

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

In the Matter of Missouri-American Water)
Company's Request for Authority to)
Implement General Rate Increase for Water)
and Sewer Service Provided in Missouri)
Service Areas)

Case No. WR-2022-0303

MOTION TO AMEND HEARING SCHEDULE

Comes now the Office of the Public Counsel (the “OPC”) and respectfully requests that the Public Service Commission of the State of Missouri (the “Commission”) amend the hearing schedule included in the List of Issues, List and Order of Witnesses, Order of Opening, and Order of Cross-Examination (the “List of Issues”). (Doc. 185). Specifically, the OPC requests that the Commission amend the hearing schedule so that the issues related to “ROE/Capital Structure/Cost of Debt” and “Allowance for Funds Used During Construction” be heard on March 9, 2023,¹ as opposed to February 28, 2023. In support, the OPC states as follows:

1. On February 3, 2023, the OPC filed its Motion for Production of Documents Pursuant to § 386.450 RSMo. (the “Motion”). (Doc. 139). In the Motion, the OPC requested that the Commission order American Water Works Company, Inc. (“American Water”) to provide documents and information responsive to the OPC’s attached data requests, pursuant to the Commission’s authority under § 386.450 RSMo.
2. On February 16, 2023, after Missouri American Water Company (“MAWC”) and the Staff of the Commission (“Staff”) responded to the Motion, the Commission granted the OPC’s Motion. (Doc. 187). The Commission concluded that the information the OPC requested “goes to the heart of MAWC’s rate increase request.” (Order 3). The Commission further

¹ The OPC is aware that certain of the “ROE/Capital Structure/Cost of Debt” witnesses have limited availability during the scheduled hearing. It is the OPC’s understanding that all scheduled witnesses are available on March 9.

found “not only that OPC is entitled to the information pursuant to Section 386.450, but also that the information is relevant to OPC’s position of what MAWC’s capital structure and overall rate of return should be.” (*Id.* 4).

3. Also on February 16, 2023, the Parties filed the List of Issues, which contains a list of topics the Parties propose be addressed on each day of the hearing. (Doc. 185). The List of Issues includes the “ROE/Capital Structure/Cost of Debt” and “Allowance for Funds Used During Construction” issues on Tuesday, February 28, 2023. (List of Issues 13). A footnote included on the “ROE/Capital Structure/Cost of Debt” issue heading states that “this issue is the subject of a pending motion and may be discussed further.” (*Id.* 13 n.2).
4. On February 17, 2023, in response to the OPC’s Motion for Clarification (Doc. 192), the Commission ordered American Water to produce the documents to the OPC no later than February 22, 2023 (Doc. 194).
5. On February 22, 2023, American Water produced electronic versions of documents at its counsel’s office. The OPC appreciates American Water providing the documents in a timely manner on February 22, 2023, in accordance with the Commission’s Order.
6. The OPC is in the process of reviewing the documents that American Water produced.
7. Although the OPC has not completed its review, the OPC has already found information it considers relevant to the rate of return issue in this case. While some of this information could be verbally discussed during the hearing, the record would be better served with potential admission of some of the documents as exhibits in this case. However, at this point, the OPC does not have possession of these potential exhibits. The OPC has requested copies of certain documents from American Water.

8. Further, many of the documents that American Water produced include redactions, which in some instances include entire pages that have been redacted. American Water has not provided the OPC with a privilege log to support these redactions. For example, American Water redacted the entirety of its 2023 Financial Plan, its 5-year financial plan, its 5-year capital plan, and information in some Treasury and Investment Relations presentations.
9. The Commission found that these documents are “relevant to OPC’s position of what MAWC’s capital structure and overall rate of return should be” and that these documents “go[] to the heart of MAWC’s rate increase request.” (Order 3-4). The OPC must have an opportunity to gain full access to the documents that the Commission ordered American Water to provide. However, because the “ROE/Capital Structure/Cost of Debt” issues are currently scheduled to be heard on February 28, 2023—two business days from the filing of this motion—the OPC will not have sufficient time to pursue this access fully. Further, even if the OPC is able to secure possession of these documents in a timely manner, it needs a reasonable amount of time to prepare its litigation strategy as it relates to this new information.
10. Therefore, the OPC requests that the Commission amend the hearing schedule so that the “ROE/Capital Structure/Cost of Debt” and “Allowance for Funds Used During Construction” issues are discussed on March 9, 2023, as opposed to February 28, 2023.
11. Staff does not object to the Commission moving the “ROE/Capital Structure/Cost of Debt” and “Allowance for Funds Used During Construction” issues from February 28, 2023, to March 9, 2023.
12. The OPC has reached out to Counsel for MAWC, but has not received a response regarding MAWC’s position.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission amend the hearing schedule so that the issues related to “ROE/Capital Structure/Cost of Debt” and “Allowance for Funds Used During Construction” be heard on March 9, 2023.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 24th day of February 2023.

/s/ Lindsay VanGerpen