

Exhibit No.:
Issues: FAS 106 Deferrals
Witness: Mark L. Oligschlaeger
Sponsoring Party: MO PSC Staff
Case No.: WA-98-187

MISSOURI PUBLIC SERVICE COMMISSION
UTILITY SERVICES DIVISION

REBUTTAL TESTIMONY
OF
MARK L. OLIGSCHLAEGER
UNITED WATER MISSOURI INC.
CASE NO. WA-98-187

Jefferson City, Missouri
July 1998

1 **REBUTTAL TESTIMONY**
2 **OF**
3 **MARK L. OLIGSCHLAEGER**
4 **UNITED WATER MISSOURI INC.**
5 **CASE NO. WA-98-187**

6
7 Q. Please state your name and business address.

8 A. Mark L. Oligschlaeger, P. O. Box 360, Jefferson City, MO 65102.

9 Q. By whom are you employed and in what capacity?

10 A. I am a Regulatory Auditor with the Missouri Public Service
11 Commission (Commission).

12 Q. Please describe your educational background and work experience.

13 A. I attended Rockhurst College in Kansas City, MO, and received a
14 Bachelor of Science degree in Business Administration with a major in Accounting
15 in August 1981. I have been employed by the Commission since September 1981
16 within the Accounting Department. In November 1981, I passed the Uniform
17 Certified Public Account (CPA) examination and, since February 1989, I have been
18 licensed in the state of Missouri as a CPA.

19 Q. Have you previously filed testimony before this Commission?

20 A. Yes. A listing of cases in which I have previously filed testimony
21 before this Commission is given in Schedule 1, attached to this rebuttal testimony.

22 Q. With reference to Case No. WO-98-187, have you examined the
23 books and records of United Water Missouri Inc. (UWM or Company)?

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1 A. Yes, with the assistance of other members of the Commission Staff
2 (Staff).

3 Q. What is the purpose of this rebuttal testimony?

4 A. The purpose of this testimony is to address certain contentions
5 contained within Company witness Albert Candelmo's direct testimony concerning
6 deferred post-retirement benefits other than pensions (PBOPs.) These costs are
7 also commonly known as other post-employment benefits (OPEBs), and will be
8 referred to by that name herein. This testimony will also present the Staff's
9 recommendations to the Commission concerning the subject matter of this docket.

10 Q. What is the Company's request in this proceeding to the Commission
11 concerning its deferred OPEB costs?

12 A. In this case, UWM has requested that the Commission authorize
13 through an accounting authority order (AAO) the continued deferral on its books of
14 certain OPEB costs it has incurred since 1994.

15 Q. Has the Commission taken any action on this request to date?

16 A. Yes. On February 4, 1998, the Commission issued an Order allowing
17 the Company's request for a deferral of these costs, but modifying it so that UWM
18 was only allowed to defer OPEB costs from 1997 forward, not starting from 1994.
19 Subsequently, in response to the Office of Public Counsel's (OPC) Application for
20 Rehearing or Reconsideration, the Commission ordered that rehearing be granted
21 on the question of whether the Company's OPEB expenses are "extraordinary", and
22 therefore properly subject to deferral.

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1 Q. What is the Staff's position on the Company's request for deferral of
2 OPEB costs?

3 A. The Staff does not believe that any of the Company's deferred OPEB
4 costs should be considered extraordinary, and therefore believes that UWM should
5 immediately write off these costs.

6 Q. How will your testimony be organized?

7 A. I will first present an overview of: 1) the deferral process, including the
8 standards set up in the past by the Commission for allowing deferrals; 2) accounting
9 and ratemaking methods for handling OPEB expenses; and 3) the history of the
10 Company's treatment of this particular expense. I will then discuss the reasons the
11 Staff does not believe this cost is extraordinary and eligible for deferral treatment.
12 I will also discuss other problems with the Company's AAO Application in this case.
13

14 **REGULATORY DEFERRALS**

15 Q. What is an AAO?

16 A. An AAO is a device by which the Commission gives authorization to
17 a utility to account for a cost in a different manner than called for in the Uniform
18 System of Accounts (USOA) for a particular utility industry. The Commission has
19 formally adopted USOAs for the electric, gas, water, sewer and telephone
20 industries, and utilities under its jurisdiction are required to keep their books in the
21 manner prescribed within the USOAs. AAOs are normally sought by utilities to
22 capitalize certain costs on its books that would normally be charged to expense.

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1 This treatment is commonly known as "deferral" of the costs. Deferral provides the
2 utility the opportunity to seek recovery of the capitalized costs in a subsequent rate
3 proceeding.

4 Q. Under what criteria does the Commission grant AAOs to utilities?

5 A. In most instances, the Commission will only grant AAOs on the basis
6 that an event has occurred whose associated cost has been deemed to be
7 "extraordinary." Extraordinary costs are those associated with events that are
8 abnormal in nature and infrequent in occurrence. "Acts of God" (floods, storms, etc.)
9 provide common examples of extraordinary expenses. These types of events are
10 normally not considered in the ratemaking process, and it has been argued that
11 allowing a utility to defer this type of cost to preserve its opportunity for some future
12 rate recovery, rather than have the utility charge the cost entirely to expense as
13 incurred, is appropriate for policy reasons. This Commission has set a policy of
14 sharing the costs of Acts of God between customers and utility shareholders, and
15 uses the AAO process to preserve these costs on utility books in order to later pass
16 on to the customer in rates its share of these costs. An explanation of the fact that
17 deferrals should be limited to extraordinary items can be found in the Commission
18 Report and Order in Case Nos. EO-91-358 and EO-91-360 (page 7):

19 Allowable operating expenses are those which recur in the
20 normal operations of a company, and a company's rates are
21 set for the future based upon its past experience for a test year
22 with adjustments for annualizations, normalizations and known
23 and measurable changes. Under historical test year
24 ratemaking, costs are rarely considered from earlier than the
25 test year to determine what is a reasonable revenue
26 requirement for the future. Deferral of costs from one period

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1 to a subsequent rate case causes this consideration and
2 should be allowed only on a limited basis.

3
4 This limited basis is when events occur during a period which
5 are extraordinary, unusual and unique, and not recurring.
6 These types of events generate costs which require special
7 consideration. These types of costs have traditionally been
8 associated with extraordinary losses due to storm damage or
9 outages, conversions or cancellations.

