

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

In the Matter of the Joint Application of)
Missouri-American Water Company and)
Roark Water & Sewer, Inc. for Authority)
For Missouri-American Water Company to) Case No. WO-2011-0213
Acquire Certain Assets of Roark Water &)
Sewer, Inc. and, in Connection therewith,)
Certain Other Related Transactions.)

**THE OFFICE OF THE PUBLIC COUNSEL’S RESPONSE
TO STAFF’S RECOMMENDATION**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response to Staff’s Recommendation states as follows:

1. On December 31, 2010, Missouri-American Water Company (MAWC) and Roark Water & Sewer, Inc. (Roark) filed a Joint Application seeking authority from the Missouri Public Service Commission (Commission) for MAWC to acquire certain assets of Roark and other related transactions in connection with that acquisition.
2. On March 7 2011, the Staff of the Missouri Public Service Commission (Staff) filed its Recommendation in which Staff requested that the Commission grant the Joint Application allowing MAWC to acquire certain assets of Roark and, in connection therewith, certain other related transactions as requested in the Joint Application. Additionally, Staff requested that the Commission incorporate certain recommendations as enumerated in Appendix A attached to Staff’s Recommendation.
3. On March 16, 2011, MAWC and Roark filed a Joint Response to Staff’s Recommendation stating that MAWC and Roark have reviewed the Staff Recommendation and

do not object to the conditions proposed by Staff, and asking that the Commission approve their Joint Application, subject to Staff's proposed conditions.

4. Public Counsel now states that it opposes Staff's Recommendation.

5. Page 2 of Appendix A to Staff's Recommendation states the following:

Based upon a review of information received from MAWC and information from Roark's most recent rate case, WR-2005-0154, Staff's determination of the current appropriate amount of rate base (net plant in service, less accumulated contributions in aid of construction) for Roark is as follows:

Water	Sewer	Total
\$1,109,070	\$2,172,106	\$3,281,176

6. Public Counsel notes that the above amount of rate base for Roark significantly exceeds the purchase price MAWC has agreed to pay. It is Public Counsel's position that the difference between the purchase price and the rate base balance represents a significant acquisition discount.

7. Public Counsel has reviewed MAWC's rate base balance calculation upon which Staff's determination is based and believes that it inaccurately calculates a lower total rate base balance than that actually booked by Roark. As such, Public Counsel believes that MAWC's numbers identify a lower acquisition discount than would be calculated utilizing Roark's booked costs. Thus, Public Counsel opposes Staff's calculation of the total rate base balance and the acquisition discount resulting from the proposed purchase.

8. Even though the assets are to be purchased at a significant discount and the actual investment by MAWC will be much less than the rate base, there has been no statement by MAWC that it will seek recovery based only on the purchase price. It is Public Counsel's position that it would be detrimental to the ratepayers if MAWC were to seek recovery on either

the booked or MAWC calculated rate base instead of on the actual purchase price in future rate cases.

9. Additionally, Page 2 of Appendix A to Staff's Recommendation states the following:

MAWC and Roark have entered into an "Asset Purchase Agreement" dated December 20, 2010 (Agreement). MAWC proposes to adopt existing rates, rules and regulations, by filing tariff adoption notices that are currently in effect for Roark, until such time as the rates may be modified as approved by the Commission. However, MAWC proposes one new change to the tariffs as noted in paragraph 10 of the *Joint Application*. MAWC intends to file revised tariff sheets as part of this proceeding. Although these revised tariff sheets will retain the existing approved monthly rates of Roark and some existing CIAC charges, they will authorize a new connection fee (contribution-in-aid-of-construction fee, or CIAC) for water and sewer totaling a combined \$2,450 for new customers in certain portions of Roark's existing service area. In this area, known as Forest Lake subdivision, Roark presently has "rate base" in water distribution and sewer collection plant facilities. These fees will be collected by MAWC for a maximum of 300 customers, and will expire 20 years after approval of the transfer by the Commission. The funds collected by MAWC under this tariff will immediately be remitted to Roark under the terms of the Agreement for the purpose of reimbursing Roark for its plant investment. MAWC will treat the maximum amount of possible remittances to Roark of \$735,000 as a contribution by Roark, and thus there could potentially be a reduction in rate base that will benefit customers.

10. Basically, MAWC is proposing to add a new tariffed connection charge of \$2,450 for the next 300 customers in the Forest Lake subdivision. The new tariff charge is to expire in 20 years. This would amount to \$735,000 which is to be collected by MAWC and remitted to Roark as reimbursement for Roark's plant investment. MAWC will treat the plant paid for through the connection fee as contribution-in-aid-of-construction (CIAC). However, Staff's Recommendation makes no statement on who will be responsible for the increased tax impact on MAWC due to this additional contributed plant. It is Public Counsel's position that the tax impact on this contributed plant should flow to Roark, not to the customers of MAWC.

WHEREFORE, Public Counsel respectfully submits its Response.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 17th day of March 2011:

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