

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

In the Matter of the Application of Missouri-American )  
Water Company for a Certificate of Convenience and )  
Necessity Authorizing it to Install, Own, Acquire, ) **Case No. WA-2021-0376**  
Construct, Operate, Control, Manage and Maintain a )  
Water System and Sewer System in and Around the )  
City of Eureka, Missouri )

**MAWC STATEMENT OF POSITIONS**

COMES NOW Missouri-American Water Company (MAWC or Company) and provides the following *Statement of Positions* in response as to issues described in the *Joint List of Issues, Order of Witnesses, Order of Cross-Examination, and Order of Openings*, filed on January 5, 2022:

1. ***Is MAWC’s provision of water and wastewater service associated with its proposed purchase of the City of Eureka water and wastewater systems “necessary or convenient for the public service” within the meaning of the phrase in Section 393.170, RSMo?***

**MAWC POSITION:**

Yes. On May 19, 2020, the Eureka Board of Aldermen passed Bill No. 2657 and designated it to be Ordinance No. 2543, *An Ordinance Submitting To The Qualified Voters Of The City Of Eureka A Question Concerning The Sale Of City Water and Wastewater Utilities (“ Ordinance”)*. The *Ordinance* provided notice of an election to be held on August 4, 2020, to vote on (Proposition S), whether the water and wastewater utility owned by the City of Eureka should be sold. The question on the ballot was as follows:

SHALL THE CITY OF EUREKA, MISSOURI BE AUTHORIZED TO SELL ITS  
WATER AND WASTE WATER (SEWER) UTILITIES TO MISSOURI  
AMERICAN WATER COMPANY FOR THE SUM OF \$28,000,000.00  
(TWENTY-EIGHT MILLION DOLLARS)?

The election was held on August 4, 2020, and a majority of votes cast were in favor of Proposition S. Proposition S garnered 2,289 yes votes (67 percent) to 1,127 no votes (33 percent). On November 17, 2020, MAWC entered into a *Purchase Agreement* with Eureka.

MAWC requests in this case certificates of convenience and necessity (CCN) to provide water and sewer service within the identified service area in and around the City of Eureka utilizing the Eureka systems.

The Commission may grant a water or sewer corporation a CCN to operate after determining that the construction and/or operation are either "necessary or convenient for the public service."<sup>1</sup> The Commission articulated criteria to be used when evaluating applications for utility certificates of convenience and necessity in the case *In Re Intercon Gas, Inc., 30 Mo P.S.C. (N.S.) 554, 561 (1991)*. The *Intercon* case combined the standards used in several similar certificate cases, and set forth the following criteria: (1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed service; (3) the applicant must have the financial ability to provide the service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest.<sup>2</sup>

There is a need for the service as residents in and around the City of Eureka currently make use of the existing water and sewer systems. Eureka is the last remaining municipality in St. Louis County that still operates its own water treatment and distribution system and its own wastewater system. MAWC is qualified to provide the service as it already provides safe, adequate and compliant water service to over 470,000 Missouri customers, and sewer service to over 15,000 Missouri customers. MAWC has the financial ability to provide and improve the services.

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<sup>1</sup> Section 393.170.3, RSMo.

<sup>2</sup> The factors have also been referred to as the "*Tartan Factors*" or the "*Tartan Energy Criteria*." See Report and Order, *In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity*, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994).

As the Commission as indicated,<sup>3</sup> positive findings with respect to the other four standards above will in most instances support a finding that an application for a CCN will promote the public interest. The factors for granting certificates of convenience and necessity to MAWC in this case have been satisfied and it is in the public's interest for MAWC to provide water and sewer service to the customers currently served by the City of Eureka. Further, MAWC possesses adequate technical, managerial, and financial capacity to operate and improve the water and sewer systems it wishes to purchase from the City. Thus, the Commission should authorize the transfer of assets and grant MAWC the certificates of convenience and necessity to provide water and sewer service within the proposed service area.