10
11 As alluded to in the above quote, it is not appropriate for a utility to
12 defer normal, ongoing expense items. Ratemaking is based upon a premise that
13 rates are set in order to allow a utility an opportunity to recover its ongoing cost of
14 service, not to allow recovery of past earnings deficits (or to reimburse past over
15 earnings.) Deferring ongoing costs will result in recouping by utilities of past losses,
16 if subsequent rate recovery is given to deferred expenses. This result is sometimes
17 known as "retroactive ratemaking", and is prohibited in Missouri.

18 Another problem with deferring ongoing expense items is that it
19 singles out certain expenses for special treatment, resulting in skewed ratemaking.
20 Traditional ratemaking in Missouri and elsewhere does not examine individual
21 elements of revenue, expense or rate base in a vacuum. All elements are
22 considered at a consistent point of time in relation to a test year ordered by the
23 Commission, and are normalized, annualized or otherwise adjusted to reflect the
24 forward looking focus of the ratemaking process. To reflect in this process ongoing
25 costs from past periods that have been deferred is to disrupt the
26 revenue/expense/rate base relationship in time by the inclusion in rates of specific
27 past costs without considering any other changes in cost of service elements

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1 experienced within the deferred period. The phenomenon of adjusting rate levels
2 to reflect changes in one discreet cost of service element, without considering
3 concurrent changes in other elements, is known as single-issue ratemaking and is
4 likewise prohibited in Missouri.

5 Q. Do AAOs granted by the Commission normally have any ratemaking
6 effect?

7 A. No. This Commission has followed a consistent practice of reserving
8 all ratemaking findings concerning deferred costs to rate proceedings. Therefore,
9 AAOs only concern how to account for certain items, not their ultimate rate
10 treatment. (However, as will be explained later, UWM's AAO request in this case
11 does call on the Commission to make certain ratemaking findings.) The strict
12 division between AAOs and ratemaking decisions has been reaffirmed by the
13 Commission as recently as in Case No. GO-97-301, Missouri Gas Energy, in its
14 Order Granting in Part and Denying in Part the Application for Rehearing (June 13,
15 1997.)

16 Q. Does the Commission have authority to determine how a utility must
17 account for items for financial reporting purposes?

18 A. No, only for regulated accounting purposes. A utility's external auditor
19 normally reviews how the company should account for items for financial accounting
20 purposes based on pronouncements of the Financial Accounting Standards Board
21 (FASB), with ultimate authority resting with the Securities and Exchange
22 Commission. In some circumstances, however, utilities can take into consideration

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1 regulatory rate and accounting orders in how they keep their books for financial
2 reporting. Financial Accounting Standard No. 71, "Accounting for Regulated
3 Industries," (FAS 71) which was issued by FASB in 1982, allows deferral of costs
4 by a utility on their financial statements if a number of conditions are met, most
5 notably that it be judged "probable" that the deferred cost will be given later rate
6 recovery by the applicable regulatory commission. The issuance of AAOs by
7 commissions is, of course, an important factor in determining whether the utility and
8 its external auditor can judge if subsequent rate recovery of the deferred costs is
9 probable or not. Therefore, under normal circumstances, utilities must get authority
10 from their regulators and approval of their external auditors before they can defer
11 a cost on their books.

12
13 **OPEBs**

14 Q. Please define OPEBs/PBOPs.

15 A. These terms refer to retirement benefits other than pensions provided
16 to former employees of a company. For most entities, the majority of these benefits
17 will pertain to medical benefits. In the past, these costs were usually accounted for
18 and recovered in rates by utilities on a "pay as you go" (PAYGO) or cash basis; i.e.,
19 no rate recovery was provided until the benefits were actually provided to the
20 retiree. However, in 1990, FASB issued Financial Accounting Standard No. 106,
21 "Employers' Accounting for Postretirement Benefits Other than Pensions"
22 (FAS 106.) FAS 106 required companies to begin accounting for OPEBs on an

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1 accrual basis, similar to the prescribed financial accounting for pension costs.
2 Accrual accounting for OPEBS requires that the expense be booked when the
3 expenses are estimated to be earned, not when the benefit is paid out. The impact
4 on FAS 106 expense on most companies was to sharply increase the amount of
5 OPEB expense the entity was required to book. Most companies were required by
6 FASB to use FAS 106 beginning in January 1993.

7 Q. Are utilities allowed under financial reporting rules to book deferrals
8 for FAS 106 costs?

9 A. Yes, but under more limited conditions than provided for under
10 FAS 71. In 1993, the Emerging Issues Task Force (EITF), a subgroup reporting to
11 FASB which deals with technical issues arising from FASB pronouncements, issued
12 EITF Pronouncement No. 92-12, "Accounting for OPEB Costs by Rate-Regulated
13 Enterprises." The EITF went beyond the FAS 71 requirement that recovery of
14 deferred costs in the future by the utility be judged probable, and required that
15 utilities demonstrate the following before FAS 106 deferrals would be allowed:

16 The Task Force reached a consensus that for a continuing
17 plan a rate-regulated enterprise should recognize a regulatory
18 asset for the difference between Statement 106 costs and
19 OPEB costs included in the enterprise's rates if the enterprise
20 (1) determines that it is probable that future revenue in an
21 amount at least equal to the deferred cost (regulatory asset)
22 will be recovered in rates and (2) meets *all* of the following
23 criteria:

24 a. The rate-regulated enterprise's regulator has issued
25 a rate order or issued a policy statement or a generic order
26 applicable to enterprises within the regulator's jurisdiction that
27 allows both for the deferral of Statement 106 costs and for the
28 subsequent inclusion of those deferred costs in the
29 enterprise's rates.

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1 b. The annual Statement 106 costs (including
2 amortization of the transition obligation) will be included in
3 rates within approximately five years from the date of adoption
4 of Statement 106. The change to full accrual accounting may
5 take place in steps, but the period for deferring additional
6 amounts should not exceed approximately five years.

7 c. The combined deferral-recovery period authorized by
8 the regulator for the regulatory asset should not exceed
9 approximately 20 years from the date of adoption of Statement
10 106. To the extent that the regulator imposes a
11 deferral-recovery period for Statement 106 costs greater than
12 approximately 20 years, any proportionate amount of such
13 costs not recoverable within approximately 20 years should not
14 be recognized as a regulatory asset.

15 d. The percentage increase in rates scheduled under
16 the regulatory recovery plan for each future year should be no
17 greater than the percentage increase in rates scheduled under
18 the plan for each immediately preceding year. This criterion is
19 similar to that required for phase-in plans in paragraph 5(d) of
20 Statement 92. The Task Force observed that recovery of the
21 regulatory asset in rates on a straight-line basis would meet
22 this criterion.

