

Exhibit No.:
Issues: Eureka Acquisition
Witness: Brian W. LaGrand
Exhibit Type: Rebuttal (Arbors)
Sponsoring Party: Missouri-American Water Company
Case No.: WA-2021-0376
Date: May 2, 2022

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. WA-2021-0376

REBUTTAL TESTIMONY (ARBORS)

OF

BRIAN W. LAGRAN

ON BEHALF OF

MISSOURI-AMERICAN WATER COMPANY

AFFIDAVIT

I, Brian W. LaGrand, under penalty of perjury, and pursuant to Section 509.030, RSMo, state that I am Director of Rates and Regulatory Support for Missouri-American Water Company, that the accompanying testimony has been prepared by me or under my direction and supervision; that if inquiries were made as to the facts in said testimony, I would respond as therein set forth; and that the aforesaid testimony is true and correct to the best of my knowledge and belief.



Brian W. LaGrand

May 2, 2022
Dated

**REBUTTAL TESTIMONY (ARBORS)
BRIAN W. LAGRAN
MISSOURI AMERICAN WATER COMPANY
CASE NO. WA-2021-0376**

TABLE OF CONTENTS

I. INTRODUCTION 3
II. EUREKA ON-SITE MEETING 3
III. REGULATORY TREATMENT OF ARBORS WATER ASSETS..... 4
IV. ARBORS CID ASSESSMENT 6

REBUTTAL TESTIMONY (ARBORS)

BRIAN W. LAGRAN

I. INTRODUCTION

1

2 **Q. Please state your name and business address.**

3 A. My name is Brian W. LaGrand, and my business address is 727 Craig Road, St. Louis, MO
4 63141.

5 **Q. Are you the same Brian W. LaGrand who previously submitted direct testimony in
6 this proceeding?**

7 A. Yes.

8 **Q. What is the purpose of your Rebuttal Testimony?**

9 A. I have read the Direct Testimony filed in this case related to the Arbors and will respond
10 to certain testimony provided by Staff witnesses Amanda McMellen and Curtis Gateley
11 related to the Arbors Community Improvement District (“Arbors CID”).

II. EUREKA ON-SITE MEETING

12
13 **Q. On p. 2 of her Direct Testimony, Staff witness McMellen describes a meeting that
14 took place at the City of Eureka on August 10, 2021. Were you present at that
15 meeting?**

16 A. Yes, I was present, along with other representatives of the Company.

17 **Q. Do you recall the discussions in that meeting occurring as described by Ms.
18 McMellen?**

19 A. Generally, yes. However, I disagree with her statement that the Mayor of Eureka, Sean
20 Flower, attended that meeting. The only representative of the City of Eureka present at
21 that meeting was Ms. Flint.

1 **Q. What was the purpose of that meeting?**

2 A. The meeting was arranged by the Company, at the request of Staff, to allow the auditors to
3 determine what types of asset records were available for Staff to examine, and for Staff to
4 ask Eureka representatives any other questions they might have to assist Staff in the
5 preparation of its Recommendation.

6 **Q. Did the topic of contributed property come up during that meeting?**

7 A. Yes, it did. It was noted to Staff that, as is common with most municipalities of this size,
8 there were likely some water and sewer assets that were contributed to the City. These
9 assets, now owned by the City of Eureka, would be included in the appraised value.

10 **Q. Did the topic of the Arbors CID and the annual assessment paid by those homeowners
11 come up during that meeting?**

12 A. No, it did not.

13 **Q. At the time of that meeting, were you aware of the annual assessment paid by Arbors
14 homeowners?**

15 A. No, I was not.

16 **III. REGULATORY TREATMENT OF ARBORS WATER ASSETS**

17 **Q. How did Staff treat the Arbors water assets in its recommendation filed in this case?**

18 A. Staff treated the Arbors water assets as contributed property and included \$2,901,918 of
19 Contributions in Aid of Construction in their hypothetical “net book value” exercise.

20 **Q. Therefore, Staff had already removed the Arbors water assets from its net book value
21 rate base at the time of its Recommendation?**

22 A. Yes. Accordingly, it was also reflected in this fashion in Staff’s Rebuttal Testimony.

1 **Q. Have the issues surrounding the Arbors water assets previously been addressed in**
2 **this case?**

3 A. Yes. During the evidentiary hearing, Ms. McMellen was cross-examined by counsel for
4 MAWC and specifically about the Arbors development. Ms. McMellen agreed that was
5 an example where the fair market value of an asset was much different than the net book
6 value.¹ This cross examination was in reference to Staff's recommendation and testimony
7 suggesting that the value of the Arbors assets should be subtracted from Staff's calculation
8 of "net book value." Further, the Arbors water system was specifically discussed in
9 MAWC's Initial Brief as a contributed asset, along with the impact contributed plant
10 should have on the fair market value, which is none.²

11 **Q. Is there anything about the Arbors water assets that is different than other property**
12 **that has been contributed to a municipality?**

13 A. No. This is no different than any other property owned by a city that was contributed by a
14 developer and included in the appraised value.

15 **Q. Earlier you stated you were unaware of the Arbors CID assessment. Had you been**
16 **aware, would that have changed the Company's position regarding the regulatory**
17 **treatment of the assets contributed from the Arbors?**

18 A. No, it would not.

19 **Q. Why would that information not change the Company's position?**

20 A. The way the City acquired its assets – purchased or contributed – is irrelevant in
21 establishing a "fair market value". The fair market value legislation does not call for any

¹ WA-2021-0376 Transcript p. 278-279, 280

² WA-2021-0376 MAWC Initial Brief, p. 20-21

1 adjustment for contributed property, nor would the path of acquisition be relevant to fair
2 market value in any other situation. As noted in my Direct Testimony in this case, Section
3 393.320.5(1), RSMo states, in part, that:

4 “[t]he lesser of the purchase price or the appraised value, together
5 with reasonable and prudent transaction, closing and transition costs
6 incurred by the large water public utility, shall constitute the
7 ratemaking rate base for the small water utility as acquired by the
8 acquiring large water public utility . . .” (emphasis added).

