

Exhibit No.:
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Witness: Sean M. Flower
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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

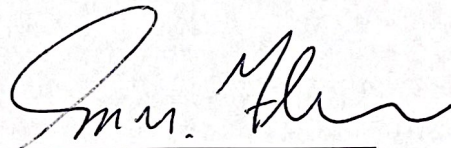
SEAN M. FLOWER

ON BEHALF OF

MISSOURI-AMERICAN WATER COMPANY

AFFIDAVIT

I, Sean Flower, under penalty of perjury, and pursuant to Section 509.030, RSMo, state that I am Mayor of the City of Eureka, 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.

A handwritten signature in black ink, appearing to read "Sean Flower", written over a horizontal line.

Sean Flower

May 2, 2022
Dated

**REBUTTAL TESTIMONY (ARBORS)
SEAN M. FLOWER
MISSOURI AMERICAN WATER COMPANY
CASE NO. WA-2021-0376**

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Q. Please state your name and business address.

A. Sean M. Flower. My business address is: City of Eureka; 100 City Hall Drive; P.O. Box 125; Eureka, Missouri 63025.

Q. Are you the same Sean M. Flower who previously submitted Direct Testimony in this proceeding?

A. Yes.

Q. What is the purpose of your Rebuttal Testimony?

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

II. RESPONSE TO STAFF TESTIMONY

Q. On p. 1 of his Direct Testimony, Staff witness Curt Gately describes the Arbors CID as “additional information that was brought to Staff’s attention due to public comments submitted after the evidentiary hearing.” When was the Arbors CID information first available?

A. As with any Community Improvement District in Missouri, such information is public from the date it was established on October 18, 2016. Further, I specifically discussed the Arbors CID in our town hall meetings, on social media, direct emails, as well as speaking one on one with our residents. We also took the extra step of including a detailed explanation of the Arbors CID on the Q & A portion of the water and wastewater proposed

1 sale our website prior to the vote. The Q & A regarding the sale went live on July 15,
2 2020, and has been continuously available, even today.

3 **Q. Specifically, what information is on the Eureka website Water and Wastewater Sale**
4 **Q & A regarding the Arbors CID?**

5 A. The Arbors question and answer can be found at
6 <https://www.eureka.mo.us/Faq.aspx?TID=23>. Question 29 covers the Arbors CID
7 payments. A screenshot of Question 29, with the response, is attached to my testimony as
8 **Schedule SF-1**.

9 **Q. On pg. 2 of her Direct Testimony, Staff witness Amanda McMellen states that you**
10 **attended the August 10, 2021 meeting in Eureka. Were you at that meeting?**

11 A. No. I was not present at any meetings that Staff had in Eureka.

12 **Q. Who pays for water and wastewater utility infrastructure in private developments in**
13 **Eureka?**

14 A. Developers and the purchasers of their developments. Water and sewer infrastructure is
15 included in the items that the developer installs on the site and then dedicates to Eureka.
16 The developer can either incorporate the site development costs into the price of the lots
17 sold or set up a Community Improvement District like the Arbors of Rockwood CID. The
18 CID allows the lot owners to pay for the costs over time, rather than paying for those costs
19 up front with a higher lot price. In both cases, the risk is on the developer, as the recovery
20 of the site development costs depends on the ultimate build out of the subdivision.

21 **Q. Do the Arbors residents pay “double” for the water and sewer infrastructure in their**
22 **development?**

23 A. No. Residents without a CID would generally pay the full up-front costs to install water

1 and sewer infrastructure in their initial home price. The Arbors residents paid less for their
2 homes up front and will pay some of the cost of water infrastructure and the subdivision
3 parkway over time, something that is disclosed in every home sale. To be clear, the Arbors
4 CID payments are to reimburse the developer for certain water system costs, the main
5 parkway, as well as a trail in the development.

6 **Q. How many total homes are in the Arbors subdivision?**

7 A. As I understand it, there are 528 total lots and 405 occupancy permits have been issued so
8 far. This would represent approximately 405 current water customers.

9 **Q. How many public comments were sent in by Arbors residents to the Missouri Public
10 Service Commission?**

11 A. I am aware of only one public comment regarding the Arbors CID. I attribute this to the
12 fact that we explained the impact to the Arbors CID in great detail through a variety of
13 methods. I would also note that the Aldermen for Ward 1 that includes the Arbors (Jerry
14 Diekmann (who currently lives in the Arbors) and Wes Sir) both supported the sale and
15 were available for discussions with constituents during the election process.