23
24 The entire EITF pronouncement is attached to this testimony as Schedule 2.

25 According to the EITF, regulatory bodies must make a ratemaking commitment
26 upfront in the context of an AAO as to the recoverability and the timing of future
27 recovery of deferred OPEB costs before the deferral itself will be allowed to be
28 booked. It has not been the policy of this Commission to make any type of
29 ratemaking commitment in the context of AAO cases.

30
31 Q. How has this Commission treated FAS 106 costs for rate purposes?

32 A. Initially, the Commission rejected requests by several utilities to base
33 their rates on FAS 106 treatment of OPEB costs, primarily because the long term
34 estimates of future health care costs and other variables on which FAS 106

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1 expense calculations are based were judged to be too speculative to reflect in rates.
2 However, in 1994, the Missouri Legislature passed a law (HB 1405) that required
3 the Commission to use FAS 106 for rate purposes if such amounts were externally
4 funded by the utilities and the actuarial estimates upon which FAS 106 amounts are
5 based were judged to be reasonable. HB 1405 also allowed utilities whose earlier
6 requests for rate treatment of FAS 106 was rejected by the Commission a limited
7 opportunity to make a one-issue rate filing with the Commission to recover those
8 amounts.

9
10 **UWM FAS 106 Expense**

11 Q. What is the regulatory history of UMW in regard to rate treatment of
12 its OPEB expenses and adoption of FAS 106?

13 A. This history is based upon Mr. Candelmo's testimony in this case as
14 well as the earlier motions and pleadings submitted by the Company in this AAO
15 Application.

16 UWM's predecessor company in Missouri was Capital City Water
17 Company (CCWC), which was owned by General Waterworks Corporation (GWC).
18 In January 1993, when FAS 106 became effective for most utilities, GWC
19 apparently was allowed to maintain PAYGO accounting for its OPEB expense
20 because adoption of FAS 106 would have an immaterial impact on its financial
21 statements. Later in 1993, United Water Resources (UWR), the parent company
22 of UWM, submitted an application to the Commission to merge with and acquire

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1 GWC. CCWC filed a rate increase case with the Commission in March 1994 (Case
2 No. WR-94-297.) In that case, CCWC did not seek rate recovery of FAS 106 OPEB
3 expenses, again on the grounds that adoption of that financial standard would have
4 an immaterial impact on its rates compared to PAYGO treatment. The UWR-GWC
5 merger was consummated in April 1994. The Commission granted increased rate
6 levels to UWM (the successor company in Missouri to CCWC) in early 1995, with
7 its rates reflecting PAYGO treatment of OPEB expense.

8 Q. Based on that history, why has the Company since April 1994 booked
9 a deferral representing the excess of FAS 106 expense above PAYGO levels?

10 A. Subsequent to the merger, the Company determined that its
11 statements that implementation of FAS 106 was immaterial to its financial results
12 was an "error" (United Water's Response to Staff Recommendation and OPC
13 Motion for Denial, January 20, 1998.) Therefore, in late 1994, the Company began
14 retroactively booking FAS 106 expense in the form of a deferral of the amount of
15 FAS 106 above PAYGO, back to April 1994. Mr. Candelmo in his direct testimony
16 claims that it was too late in the rate case process for this new information regarding
17 the materiality of FAS 106 to be made available to the Commission and other
18 involved parties in its then pending Missouri rate case. Also, in early 1995, the
19 Company made a decision to offer former employees of GWC the same level of
20 health benefits as UWR employees. This decision further increased the level of
21 Missouri FAS 106 expense compared to PAYGO levels, and thus also increased the
22 amount of the Company's deferral.

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1 Q. What quantification has Mr. Candelmo given for the amount of the
2 Company's FAS 106 expense related to UWR's voluntary decision to offer
3 consistent benefit levels to all employees?

4 A. On page 6 of his direct testimony, Company witness Candelmo states
5 the annual FAS 106 expense amount associated with that decision was
6 approximately \$6,200, a minuscule amount compared to total FAS 106 expense.
7 However, the Company failed to supply any workpapers with their filing to support
8 this number, and to date the Staff has received no such support to determine
9 whether this quantification is accurate.

10 Q. After it discovered that its FAS 106 expense was "material" to its
11 financial results, did the Company inform the Commission, the Staff or other parties
12 of this discovery, or seek any authorization for its FAS 106 deferral?

13 A. It should be emphasized that at no time did the Company seek
14 authorization from the Commission through the AAO process to book an OPEB
15 deferral, or to otherwise inform the Commission, the Staff or OPC of its deferral
16 decision. The Company's failure to notify the Company the parties to its pending
17 rate proceeding (Case No. WR-94-297) can certainly be questioned, since some of
18 the parties' positions on revenue requirement issues were explicitly based on a
19 belief that the Company would not adopt FAS 106.

20
21 **"EXTRAORDINARY" CRITERIA**

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1 Q. Does the Staff consider UWM's OPEB expense to be of an
2 extraordinary nature?

3 A. No. To reiterate, extraordinary expenses are unusual in nature and
4 infrequent in occurrence. The USOA for Class A water utilities states that
5 extraordinary items are those that are not "typical or customary business activities
6 of the company." OPEB expenses are both typical and customary business
7 activities of most utilities. The vast majority of larger utilities in Missouri offer these
8 benefits on an ongoing basis. The amounts charged to expense may change from
9 year to year, but this is analogous with employee salaries and pension benefits.
10 There is no reason to think there is anything inherently extraordinary about OPEB
11 expense.

12 However, arguments can be made that the transition from PAYGO
13 accounting to FAS 106 accrual accounting might be considered extraordinary, due
14 to the change in methodology and the material impact of that change on many
15 utilities. Even if that transition is considered potentially extraordinary, the argument
16 for deferrals of FAS 106 costs is considerably weakened when one considers that
17 FAS 106 was issued by FASB in 1990, but did not become effective for most
18 entities until 1993. This gave utilities plenty of time to prepare for adoption of
19 FAS 106 for rate purposes without the need to resort to AAOs, either by adjusting
20 the level of benefits offered or in planning a timely rate proceeding to capture the
21 impact of FAS 106 in rates. The Staff believes there was and is little justification for

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1 use of the extraordinary mechanism of AAOs simply to defer increases in OPEB
2 expense due to FAS 106.

