

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

In the Matter of the Application of Missouri- )  
American Water Company’s Request for )  
Authority to Implement General Rate ) **Case No. WR-2020-0344**  
Increase for Water and Sewer Service )  
Provided in Missouri Service Areas )

**RESPONSE TO MAWC MOTION TO ESTABLISH PROCEDURAL SCHEDULE**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel (“OPC”), and the Missouri Energy Consumers Group (“MECG”), by and through counsel, and for their *Response to MAWC Motion to Establish Procedural Schedule*, state the following:

1. On August 13, 2020, Staff, the OPC, MECG, the Municipal League of Metro St. Louis, and the Missouri Industrial Energy Consumers (“MIEC”), filed their *Joint Proposed Procedural Schedule*. On that same date, Missouri-American Water Company (“MAWC”) also filed its *MAWC Motion to Establish Procedural Schedule*. On August 14, 2020, the Commission issued its *Order Directing Responses*, stating that the Commission wants more information regarding the parties’ proposals. In regard to Staff and other parties wishing to respond, the Commission ordered responses to the procedural schedule set out by MAWC be filed no later than August 18, 2020.

2. In presenting its proposed procedural schedule, MAWC recommends limiting the filing of testimony to direct, rebuttal, and surrebuttal testimonies, and to consolidate the revenue requirement and rate design rebuttal testimonies into a single filing date. Further, under MAWC’s proposals the structure of the direct, rebuttal and surrebuttal filings would be materially different from current practice, with MAWC being the only party to file direct testimony, and Staff and other parties responding to the

Company's case in rebuttal. While all parties would have the ability to file surrebuttal testimony addressing the positions advocated by other parties in rebuttal, no response to MAWC's case in surrebuttal would be possible for the simple reason that, under its proposal, MAWC will not file any rebuttal testimony. While MAWC presents its proposed schedule as a straightforward means to reduce potential inefficiencies, it would constitute a substantial change from the Commission's current practice, and place a substantial burden on Staff and other parties.

3. As pointed out in its filing, MAWC's proposed schedule would result in a single case-in-chief, filed by MAWC. In a more "traditional" rate case procedural schedule, such as the one proposed by Staff and others in this case, non-utility parties are also provided an opportunity to present a case-in-chief. Typically, once Staff files its own direct case, it then becomes the comparison point for all other parties (i.e., the other parties, including the utility, will express their numerical issue differences using the Staff's case as a starting point from that point forward). As a result, the Company's initial case, in some respects, "falls away" at the time of the Staff's direct filing. This is for the simple reason that Staff's case is presented with more current information than MAWC's case. However, under MAWC's proposal, Staff would no longer produce its own case-in-chief and would instead be limited to proposing adjustments to MAWC's case-in-chief to present its positions.

4. Rebuttal testimony, in the "traditional" framework, then consists of the utility responding to the non-utility cases-in-chief, and the non-utility parties responding to that of the utility. Each party then has the opportunity to sur-rebut the testimony of the utility and/or the other parties as they see fit. While MAWC states in its proposed schedule that the traditional framework results in great delay in seeing the other parties' responses

positions, and limited time in which to provide its surrebuttal testimony, MAWC exaggerates the extent to which it must wait. Commonly, the great majority of Staff's and other parties' positions will be made clear to the Company at the time of the non-utility parties direct filing through the content of the testimony and existence or non-existence of proposed adjustments. If there is any confusion regarding the positions taken by Staff following filing of direct testimony, Staff is always willing to discuss and clarify such matters with other parties. Staff is entirely unaware of anything inherent in the current process that causes rate case participants to "talk past" each other regarding issue positions.

5. Additionally, eliminating direct testimony for Staff and other non-utility parties would significantly limit the non-utility parties' chance to provide pre-filed testimony. It would effectively provide them with a single opportunity to meaningfully put forth their cases and respond to the company, providing a significant procedural advantage to the utility. In addition, while MAWC indicates this simplified schedule should provide a cleaner hearing record, limiting the non-utility parties' opportunity to provide pre-filed written testimony could require them to present more of their cases at hearing, through cross-examination, potentially leading to longer and more tedious hearings.