9 In this case, the appraised value is \$28.0 million, as is the purchase price. The legislation
10 is clear that the ratemaking rate base shall be \$28.0 million.

11 **Q. Does the knowledge that homeowners are paying an annual assessment to Arbors CID**
12 **change Staff’s position on any issues in this case?**

13 A. No. On page 4 of his Direct Testimony, Staff Witness Gateley say that Staff’s
14 Recommendation remains unchanged.

15 **IV. ARBORS CID ASSESSMENT**

16 **Q. On page 2 of her Direct Testimony, Ms. McMellen says that “neither MAWC nor City**
17 **of Eureka personnel that attended the onsite visit mentioned the annual assessments**
18 **or the CID.” On page 3 of his Direct Testimony, Mr. Gateley says that “. . . Staff was**
19 **not made aware that Arbors residents are paying assessments to the developer . . .”**

20 **Did the Company withhold this information from Staff?**

21 A. No, and the implication that the Company or Eureka did is disingenuous and misleading.
22 While I was personally unaware of the Arbors CID, its existence was hardly a secret. The

1 Arbors CID and the assessments paid are openly addressed on the website³ the City created
2 about the potential sale in advance of the referendum that took place in August 2020.
3 Under the Frequently Asked Questions (“FAQ”), this subject is addressed in question 29.

4 **Q. Was this information available to Staff during this case?**

5 A. Yes. It has been more than one year since Company filed the Application in this case. This
6 information has been publicly available the entire time.

7 **Q. Mr. Gateley references question 29 of the FAQ, and the answer from Mayor Flower**
8 **on page 3 of his Direct Testimony. Is this the first time in this case that Staff has**
9 **referred to the City’s FAQ about the potential sale of the system published on the**
10 **City of Eureka’s website?**

11 A. No, it is not. On page 16 of the Staff Recommendation (which was filed on October 1,
12 2021), it states:

13 The City of Eureka also has a frequently asked questions website
14 page, <https://www.eureka.mo.us/faq.aspx?TID=23>, to answer
15 questions concerning the MAWC proposed purchase of Eureka
16 water and sewer.

17 **Q. So sometime prior to October 1, 2021, when Staff filed its Recommendation in this**
18 **case, Staff was aware of the FAQ page?**

19 A. Yes. I assume Staff must have visited the website, but I do not know if Staff read the
20 information on the FAQ page that was designed to answer any questions the residents had
21 with regard to the water and sewer sale before they voted on the referendum.

³ <https://www.eureka.mo.us/Faq.aspx?TID=23>

1 **Q. If Staff had simply read the FAQ page, would they have learned about the existence**
2 **of the Arbors CID and the corresponding assessment?**

3 A. Yes.

4 **Q. Despite knowing about the City's FAQ page in advance of filing their**
5 **Recommendation in this case, did Staff issue any discovery requests about the Arbors**
6 **CID?**

7 A. No. Even though the Arbors CID is irrelevant to the Appraisal statute at issue in this case,
8 the Company certainly could have obtained information to respond to any discovery
9 requests relative to the Arbors CID, if asked.

10 **Q. If there were no Arbors CID, how would you expect the infrastructure costs to be**
11 **recovered by the developer?**

12 A. I believe Staff has historically assumed a developer's costs to have been recovered through
13 the sale of lots, whether that truly has taken place or not.

14 **Q. Does the treatment of "contributed plant" in this situation change if there is a CID**
15 **reimbursing a developer or if a developer recoups its costs up front by incorporating**
16 **those costs in price of the lots?**

17 A. No. Regardless of how the developer seeks to recoup the cost of the infrastructure, for our
18 purposes, the plant has been contributed to the City, is owned by the City, has a value, and
19 the City should not have to give it away for free.

20 **Q. On page 4 of his direct testimony Mr. Gateley states "The customers residing in the**
21 **Arbors will pay twice for the water system serving their subdivision." Is this**
22 **statement accurate?**

1 A. No, it is not. First, the Arbors customers represent a little less than 10% of the
2 approximately 4,100 Eureka water customers. More importantly, since the City of Eureka
3 is a fair market value transaction, the entire system, including the Arbors assets, is valued
4 at \$28.0 million. The Company is purchasing the entire system. If the Arbors assets are
5 to have zero value because they were contributed to the City, then the \$28.0 million
6 purchase price will be allocated amongst the other assets. So regardless of if those assets
7 have an accounting value or not, the customer rate impact will be the same. Staff would
8 like for the appraisal value to be reduced for any contributed assets. However, as has been
9 noted earlier in my testimony and throughout this case, the fair market value legislation
10 does not call for any reduction for contributed property.

11 **Q. If, in this transaction, the entire City of Eureka water and sewer system had been**
12 **contributed to the city, what would rate base be?**

13 A. The rate base would be the exact same, \$28.0 million. The source of the assets has no
14 impact on the fair market, or appraised, value. Under Staff's approach, they would expect
15 the City to give the entire system away to the Company for free.

16 **Q. Do residents in the Arbors pay a lower water rate today than other Eureka customers**
17 **since they have contributed approximately \$2.9 million of assets to the City, and will**
18 **continuing paying the CID assessment into the future?**

19 A. No. Customers in the Arbors pay the same rates as any other Eureka customer.

20 **Q. Does this conclude your rebuttal testimony?**

21 A. Yes.