3 Q. When was the transition to FAS 106 effective for UWM operations?

4 A. It is the Staff's understanding that FAS 106 would have become
5 effective for UWM's predecessor company at the beginning of 1993. At that time,
6 the Company made a judgment that implementation of FAS 106 would be
7 immaterial, and would not have to be adopted for that reason. It was only later,
8 either because the Company's immateriality finding was in error or as a result of the
9 subsequent UWR-GWC merger, or both, that FAS 106 was adopted by the
10 Company in Missouri.

11 Q. Are you saying that a deferral could possibly have been justified at the
12 time the Company adopted FAS 106 in Missouri?

13 A. No. UWM apparently had a couple of opportunities to handle
14 FAS 106 in the context of the merger application or its nearly concurrent rate case,
15 No. WR-94-297, but did not do so. If the merger itself was the ultimate cause of the
16 increased levels of OPEBs expense in Missouri, then that increase is (or should
17 have been) a merger issue, and the matter should have been brought to the
18 Commission's attention in the UWR-GWC merger application. From my experience
19 with past merger and acquisition dockets, it is a common practice for merging
20 utilities to consider whether it will be necessary to provide consistent levels of
21 salaries and benefits to employees across the newly merged companies. Such an
22 analysis in the case of the UWR-GWC merger could have led to the early realization

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1 that FAS 106 might become material to Missouri operations, and then to
2 incorporation of the impact in its rate proceeding. Alternatively, the Company could
3 have delayed the filing of the Missouri rate case so it could have incorporated all
4 reasonably expected impacts of the merger. Either course of action would have led
5 to reflection of FAS 106 expense in rates on a timely basis, making the deferral and
6 this AAO application a moot point.

7 Q. What if the Company's error in assessing the impact of FAS 106
8 post-merger in Missouri led it to book the deferral?

9 A. While AAOs may have a number of valid purposes in regulatory
10 practice, use of that mechanism to allow utilities to hold themselves harmless from
11 the consequences of their mistakes or errors in judgment surely should not be one
12 of them.

13 Q. What is Schedule 3 to your rebuttal testimony?

14 A. Schedule 3 is the Company's response to Staff Data Request No. 1
15 in this proceeding, and contains UWM's FAS 106 expense amounts, PAYGO
16 amounts and external funding amounts for 1995-97 (actual) and 1998-99
17 (projected.) It is possible that some would argue that if FAS 106 caused sharp
18 increases to a utility's expense year after year, this would add credibility to the claim
19 that FAS 106 expenses per se should be considered extraordinary. The relevance
20 of the amounts on Schedule 3 to any claims that the excess of FAS 106 expense
21 over the PAYGO amount should be considered extraordinary is that these numbers
22 clearly show the change to FAS 106 caused only a one-time increase to expense

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1 to the Company. For example, if FAS 106 would have been appropriately handled
2 in a 1995 rate case, the evidence shows that use of FAS 106 would have had no
3 further material effect on the Company's earnings through at least 1999.

4 Q. Should the Commission accept as a presumption a belief that UWM
5 has not been able to recover any portion of its deferred FAS 106 expense in rates
6 from customers, since FAS 106 was not reflected in its last rate proceeding?

7 A. No. The fundamental difficulty with the Company's FAS 106 deferral
8 is that this particular application of the AAO mechanism allows UWM to evade the
9 normal protections to customers embedded in the rate case process - consideration
10 of all relevant factors in a rate proceeding. Increases in expense should be
11 compared to changes in revenue and rate base, measured in time on a consistent
12 basis, before making any judgment whether the aforementioned increases in
13 expense caused a material earnings decline to the utility. It is certainly possible that
14 at least some of the Company's deferred FAS 106 expense has been already
15 recovered by UWM from increased revenues and other financial changes, making
16 any future recovery of deferred amounts potentially a form of double recovery from
17 customers.

18
19 **OTHER POINTS**

20 Q. Are there other points concerning the Company's Application that you
21 would like to address?

22 A. Yes. The Staff also will present rebuttal on the following points:

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1 1) The Company had insufficient grounds to demonstrate that
2 subsequent rate recovery of its FAS 106 deferral in Missouri would be "probable",
3 making booking of this deferral improper to begin with;

4 2) The failure of UWM to seek authorization for an AAO for OPEB
5 costs upfront, but instead seek retroactive authorization for the deferral now, puts
6 the Commission and the involved parties at a significant disadvantage in making
7 appropriate policy determinations regarding the AAO;

8 3) HB 1405 in no way supports the Company's request for an AAO
9 on this matter; and

10 4) UMW should write off the deferred amounts immediately, as the
11 known facts and evidence concerning this matter now show that ultimate rate
12 recovery of any of the deferred amounts would be inappropriate.

13 Q. By what evidence did the Company and/or its external auditors make
14 the necessary determination that subsequent rate recovery of its deferral was
15 "probable"?

16 A. I do not know. The Staff through data requests sought documentation
17 concerning UWM's decision to book the deferral and later seek Commission
18 authorization for the deferral, including correspondence with the Company's
19 external auditors. The Company responded that no such documentation was
20 available.

21 Q. Mr. Candelmo indicates in his direct testimony at page 7 that it is
22 seeking no ratemaking findings concerning its previously deferred costs from the

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Commission in this case, but instead "seeks only to preserve this issue for its next rate case." Is this accurate?

A. No. At pages 2-3 of his testimony, Mr. Candelmo states that the Company asks the Commission to issue its AAO with the following language:

That the Commission intends that rates established in the Company's next general rate case will include, among other things, the Company's prudently incurred FAS 106 expense pertaining to post-retirement benefits other than pensions in accordance with section 386.315, RSMo, as well as an amortization of the Company's prudently incurred FAS 106 costs deferred pursuant to this AAO, over a period of time ending no later than December 31, 2012. (Emphasis added.)

This language is intended to meet the deferral requirements mandated by the EITF, which were previously discussed. This requested language goes well beyond the Commission's traditional position of reserving all ratemaking findings concerning deferred costs to rate proceedings, in that the proposed wording clearly commits the Commission to allow recovery of prudently incurred deferrals in the next rate case, and to place limits on the amortization period for recovery of the deferrals. Neither the questions of overall recoverability or the length of the amortization period are normally decided by the Commission in AAOs, nor should they be. The EITF requirements for booking FAS 106 deferrals, and the Company's AAO Application in this case, both call on the Commission to make ratemaking determinations outside of the context of a general rate proceeding.

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1 Q. Does the Staff oppose the Company's suggested AAO language
2 concerning the Commission's "intent" of allowing future recovery of deferred
3 FAS 106 costs?

