project solutions addressed by the CPS would be  
21          jeopardized is a decision that lies within the realm of Company's management. Mr.

1 Williams' veiled threat to the Commission is not appropriate since any decision to  
2 implement or not implement the recommendations of the CPS is theirs alone.

3  
4 Q. WHAT ARE THE RELEVANT FACTORS CONTAINED WITHIN THE REBUTTAL  
5 TESTIMONY OF COMPANY WITNESS, MR. JOHN S. YOUNG?

6 A. Mr. Young's testimony describes the purpose, process and results of the CPS. In  
7 essence he identifies the costs allocated to MAWC along with how the CPS  
8 proceeded; that is, why it was needed, what it hoped to achieve, how it was  
9 arranged, the business processes reviewed and the conclusions as to how to  
10 proceed to meet Company's future goals.

11  
12 Q. WHAT IS PUBLIC COUNSEL'S POSITION ON THIS ISSUE?

13 A. Public Counsel has been attempting to audit the costs Company has incurred, but  
14 the Company has not and is not making this an easy process. My initial data  
15 request, OPC DR No. 1101, was presented to the Company on February 5, 2010,  
16 but the Company's response was incomplete and restrictive. Company  
17 subsequently provided additional information, but this too was either incomplete or  
18 not detailed enough to for Public Counsel to make a determination as to whether or  
19 not the costs incurred are known and measurable, reasonable, necessary and  
20 prudently incurred for regulatory ratemaking purposes. On April 27, 2010, I  
21 presented to the Company additional data requests, OPC DR Nos. 1115 through

1 1134, in an attempt to obtain the information that would assist Public Counsel in its  
2 audit, but, again, the responses, of which some were provided on the afternoon of  
3 May 5, 2010 and some have not yet been responded to, are, in my opinion, either  
4 incomplete, unresponsive or not detailed enough to for Public Counsel to make a  
5 determination as to whether or not the costs incurred are known and measurable,  
6 reasonable, necessary and prudently incurred for regulatory ratemaking purposes.

7  
8 However, Public Counsel has been actively auditing the data and information that  
9 has been provided by the Company and at the moment I have identified several  
10 categories of costs which probably should be allowed some type of recovery, need  
11 either further support and/or are, I believe, not appropriate for recovery from MAWC  
12 ratepayers. Public Counsel is committed to continuing its audit of the costs, as the  
13 data and information required becomes available from the Company, but Public  
14 Counsel's current position is that the Company has not adequately supported its  
15 request for recovery of the costs - a burden for which it has the primary  
16 responsibility to prove. In addition, based on my reading of Mr. Young's Rebuttal  
17 Testimony, the recommendations of the CPS conclude that enhancements and  
18 improvements to the Company's information technology systems (the primary  
19 purpose of the CPS) are not scheduled to be implemented for a number of years (in  
20 fact, the recommendations are subject to some variances in implementation and  
21 estimated costs). Thus, Public Counsel believes since requested recovery of the

1 costs has not been adequately supported and the infrastructure to which it relates is  
2 not in-service and not used and useful, I recommend that the Company's request  
3 for recovery of the costs in the instant case be disallowed.  
4

5 Q. DOES PUBLIC COUNSEL HAVE AN ALTERNATIVE PROPOSAL TO  
6 COMPLETE DISALLOWANCE OF THE COSTS REQUESTED?

7 A. Yes, given that I believe it likely some of the costs incurred should be provided  
8 some form of future ratemaking recovery, Public Counsel proposes that the costs  
9 associated with the CPS be booked as construction work in process and when the  
10 enhancements and improvements to the Company's information technology  
11 systems are fully implemented assign them to the appropriate asset accounts.  
12 Then, in subsequent rate cases, the parties may be able to audit all of the costs  
13 incurred, providing the Company (and its Parent) provides the data and information  
14 to perform the audit.  
15

16 **VIX. FASB 106 - POSTRETIREMENT BENEFITS OTHER THAN PENSIONS**

17 Q. WHAT IS THE ISSUE?

18 A. One issue with this cost is that Company is requesting rate base deferral and  
19 amortization of amounts it alleges that the previous owners of St. Louis County  
20 Water Company deferred between the time that it adopted the FASB Statement of  
21 Financial Accounting Standards No. 106 (SFAS No. 106) - Postretirement Benefits

1 Other Than Pension accrual basis while its revenue requirement for the cost was  
2 actually being recovered on the previous Commission authorization of a pay-as-  
3 you-go basis (i.e. approximately 1994 until the subsequent change in St. Louis  
4 County Water Company's rates).

5  
6 Q. WHAT IS THE AMOUNT COMPANY REQUESTS TO RECOVER?

7 A. On page 21, lines 13-14, of Mr. Williams' Rebuttal Testimony, he states that the  
8 unamortized deferred balance is \$117,483 as of April 30, 2010 and the annual  
9 amortization requested is \$44,056.

10  
11 Q. DID THE COMMISSION AUTHORIZE THE COMPANY TO DEFER THESE  
12 ALLEGED COSTS?

13 A. Based on my memory of the events, it did not.

14  
15 Q. HAS THE COMMISSION EVER AUTHORIZED THE COMPANY TO RECOVERY  
16 THE ALLEGED COSTS?

17 A. Again, based on my memory of the events, it has not.

18  
19 Q. SHOULD THESE COSTS BE AUTHORIZED FOR RECOVERY IN THE INSTANT  
20 CASE?



1 A. No. At the time that St. Louis County Water Company adopted the new FASB  
2 Statement its revenue requirement was based on a pay-as-you-go basis which  
3 means that it had the opportunity to collect all costs it incurred as authorized by the  
4 Commission. Furthermore, the subsequent change in State law by the legislature  
5 that FASB 106 be adopted on prospective basis in all subsequent rate cases had  
6 no effect on the costs St. Louis County Water Company is alleged to have deferred  
7 in the interim between when its rates changed from a pay-as-you-go basis to a  
8 FASB 106 accrual basis. Thus, the costs merely represent a booking entry made  
9 by the prior management of the utility before it became a part of the MAWC water  
10 system. In fact, I believe, that it is more than likely that the purchasers of the  
11 system reviewed the book entries and given that OPC, and I believe the MPSC  
12 Staff were opposed to their recovery, factored the likely or unlikely recovery in the  
13 purchase price that they paid for the St. Louis County Water Company system.

14  
15 Q. DOES PUBLIC COUNSEL KNOW IF THE PURCHASERS OF THE SYSTEM  
16 LOWERED THIER PURCHASE PRICE SUFFICIENTLY TO FACTOR IN THE  
17 UNLIKELY RECOVERY OF THE ALLEDGED COSTS?

18 A. No, I do not, but based on my memory of the events that occurred approximately  
19 fifteen years ago, I believe a rational business person would have done so given  
20 that there was a significant amount of opposition to the recovery of the alleged  
21 costs in rates.

1

2 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

3 A. Yes, it does.