

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

In the Matter of the Petition of Missouri-
American Water Company for Approval to
Establish a Water and Sewer Infrastructure
Rate Adjustment (“WSIRA”)

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Case No. WO-2021-0428

OBJECTION AND RECOMMENDATION

COMES NOW the Office of the Public Counsel (the “OPC”) and pursuant to the Missouri Public Service Commission’s (the “Commission”) September 9, 2021 Order Directing Notice, Setting Deadlines, Directing Filings, and Suspending Tariffs (the “September 9, 2021 Order”) (Doc. 4),¹ submits its Objection and Recommendation. The OPC respectfully states as follows:

The OPC objects to the language of the proposed tariff sheets, submitted concurrently with Missouri-American Water Company’s (“MAWC”) Petition to Establish a Water and Sewer Infrastructure Rate Adjustment and Motion for Approval of Customer Notice (the “Petition”), as filed and amended because the proposed tariff sheets omit limiting language found in RSMo. § 393.1503, which sets forth the definitions applicable to the Missouri Water and Sewer Infrastructure Act. If the Commission approves MAWC’s request to establish a Water and Sewer Infrastructure Rate Adjustment (“WSIRA”), the OPC recommends that the Commission order MAWC to include the omitted statutory limiting language in the Description section of the tariff sheets submitted with its compliance tariff filing.

The OPC understands that MAWC does not object to the proposed tariff language changes. Further, Midwest Energy Consumers’ Group (“MECG”) and the City of St. Joseph, Missouri have

¹ References to document numbers represent the document numbers assigned in the Electronic Filing Information System (“EFIS”).

indicated to the OPC that they support the OPC's Objection and Recommendation. Staff of the Commission ("Staff") has also indicated that it does not oppose the OPC and MAWC's agreement.

I. Background

The OPC begins with a brief discussion of the applicable procedural and factual background of this matter.

On September 3, 2021, MAWC filed the Petition. (Doc. 2). On that same day, MAWC filed proposed tariff sheets to implement its requested WSIRA for both of its water districts and both of its sewer districts. (*See* Tariff Nos. YW-2022-0049, YS-2022-0050). Each of these four proposed tariff sheets include the same language in the "Description" section, which describes the types of projects for which MAWC may seek recovery through the WSIRA. (*See* YW-2022-0049 4-5, 7-8; YS-2022-0050 4-5, 7-8).

The Commission then entered the September 9, 2021 Order. In pertinent part, the September 9, 2021 Order stated that "[n]o later than December 2, 2021, the Office of the Public Counsel and any other party shall file any objections, recommendations, or hearing request." (Sept. 9, 2021 Order 2). The September 9, 2021 Order also suspended until March 2, 2022, the tariff sheets filed by MAWC on September 3, 2021. (*Id.* 3).

On September 17, 2021, MAWC filed a Motion for Leave to Amend Petition and Amendment to Petition. (Doc. 5). Specifically, MAWC sought leave to amend paragraph 10 of the Petition to clarify its WSIRA request as it concerned projects included in MAWC's infrastructure system replacement surcharge case pending before the Commission in Case Number WO-2021-0343. (*See id.* 1-2). On September 28, 2021, the Commission granted MAWC's request to amend the Petition. (Doc. 6).

On October 13, 2021, the Commission entered an Order granting MCEG and the City of St. Joseph, Missouri's Applications to Intervene. (Doc. 9).

II. Analysis

Because the language of the proposed tariff sheets omit limiting language found in RSMo. § 393.1503(7), the OPC objects to the Petition as filed and amended. If the Commission grants MAWC's request for a WSIRA, the OPC recommends that the Commission issue an Order requiring MAWC to include the omitted statutory limiting language in the Description section of the tariff sheets submitted with its compliance tariff filing.