16 **Q. Does Eureka own the Arbors well and tank, or is the CID a form of city debt?**

17 A. Eureka owns the Arbors well and tank free and clear, the CID does not represent debt.

18 **Q. Were you the Mayor of Eureka when the Arbors CID was established?**

19 A. No. The Arbors CID was created, zoned and approved prior to when I became Mayor.

20 **Q. Were you a developer of the Arbors subdivision?**

21 A. No. I was not a developer of the subdivision. My only connection was that a company I
22 own purchased lots after the subdivision was developed for the purpose of building homes.

1 **Q. Does the Arbors CID involve both water and wastewater infrastructure?**

2 A. No. Based on my reading of the CID reimbursement documents, the CID only involves
3 certain water costs, the main parkway and the trail in the development. No sewer costs are
4 reimbursed through the CID payments. The CID development agreement created
5 categories of expenses that were eligible for reimbursement, and a cap on total
6 reimbursement. Categories of eligible expenses include water and sewer infrastructure, the
7 main parkway throughout the development, landscaping, trails and several other public
8 improvements. The developer submitted only certain water costs (primarily the Arbors
9 well and water tank) as well as costs associated with the parkway for reimbursement, and
10 these are the only costs that the Arbors resident assessments apply.

11 **Q. If the Commission does not approve the sale, what will happen to the water and sewer
12 rates of the residents in the Arbors CID?**

13 A: Our residents in the Arbors will pay the same water and sewer rates that everyone else in
14 Eureka will pay. Further, as I have previously testified, increased regulations have greatly
15 increased the complexity and costs in running our water and sewer systems and the rates
16 all Eureka residents will pay will likely be higher than they would if they were part of the
17 Missouri-American, which currently serves almost all of St. Louis County, except for
18 Eureka. So, in summary, it is highly likely that if the sale does not go through, the rates to
19 Eureka residents will be the same or higher than Missouri-American rates.

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

21 A. Yes.

pls?

Missouri American Water and the City of Eureka did not record that meeting.

29. **The Arbors have to pay a \$800/yr maintenance fee for the water tower, if we sell to American Water does that fee go away??**

Response from Mayor Sean Flower...

Arbors CID Explanation: The city does not pay to provide utilities to private developments (the city does not install roads, water, sewer, or other utilities for private developments). In the normal situation, the developer pays to install all of these items in a project, then dedicates the public items (sewer, water, roads, storm sewers, etc...) to the city or utility companies at no charge. The developer typically puts all of this cost into the cost of their lots, and sells the home to the buyer based on this lot cost. In some cases a city will allow the developer to put an annual assessment on the lots owners for a certain number of years instead of putting all the cost up front into the lots. This is only done where there are extraordinary costs (in the case of the arbors building a new water tank, the large parkway entrance, boring sewer under the highway, etc...). The developer still pays the full cost of all public improvements (the city still does not pay to install these utilities), but then puts some of this cost into the lot, and collects some from the buyer after closing for a set number of years. This allows the up front lot/house cost to be lower, and for buyers to pay the additional "extraordinary" cost over time while they actually live there. In the case of the Arbors the developer paid the full cost of all the public improvements. They dedicated it to the city. The city has no debt and no obligations to pay for this asset, it owns it free and clear. The developer paid for part of this cost in the price of the lot, and the developer is also reimbursed for part of it through the annual CID assessment on homeowners. The city cannot redirect public funds (sale proceeds) to payoff CID payments as that would be causing all residents of the city to pay off the debt owed by the arbors residents to the private developer for the install of the utilities necessary to build their subdivision. In effect, the city would be paying to put in the water, sewer, and part of the roads for a private development if they were to pay off the CID payments. I hope this helps explain this topic. And just for clarity, I was neither at the city when this program was set up, I am not the developer, so I am just explaining what has happened in the past.

30. **If the sale of the Water and Treatment facility to MO Am Water passes, would the City still send a monthly bill to residents for Storm Sewers? If so, how much would this be?**

Residents do not receive a storm water bill as storm water is not a City utility. Their trash bill would be sent separately instead of being combined with their water and sanitary sewer bill if we sell those systems.