4 A. Yes, on the grounds that it is not appropriate for the Commission to
5 make rate determinations in the context of an AAO. If the Commission is
6 persuaded to issue an AAO for the Company in this case, which the Staff opposes,
7 then the Staff recommends that the Commission omit the requested language
8 regarding its "intent," and instead insert its traditional AAO language reserving all
9 ratemaking issues to subsequent rate proceedings. This traditional language
10 should be sufficient for UWM's purpose, if Mr. Candelmo's statements on page 7
11 of his direct testimony are true: "UWM acknowledges that the requested AAO
12 would only establish the extraordinary nature of the expenses...UWM seeks only to
13 preserve this issue for its next rate case."

14 Q. Is there any precedent for the Commission allowing deferral treatment
15 for FAS 106 expense in a similar manner to UWM's deferral?

16 A. No. The Company has used the deferral mechanism to capture in an
17 isolated manner increases in one discreet expense area (OPEBs) over the level of
18 that expense reflected in current rates over a multi-year period. While there have
19 been a number of AAOs issued by the Commission in the past pertaining generally
20 to OPEB expense, none of the AAOs granted by the Commission were intended to
21 give a utility blanket protection for FAS 106 expense increases such as the UWM
22 deferral does. In fact, I am not aware of any AAO issued by this Commission that

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1 served to defer cost increases in a given area of ongoing expense, with no
2 consideration for other revenue requirement changes, in a like manner to the
3 Company's deferral at issue in this proceeding.

4 Q. What other types of FAS 106 deferrals have been granted by the
5 Commission in past AAOs?

6 A. Union Electric Company, Laclede Gas Company and Empire District
7 Electric Company all received AAOs in 1992-1993 in order to allow them to continue
8 booking their OPEB expense on a PAYGO basis, pending a Commission decision
9 on the acceptability of FAS 106 for rate purposes. Ultimately, none of these utilities
10 was able to book the deferrals as the Commission orders did not meet the
11 mandated standards for deferral called for by the EITF.

12 Missouri-American Water Company was granted an AAO by the
13 Commission to defer FAS 106 costs from July 1994 forward (the approximate date
14 HB 1405 was signed into law), in lieu of that utility exercising its right under that
15 legislation to request rate recovery of FAS 106 expenses in a single-issue rate filing.

16 Western Resources Inc. and Missouri Gas Energy were granted AAOs
17 to defer FAS 106 costs as part of their proposals to offset in full any increase in
18 rates due to FAS 106 with the proceeds of company-owned life insurance (COLI)
19 programs.

20 Orchard Farm Telephone Company was granted an AAO in order to
21 switch from accounting for OPEBs from PAYGO to FAS 106 without filing for a rate
22 case. Orchard Farm indicated it would write-off any deferred OPEB amounts on its

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1 books so that any past amounts would not be at issue when it filed for its next rate
2 case.

3 As the above information shows, the Commission has never allowed
4 utilities open-ended protection against earnings losses due to implementation of
5 FAS 106 through AAOs, as UMW is requesting in this case.

6 Q. In your opinion, has the Company met the criteria set forth by the EITF
7 for booking of FAS 106 deferrals?

8 A. No. As described earlier, the EITF requires the Commission to issue
9 an AAO or rate order for the enterprise in question, or alternatively a policy
10 statement or generic order, which among other things specifies that the deferral
11 period will be limited to no more than five years and the amortization period for the
12 deferrals to no more than 15 additional years, before any deferral can be booked
13 in the first place. As this standard applies to UWM, the Commission has never
14 made those findings in regard to the Company in a rate order, nor was it asked to
15 make those findings in an AAO (until after three years of deferrals had been
16 booked.) The Commission has also never issued any "policy statement" or "generic
17 order" indicating a general intent to follow the EITF standards for FAS 106 deferrals.
18 In these circumstances, in the Staff's view, it was incumbent upon UWM to seek
19 explicit authorization from the Commission for booking the deferral. Without such
20 a request, it is hard for the Staff to envision a utility making a good faith claim that
21 recovery of such a deferral would be "probable." This deferral should never have

Rebuttal Testimony of
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1 been booked, under either the relevant financial reporting or the MPSC regulatory
2 standards for deferral of costs.

3 Q. Are you aware of any precedent for a Missouri utility to book a
4 FAS 106 deferral without prior Commission authorization through an AAO?

5 A. Yes. Associated Natural Gas Company (ANG), in Case No.
6 GR-97-272, requested recovery of a FAS 106 deferral that had never been put forth
7 to the Commission for approval in an AAO application. The Staff opposed recovery
8 of that deferral on the grounds that no AAO had ever been granted to the utility.
9 That rate case was ultimately resolved through an overall stipulation and agreement
10 that did not specifically reference the FAS 106 deferral issue. Subsequent
11 discussions with ANG employees revealed that ANG has since written off the
12 amounts previously booked as a FAS 106 deferral for Missouri.

13 Q. What practical difficulties face the Commission, the Staff and OPC
14 when utilities do not seek AAOs in order to defer costs?

15 A. The Commission and other parties are disadvantaged in that they are
16 prevented from recommending or requiring conditions in connection with utility
17 deferral requests. Two examples of this are : 1) timing of rate cases in regard to
18 AAOs, and 2) related pension deferrals and ratemaking.

19 Q. Please explain your point on timing of rate cases.

20 A. In the past, the Commission has put a requirement in most AAOs it
21 has issued that the recipient utility file a rate case within a certain period of time
22 after the AAO is granted, or write off the accumulated deferrals. The following is

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another excerpt from the Commission's Report and Order in Case Nos. EO-98-358
and EO-91-360, Missouri Public Service (pages 8-9):

The Commission finds that a time limitation on deferrals is reasonable since deferrals cannot be allowed to continue indefinitely. The Commission finds that a rate case must be filed within a reasonable time after the deferral period for recovery of the deferral to be considered. For purposes of this case the Commission finds that twelve months is a reasonable period. This limitation accomplishes two goals. First, it prevents the continued accumulation of deferred costs so that total disallowance would not affect the financial integrity of the company or the Commission's ability to make the disallowance; and secondly, it ensures the Commission a review of those costs within a reasonable time. If the costs are truly extraordinary, recovery in rates should not be delayed indefinitely. A utility should not be allowed to save deferrals to offset against excess earnings in some future period.

As explained above, this requirement prevents a utility from stockpiling deferrals year after year, while otherwise enjoying adequate (or better) earnings related to all other aspects of its operations. In the specific situation of UWM, such a rate case filing requirement would have been essential to any FAS 106 deferral it might have been granted. I am not aware of any AAO issued by this Commission where a utility was allowed to accumulate deferrals for four years, as is the case here. But since the Company did not apply for an AAO with the Commission, no such time limitation could have been put in place.