6. Further, MAWC's proposed schedule, where Staff and other non-utility parties would effectively present both their direct and rebuttal testimonies simultaneously on November 27, 2020, will result in a real and substantial reduction of audit time. As these parties would have to address upfront all items that, in a more traditional schedule, are reserved to separate later filings. Typically, Staff is the only non-utility party in a rate case that conducts a full audit of the utility's operations, and a full class cost of service study. These reviews are time consuming, but provide vital information for the

Commission and other parties in their review of a utility's requests. MAWC's proposal that Staff perform these reviews and its rebuttal testimony simultaneously would create significant time constraints. As a comparison, the *Joint Proposed Procedural Schedule* contemplates the following:

- All Non-CCOS / Rate Design  
Direct Testimony by Non-Company Parties November 24, 2020
- CCOS / Rate Design  
Direct Testimony by Non-Company Parties December 9, 2020
- Revenue Requirement  
Rebuttal Testimony (all Parties) January 15, 2021
- CCOS/Rate Design  
Rebuttal Testimony (all Parties) January 22, 2021

Not only does MAWC's proposal significantly accelerate the timing of rebuttal testimony, but it seeks to combine the non-utility parties' revenue requirement and rate design testimonies. This combination would add further time pressure to Staff's and other parties' revenue requirement work. Revenue requirement calculations would need to be finalized with sufficient time prior to the filing date in order to allow for rate design calculations to be completed timely, further reducing audit time for the parties.

7. In its last rate case, Case No. WR-2017-0285, MAWC proposed similar changes to the traditional rate case testimony filings. There, as here, MAWC claimed that its changes were designed for the sake of efficiency. Ultimately, the Commission rejected MAWC's procedural schedule.

The Commission finds that in the context of this complex general rate case, MAWC's proposal would overly burden parties by forcing them to present their case-in-chief while also responding to the direct testimony of MAWC's fourteen witnesses. The Commission will therefore deny MAWC's Motion for a Variance and establish a procedural schedule more consistent with the

Non-Unanimous Joint Proposed Procedural Schedule. The Commission will also establish discovery guidelines agreed to by the parties. (Case No. WR-2017-0285, *Order Scheduling Evidentiary Hearing and Setting Procedural Schedule*, issued September 6, 2017, page 2).

In rejecting MAWC's request in Case No. WR-2017-0285, the Commission pointed out that MAWC's last rate case was "complex"; this case is no different. In addition to its future test year proposal, MAWC also seeks to implement a revenue stabilization mechanism ("RSM"); significant changes to its rate design through the elimination of the Rate J rate schedule and the implementation of a new Rate L; and district consolidation into a single state wide rate. Adding to the complexity of the current proceeding is the likelihood that the parties will have to conduct much of this case from a remote working environment. Certainly then, just as the Commission recognized that such novel procedural concepts should not be implemented in MAWC's last complex rate case, they should also not be implemented in this complex case, in which MAWC is seeking a 21% rate increase.<sup>1</sup>

**WHEREFORE**, the Staff, OPC, and MECG pray that the Commission will accept their *Response to MAWC Motion to Establish Procedural Schedule*; and grant such other and further relief as the Commission deems just in the circumstances.

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<sup>1</sup> While it is Staff's belief that MAWC's proposal in this case is not something it can support as a one-time test proposal, and certainly not as a permanent "fix" to the process, as demonstrated through its participation in the Commission's Workshop Docket to Explore the Ratemaking Process (File No. AW-2019-0127, Staff is interested in and willing to consider proposals to shorten the current rate case process and consider ways to make the process more efficient and effective from the Commission's perspective, or both.

Respectfully Submitted,

**/s/ Mark Johnson**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and or counsel of record on this 18<sup>th</sup> day of August, 2020.

**/s/ Mark Johnson**