

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

In the Matter of the Application of)	
Missouri-American Water Company for)	
an Accounting Authority Order related to)	File No. WU-2017-0351
Property Taxes in St. Louis County and)	
Platte County.)	

MECG STATEMENT OF POSITIONS

► Issue 1: Should the Commission grant MAWC the Accounting Authority Order it has requested in this case?

Position: No. Commission decisions and Court cases have upheld the Commission’s authority to defer costs so long as such costs are “extraordinary.” The Commission’s ability to defer only “extraordinary” costs is in recognition of the fact that, while ordinary costs are already reflected in rates, the utility is not currently recovering any level of extraordinary costs in rates. With this in mind, the Commission has previously granted deferral authority for floods, tornadoes, ice storms and legislation / regulations that impose a new cost on the utility. In each case, the deferred cost was not previously reflected in rates.

In this case, MAWC seeks to defer changes in property taxes - an ordinary cost. Since property taxes are an ordinary costs that are incurred every year, some level of property taxes are already reflected in MAWC’s rates. A Commission order allowing for the deferral and subsequent recovery of such ordinary costs would inevitably result in a flood of similar requests from Missouri utilities asking for a Commission approval to defer changes in virtually every type of ordinary cost.

The Commission has recently considered a request virtually identical to that sought in this case. In a recent KCPL rate case, the Commission considered KCPL’s request to defer changes in property taxes.¹ Finding that property taxes do not meet the “extraordinary” standard, the Commission rejected KCPL’s request for an Accounting Authority Order. Earlier this year the Western District Court of Appeals upheld the Commission’s use of the “extraordinary” standard as well as its rejection of KCPL’s request for a property tax AAO.²

The Commission should maintain its adherence to the “extraordinary” standard and rejected MAWC’s request in this case.

¹ See, *Report and Order*, Case No. ER-2014-0370, issued September 2, 2015, at pages 55-57.

² 509 S.W.3d 757 (Mo.App. 2017).

► Issue 2: If granted, when should the deferred debit amortization begin?

Position: The Commission should reject MAWC's request for an Accounting Authority Order. Given this, any issues regarding the commencement of the amortization is moot. That said, if the Commission turns its back on previous decisions and the use of the extraordinary standard, it should order that the amortization of any deferred amounts begin simultaneous with the issuance of the Commission's order. Such a decision would further principles of intergenerational equity.

► Issue 3: If granted, should the Commission AAO Order direct MAWC to create a regulatory asset or simply allow MAWC to defer the expenses as a miscellaneous deferred debit to USOA Account 186?

Position: The Commission should not grant the requested Accounting Authority Order. Therefore, this issue need not be decided. In any event, MECG believes that this issue is largely an academic debate between Staff and Public Counsel – two entities that both assert that the requested Accounting Authority Order should be denied. As an academic issue, MECG does not believe that this issue must be decided in this case.

► Issue 4: If granted, should the Commission AAO Order specifically state that it is not deciding that the deferred expenses are “probable” of rate recovery or that rate recovery is “likely to occur”?

Position: The Commission should not grant the requested Accounting Authority Order. Therefore, this issue need not be decided. In any event, MECG believes that this issue is largely an academic debate between Staff and Public Counsel – two entities that both assert that the requested Accounting Authority Order should be denied. As an academic issue, MECG does not believe that this issue must be decided in this case.

Respectfully submitted,

WOODSMALL LAW OFFICE

/s/ David Woodsmall

David L. Woodsmall Mo. Bar #40747

308 E. High Street, Suite 204

Jefferson City, Missouri 65101

(573) 797-0005

Facsimile (573) 636-6007

david.woodsmall@woodsmalllaw.com

ATTORNEY FOR THE MIDWEST ENERGY
CONSUMERS' GROUP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing pleading has been served by electronic means on all parties of record as reflected in the records maintained by the Secretary of the Commission through the EFIS system.

/s/ David Woodsmall
David Woodsmall

Dated: October 30, 2017