Q. Would the Staff's opposition to the Company's AAO request be reduced by limiting the deferrals to those booked after December 1996, as called for in the Commission's February 4, 1998 Order in this case?

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1 A. No, because OPEB costs incurred after 1996 (or before 1997, for that
2 matter) cannot reasonably be characterized as extraordinary.

3 Q. Why does the Staff have pension concerns in the context of an
4 OPEBs issue?

5 A. The Staff views that OPEBs and pensions have a high degree of
6 interrelationship in light of FAS 106. Similar to OPEBs, pensions can be treated for
7 rate purposes on an accrual basis (FAS 87, "Employers' Accounting for Pensions")
8 or on a cash or "contributions" basis. Prior to issuance of FAS 106, pension costs
9 were normally treated in Missouri on a contributions basis. Since use of FAS 106
10 has been mandated by law in Missouri, the Staff has argued that consistent and
11 equitable rate treatment would require that both OPEBs and pensions be treated
12 for rate purposes on an accrual basis. The Commission has agreed with the Staff's
13 position on this matter in recent rate proceedings. Consistency of treatment of
14 FAS 106 and FAS 87 becomes even more important when one realizes that moving
15 from rate treatment for pensions from a contributions basis to FAS 87 for many
16 companies reduces their revenue requirement, a reduction that can offset all or in
17 part the increase normally associated with use of FAS 106 for rate purposes for
18 OPEBs.

19 In UWM's last Missouri rate case, the Staff explicitly favored continued
20 use of the contributions approach for pensions in setting rates only because the
21 Company was not seeking FAS 106 treatment for OPEBs. As was stated in the

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rebuttal testimony of Staff witness David G. Winter in UMW's rate case, No. WR-94-297:

Until recently, the Staff has consistently recommended that the minimum ERISA contribution level was appropriate for pension ratemaking. This methodology ties the ratemaking allowance for pension expense to cash contributions made to the pension trust fund. At the same time, the Staff consistently recommended use of the pay-as-you-go (cash) ratemaking accounting treatment for post-retirement benefits other than pensions (OPEBs). The financial reporting treatment of OPEBs was changed to an accrual method by the issuance of Financial Accounting Standard No. 106 (FAS 106), "Employers' Accounting for Postretirement Benefits Other Than Pensions". As a result of recent legislation requiring adoption of FAS 106 treatment of OPEB costs by the Commission for ratemaking purposes, the Staff has determined that similar ratemaking treatment should be afforded pension costs by using FAS 87 to set rates. This position is based on the similarities of the two Financial Accounting Standards Board pronouncements. However, in this case CCWC has not adopted FAS 106 for ratemaking purposes for OPEBs. Therefore, since OPEB costs are being accounted for by CCWC under the pay-as-you-go method, the consistency principle discussed above would require that FAS 87 not be used to set rates for pension costs.

If the Staff had been aware that a FAS 106 deferral was being contemplated during the pendency of Case No. WR-94-297, it likely would have argued as a condition for any deferral granted that a concurrent pensions deferral tracking the difference between FAS 87 expense and the contributions amount also be ordered. However, since UWM did not seek an AAO to defer OPEBs expense, the Staff could recommend no such condition to the Commission.

Q. Has the Staff sought information on UWM's current pension costs in this case through a data request?

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1 A. Yes. The Company refused to provide the Staff the desired
2 information on the grounds that it was outside the scope of this case.

3 Q. Mr. Candello cites to the language in HB 1405 (Section 386.315,
4 RSMo) as providing support for the Company's AAO Application. Do you agree?

5 A. No. HB 1405 is quite explicit in what it provides for: recovery for
6 FAS 106 expenses by utilities if the amount is externally funded and the actuarial
7 assumptions supporting the calculation are reasonable. There is nothing in the
8 legislation that would implicitly or explicitly call for the Commission to grant deferrals
9 of FAS 106 expense to utilities in general, much less retroactive approval to a
10 deferral that goes back four years at this point. The complete text of HB 1405 is
11 attached to this testimony as Schedule 4.

12 Q. If the Commission were to grant the Company any credence on its
13 assertion that HB 1405 provides some sort of support for its AAO Application, are
14 there any additional facts that should be kept in mind?

15 A. Yes. Since this legislation only requires that funded FAS 106
16 expense be given rate recovery, the Commission should be aware that Schedule 3
17 to this testimony shows that UWM's external funding amounts for FAS 106 since
18 1995 have been much less than the total FAS 106 expense it has been deferring.

19 Q. Would the Staff be opposed to granting UWM an AAO in this case that
20 merely preserved all ratemaking issues for the Company's next rate case (assuming
21 that such an AAO could meet the applicable EITF standards)?

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1 A. Yes. The Staff believes that all relevant facts concerning the propriety
2 of the Company's FAS 106 deferral are known at this time. The Staff believes this
3 deferral was improper both from a financial reporting and regulatory perspective.
4 It was also performed without benefit of Commission knowledge or approval. Any
5 future recovery of deferred OPEB amounts in rates by UWM would likely constitute
6 improper retroactive and single-issue ratemaking; the Staff believes this is a
7 determination the Commission can make now based on the evidence before it in
8 this case. If the Commission agrees with these perceptions, the appropriate course
9 of action would be deny the AAO application in entirety, and have UWM write-off the
10 deferred costs. Leaving this determination to the next rate case will only prolong the
11 "pain" of any subsequent write-off, and could conceivable increase the amount of
12 any ultimate write-off if the Company continues to defer FAS 106 costs.

13 Q. Should the Commission be swayed by Mr. Candelmo's comments in
14 his direct testimony about the amount of the write-off resulting from any adverse
15 Commission decision regarding this application?

16 A. No. The risk of write-offs are inherent anytime the Commission
17 explicitly authorizes deferral of costs through AAOs. The Staff must note that it is
18 particularly inappropriate for the Company to comment on the magnitude of possible
19 write-offs if this AAO request is denied when UWM never came to the Commission
20 for approval of the deferral in the first place, as it should have.

21 Q. Does this conclude your rebuttal testimony?

22 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the application of United Water
Missouri Inc. for an accounting authority order
relating to fas 106.

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Case No. WA-98-187

AFFIDAVIT OF MARK L. OLIGSCHLAEGER

STATE OF MISSOURI

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ss.

COUNTY OF COLE

Mark L. Oligschlaeger, is, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 27 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

Mark L. Oligschlaeger
Mark L. Oligschlaeger

Subscribed and sworn to before me this 21st day of July, 1998.