*Eisenloeffel Direct, All.*

*Flower Direct and Surrebuttal, All.*

*LaGrand Direct, p. 7-9.*

*Kaiser Direct, All.*

2. ***If the Commission grants MAWC's application for the CCNs:***
  - A. ***What conditions, if any, should the Commission impose? and,***
  - B. ***Of which existing service areas should the Eureka water and wastewater systems become a part?***

### **MAWC POSITION:**

In approving the Application, the Commission should adopt the conditions proposed by the Staff. (See Gateley Reb., Sched. CBG-r2, p. 29-31).

Eureka's approximately 4,000 water customers should be added to the "St. Louis County" customer base of approximately 343,000 customers. MAWC proposes to adopt the water rates charged by Eureka at closing and to utilize the rules governing rendering of water service currently found in MAWC's water tariff P.S.C. MO No. 13 until such time as the rates and rules are modified according to law.

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<sup>3</sup> *Id.*

On the sewer side, Eureka’s approximately 4,000 customers should join the “Other Missouri” sewer rate category customer base of approximately 8,500 customers.<sup>4</sup> MAWC proposes to provide sewer service pursuant to the rates charged by Eureka closing and to utilize the rules governing rendering of sewer service currently found in MAWC's sewer tariff P.S.C. MO No. 26, until such time as the rates and rules are modified according to law.

*LaGrand Direct, p. 8-11*

3. ***Does Section 393.320, RSMo, require the Commission to establish the ratemaking rate base in this case for the Eureka water and wastewater systems? If so, what is the ratemaking rate base that should be established?***

**MAWC POSITION:**

MAWC seeks to establish the rate base of the Eureka assets utilizing Section 393.320, RSMo. Section 393.320, RSMo, applies where the buyer (MAWC) is a “Large Water Public Utility,” and the seller (Eureka) is a “Small Water Utility.” There appears to be no dispute in this case that MAWC and Eureka’s systems so qualify. In that situation, the statute requires as follows:

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2. **The procedures contained in this section may be chosen by a large water public utility, and if so chosen shall be used by the public service commission to establish the ratemaking rate base of a small water utility during an acquisition.**

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5. (1) **The lesser of the purchase price or the appraised value, together with the reasonable and prudent transaction, closing, and transition costs incurred by the large water public utility, shall constitute the ratemaking rate base for the small water utility as acquired by the acquiring large water public utility; provided, however, that if the small water utility is a public utility subject to chapter 386 and the small water utility completed a rate case prior to the acquisition, the public service commission may select as the ratemaking rate base for the small water utility as acquired by the acquiring large water public utility a ratemaking rate base in between. . . .**

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<sup>4</sup> MAWC serves approximately 15,000 sewer customers state-wide.

6. Upon the date of the acquisition of a small water utility by a large water public utility, whether or not the procedures for establishing ratemaking rate base provided by this section have been utilized, **the small water utility shall, for ratemaking purposes, become part of an existing service area**, as defined by the public service commission, of the acquiring large water public utility that is either contiguous to the small water utility, the closest geographically to the small water utility, or best suited due to operational or other factors. **This consolidation shall be approved by the public service commission in its order approving the acquisition.**

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8. **This section** is intended for the specific and unique purpose of determining the ratemaking rate base of small water utilities and **shall be exclusively applied to large water public utilities in the acquisition of a small water utility.**

(emphasis added).

In this case, the purchase price (which was *specifically identified* in the public election held in Eureka) is equal to the appraised value. That amount together with the reasonable and prudent transaction, closing, and transition costs incurred by MAWC shall be used by the public service commission and shall constitute the ratemaking rate base.

The ratemaking rate base should be established as \$18,000,000 for the water system and \$10,000,000 for the sewer system, plus the reasonable and prudent transaction, closing, and transition costs incurred by MAWC.

*LaGrand Direct, p. 5-7, 11-12; Surrebuttal, All.*

*Batis Direct and Surrebuttal, All.*

*Simpson, Direct and Surrebuttal, All.*

*Eisenloeffel Surrebuttal, All.*

*Kaiser Surrebuttal, All.*

**WHEREFORE**, MAWC respectfully requests the Commission consider its *Statement of Positions*.

Respectfully submitted,



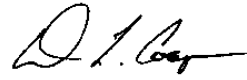
**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 10th day of January, 2022, to:

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