The "Description" section of each of the four proposed tariff sheets that MAWC filed to implement its proposed WSIRA describe the type of projects for which MAWC may seek recovery through the WSIRA. Specifically, the proposed tariff sheets state:

Rate W is designed to recover costs associated with the Company's eligible infrastructure projects: 1) Replacement of or cleaning and relining of existing mains, hydrants, meters, service lines, laterals, sewer taps, curb stops and manholes, 2) Replacement of lead mains, goosenecks, lead service lines and associated valves and meters, 3) Replacement of booster station and lift station pumps, and related pipes, valves and meters, 4) Facility relocations, 5) Replacement of water and wastewater treatment mechanical equipment, including well and intake pumps, transfer pumps, high service or discharge pumps, and metering pumps, 6) Replacement of Supervisory Control and Data Acquisition Systems (SCADA). The WSIRA rate is calculated and implemented in accordance with the provisions of sections 393.1500 to 393.1509 RSMO. Any future changes to this rate will also be made in accordance with those provisions

(YW-2022-0049 4-5, 7-8; YS-2022-0050 4-5, 7-8).

The Missouri Water and Sewer Infrastructure Act (the "Act") provides a process for a water or sewer corporation to file a petition for the establishment of a WSIRA "that will provide for the recovery of the appropriate pretax revenues associated with the eligible infrastructure system projects, less the appropriate pretax revenues associated with any retired utility plant that is being

replaced by the eligible infrastructure system projects.” RSMo. § 393.1506(1). The Act defines an “eligible infrastructure system project[.]” as

water or sewer utility plant projects that:

- (a) Replace or extend the useful life of existing infrastructure;
- (b) Are in service and used and useful;
- (c) Do not include projects intended solely for customer growth; and
- (d) The costs of which were not recovered in the water or sewer corporation’s base rates in its most recent general rate case[.]

RSMo. § 393.1503(3).

Further, RSMo. § 393.1503(7) defines “Water or sewer utility plant projects.” That definition includes limiting language, which MAWC omitted from the “Description” section of its proposed tariff sheets. (*Compare* YW-2022-0049 4-5, 7-8; YS-2022-0050 4-5, 7-8 *with* RSMo. § 393.1503(7)). Below is the statutory definition of “Water or sewer utility plant projects.” The omitted statutory limiting language is italicized.

- (7) **"Water or sewer utility plant projects"** shall consist of the following:
 - (a) Replacement of or cleaning and relining of existing water and sewer pipes, and associated valves, hydrants, meters, service lines, laterals, sewer taps, curbstops, and manholes;
 - (b) Replacement of lead mains, lead goosenecks and lead service lines, and associated valves and meters;
 - (c) Replacement of booster station and lift station pumps, *with equipment of similar capacity and operation*, as well as related pipes, valves, and meters;
 - (d) Facilities relocations *required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain; provided that the costs related to such projects have not been reimbursed to the water or sewer corporation;*
 - (e) Replacement of water and wastewater treatment mechanical equipment *with equipment of similar capacity and operation*, including well and intake pumps, transfer pumps, high service or discharge pumps, and metering pumps; and

(f) Replacement of Supervisory Control and Data Acquisition System (SCADA) components *necessary for the operation and monitoring of remote installations including radio and cellular communication equipment, and programmable logic controllers.*

RSMo. § 393.1503(7).

This language limits the types of projects eligible for recovery through the WSIRA. Therefore, its inclusion in MAWC's tariff sheets implementing a WSIRA is important. Because MAWC has omitted this language from the language in the proposed tariff sheets, the OPC objects to the Petition as filed and amended. If the Commission approves MAWC's request for a WSIRA, the OPC recommends that the Commission enter an Order requiring MAWC to include the italicized language in the Description section of the tariff sheets submitted with MAWC's compliance tariff filing.

The OPC understands that MAWC does not object to the proposed tariff language changes. Further, MCEG and the City of St. Joseph, Missouri have indicated to the OPC that they support the OPC's Objection and Recommendation. Staff has also stated that it does not oppose OPC and MAWC's agreement regarding the language of proposed tariff sheets.

III. Conclusion

For the reason discussed above, the OPC objects to MAWC's Petition as filed and amended. If the Commission grants MAWC's request for a WSIRA, the OPC recommends that the Commission order MAWC to include the omitted statutory limiting language in the Description section of the tariff sheets submitted with its compliance tariff filing.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission consider this Objection and accept the Recommendation as described above.

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 2nd day of December 2021.

/s/ Lindsay VanGerpen