Roberta A. McKiddy
Notary Public

My Commission Expires: _____

ROBERTA A. MCKIDDY
Notary Public, State of Missouri
County of Cole
Commission Expires 09/11/99

MARK L. OLIGSCHLAEGER

<u>COMPANY</u>	<u>CASE NO.</u>
Kansas City Power and Light Company	ER-82-66
Kansas City Power and Light Company	HR-82-67
Southwestern Bell Telephone Company	TR-82-199
Missouri Public Service Company	ER-83-40
Kansas City Power and Light Company	ER-83-49
Southwestern Bell Telephone Company	TR-83-253
Kansas City Power and Light Company	EO-84-4
Kansas City Power and Light Company	ER-85-128 & EO-85-185
KPL Gas Service Company	GR-86-76
Kansas City Power and Light Company	HO-86-139
Southwestern Bell Telephone Company	TC-89-14
Western Resources	GR-90-40 & GR-91-149
Missouri-American Water Company	WR-91-211
UtiliCorp United, Inc./Missouri Public Service	EO-91-358 & EO-91-360
Generic: Expanded Calling Scopes	TO-92-306
Generic: Energy Policy Act of 1992	EO-93-218
Western Resources/Southern Union Company	GM-94-40
St. Louis County Water Company	WR-95-145

Union Electric Company	EM-96-149
St. Louis County Water Company	WR-96-263
Missouri Gas Energy	GR-96-285
Empire District Electric Company	ER-97-82
UtiliCorp United, Inc./Missouri Public Service	ER-97-394

EITF Abstracts

Issue No. 92-12

Title: Accounting for OPEB Costs by Rate-Regulated Enterprises

Dates Discussed: September 24, 1992; November 19, 1992; January 21, 1993

References: FASB Statement No. 5, *Accounting for Contingencies*
FASB Statement No. 71, *Accounting for the Effects of Certain Types of Regulation*
FASB Statement No. 87, *Employers' Accounting for Pensions*
FASB Statement No. 90, *Regulated Enterprises—Accounting for Abandonments and Disallowances of Plant Costs*
FASB Statement No. 92, *Regulated Enterprises—Accounting for Phase-in Plans*
FASB Statement No. 106, *Employers' Accounting for Postretirement Benefits Other Than Pensions*
FASB Statement No. 109, *Accounting for Income Taxes*
FASB Special Report, *A Guide to Implementation of Statement 87 on Employers' Accounting for Pensions: Questions and Answers*

ISSUE

Most rate-regulated enterprises must account for postretirement benefit (OPEB) costs in accordance with the provisions of Statement 106 for fiscal years beginning after December 15, 1992. Under Statement 106, postretirement benefits are viewed as deferred compensation arrangements whereby an employer promises to exchange future benefits for employees' current services. Because the obligation to provide benefits arises as employees render the service necessary to earn the benefits, the FASB concluded that the cost of providing the benefits should be recognized over those employees' service periods. The Board provided a transition option in Statement 106 under which an employer may recognize its transition obligation (related to prior service cost) either immediately upon adoption of Statement 106 or by amortizing the obligation over the employees' average remaining service period, or 20 years, whichever is longer.

Before the adoption of Statement 106, most employers, including rate-regulated enterprises, accounted for OPEB costs on a pay-as-you-go (cash) basis. Likewise, many regulators have traditionally allowed OPEB costs to be included in rates on a pay-as-you-go basis.

When rate-regulated enterprises adopt Statement 106 for financial reporting purposes, costs recognized for OPEB may increase significantly for many of those enterprises. Accordingly, whether and how this increased amount of OPEB costs will be included in rates has been and is likely to continue to be the subject of many upcoming regulatory proceedings.

Statement 71 contains judgmental criteria for the recognition of assets and liabilities resulting from the effects of regulation. If a regulator allows less than the full accrual (Statement 106) amount of OPEB costs in rates, a question is raised whether it is *probable* that future rates will include an amount at least equal to the difference between the amount of OPEB costs currently included in rates and Statement 106 costs.

The cumulative difference between Statement 106 costs and OPEB costs included in rates may continue to increase for many years.

The issue is what additional criteria or evidence, if any, is needed for a rate-regulated enterprise to satisfy the requirements of Statement 71 to recognize a regulatory asset for Statement 106 costs for which rate recovery has been deferred.

EITF DISCUSSION

The Task Force reached several consensuses. All of the consensuses on this Issue apply *only* to the accounting for regulatory assets related to Statement 106 costs for rate-regulated enterprises that meet the criteria for applying Statement 71.

For continuing OPEB plans, the Task Force reached a consensus that a regulatory asset related to Statement 106 costs should not be recorded if the regulator continues to include OPEB costs in rates on a pay-as-you-go basis. Several Task Force members noted that the application of Statement 71 requires that a rate-regulated enterprise's rates be designed to recover the specific enterprise's costs of providing the regulated service or product. These Task Force members noted that an enterprise's cost of providing a regulated service or product includes Statement 106 costs.

The Task Force reached a consensus that for a continuing plan a rate-regulated enterprise should recognize a regulatory asset for the difference between Statement 106 costs and OPEB costs included in the enterprise's rates if the enterprise (1) determines that it is probable that future revenue in an amount at least equal to the de-

**Accounting for OPEB Costs by
Rate-Regulated Enterprises**

EITF 92-12

ferred cost (regulatory asset) will be recovered in rates and (2) meets *all* of the following criteria:

- a. The rate-regulated enterprise's regulator has issued a rate order or issued a policy statement or a generic order applicable to enterprises within the regulator's jurisdiction that allows both for the deferral of Statement 106 costs and for the subsequent inclusion of those deferred costs in the enterprise's rates.
- b. The annual Statement 106 costs (including amortization of the transition obligation) will be included in rates within approximately five years from the date of adoption of Statement 106. The change to full accrual accounting may take place in steps, but the period for deferring additional amounts should not exceed approximately five years.
- c. The combined deferral-recovery period authorized by the regulator for the regulatory asset should not exceed approximately 20 years from the date of adoption of Statement 106. To the extent that the regulator imposes a deferral-recovery period for Statement 106 costs greater than approximately 20 years, any proportionate amount of such costs not recoverable within approximately 20 years should not be recognized as a regulatory asset.
- d. The percentage increase in rates scheduled under the regulatory recovery plan for each future year should be no greater than the percentage increase in rates scheduled under the plan for each immediately preceding year. This criterion is similar to that required for phase-in plans in paragraph 5(d) of Statement 92. The Task Force observed that recovery of the regulatory asset in rates on a straight-line basis would meet this criterion.

As to transition, the Task Force reached a consensus that if a rate-regulated enterprise is not currently recovering full Statement 106 costs in rates and does not have a rate order from the regulator that meets the criteria set forth above, then that rate-regulated enterprise should establish a regulatory asset for Statement 106 costs only if (1) the enterprise has filed a rate application to have Statement 106 costs included in rates as described above or intends to do so as soon as is practicable and (2) it is probable that the regulator will change the amount of OPEB costs included in future rates in a manner that meets the criteria described above.

The Task Force also agreed that the above consensuses apply to rate-regulated enterprises that elect to immediately recognize their OPEB transition obligation under Statement 106 as well as those enterprises that elect to delay the recognition of and amortize their OPEB transition obligation in accordance with Statement 106.

For discontinued plans, the Task Force reached a consensus that a regulatory asset related to Statement 106 costs should be recorded if it is probable that future revenue

in an amount at least equal to any deferred Statement 106 costs will be recovered in rates within approximately 20 years following the adoption of Statement 106. Rate recovery during that period may continue on a pay-as-you-go basis. For purposes of this consensus, the Task Force agreed that a discontinued plan is one that results in employees not earning additional benefits for future service (that is, one that has no current service costs).

The Task Force also reached a consensus that a rate-regulated enterprise should disclose in its financial statements a description of the regulatory treatment of OPEB costs, the status of any pending regulatory action, the amount of any Statement 106 costs deferred as a regulatory asset at the balance sheet date, and the period over which the deferred amounts are expected to be recovered in rates.

Additionally, the Task Force reached a tentative conclusion that if a rate-regulated enterprise initially fails to meet the regulatory asset recognition requirements of this consensus, but meets those requirements in a subsequent period, then a regulatory asset for the cumulative difference between Statement 106 costs and OPEB costs included in rates since the date of adoption of Statement 106 should be recognized in the period the requirements are met.

Another related issue was raised about whether it is necessary to meet the probability test of Statement 71 on a continuous basis following the initial recording of a regulatory asset for purposes of evaluating realizability or whether, subsequent to the initial recording of the asset, impairment is evaluated similar to that for other long-lived assets.

The Task Force agreed to consider both the tentative conclusion and the related issue at a future meeting as a separate Issue.

STATUS

No further EITF discussion is planned.

**DATA INFORMATION REQUEST
UNITED WATER MISSOURI
CASE NO. WA-98-187**

FILED
MAY 21 1998
MISSOURI
PUBLIC SERVICE COMMISSION
NO. 1

Requested From: Dean Cooper
Date Requested: 05/13/98
Requested By: Mark Oligschlaeger

Information Requested:

For UMW, please provide the following OPEB amounts, for 1995-1997 (actual) and 1998-1998 (projected):

- a) PAYGO amount;
- b) FAS 106 expense;
- c) amount funded.


Also, provide OPEB actuarial studies prepared for General Waterworks and its successor, United Waterworks, for the years 1993-1997.

Information Provided:

	1995	1996	1997	1998	1999
PAYGO	5,740	4,728	6,849	7,812	8,000
FAS 106	107,317	113,105	93,218	120,814	121,000
Funded Amount	31,989	31,537	45,901	46,000	46,000

See attached actuarial studies for the years 1994, 1995, 1996 and 1997. There is no General Waterworks study within UWM's possession, custody or control for 1993.

The information provided in response to the above information request is accurate and complete, and contains no material misrepresentations or omissions based upon present facts known to the undersigned.

Signed By: 

Data Response Received: _____

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1405
87TH GENERAL ASSEMBLY

2796-3

AN ACT

To repeal section 386.315, RSMo Supp. 1993, relating to the public service commission, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 386.315, RSMo Supp. 1993, is
2 repealed and one new section enacted in lieu thereof, to
3 be known as section 386.315, to read as follows:

386.315. 1. In establishing public utility rates, the
2 commission shall not reduce or otherwise change any
3 wage rate, benefit, working condition, or other term or
4 condition of employment that is the subject of a collective
5 bargaining agreement between the public utility and a
6 labor organization. Additionally, the commission
7 shall not disallow or refuse to recognize the actual
8 level of expenses the utility is required by Financial
9 Accounting Standard 106 to record for post-
10 retirement employee benefits for all the utility's
11 employees, including retirees, if the assumptions
12 and estimates used by a public utility in determin-
13 ing the Financial Accounting Standard 106
14 expenses have been reviewed and approved by the
15 commission, and such review and approval shall
16 be based on sound actuarial principles.

17 2. A public utility which uses Financial

18 Accounting Standard 106 shall be required to use
19 an independent external funding mechanism that
20 restricts disbursements only for qualified retiree
21 benefits. In no event shall any funds remaining in
22 such funding mechanism revert to the utility after
23 all qualified benefits have been paid; rather, the
24 funding mechanism shall include terms which
25 require all funds to be used for employee or retiree
26 benefits. This section shall not in any manner be
27 construed to limit the authority of the commission
28 to set rates for any service rendered or to be
29 rendered that are just and reasonable pursuant to
30 sections 392.240, 393.140 and 393.150, RSMo.

31 3. Any public utility which was the subject of
32 a rate proceeding resulting in the issuance of a
33 report and order subsequent to January 1, 1993,
34 and prior to the effective date of this section,
35 directing or permitting the establishment of new
36 rates by such utility, may file one set of tariffs
37 modifying its rates to reflect the revenue require-
38 ment associated with the utility's expenses for
39 post-retirement employee benefits other than
40 pensions, as determined by Financial Accounting
41 Standard 106, including the utility's transition
42 benefit obligation, regardless of whether the
43 deferral or immediate expense recognition method
44 was used, if such utility is funding the full extent
45 of its Financial Accounting Standard 106 obliga-
46 tion at the time such tariffs are filed. The tariffs
47 shall reflect the annual level of expenses as
48 determined in accordance with Financial Account-
49 ing Standard 106. The commission may suspend

50 such tariffs for no longer than 150 days to examine
51 the assumptions and estimates used and to review
52 and approve the expenses required by Financial
53 Accounting Standard 106 including an amortiza-
54 tion of the transition benefit obligation over no
55 greater amortization period than twenty years
56 based upon sound actuarial principles and to
57 address any rate design issues associated with the
58 utilities Financial Accounting Standard 106 based
59 revenue requirement. The commission shall not
60 examine any other revenue requirement issues.