

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

In the Matter of the Petition of )  
Missouri-American Water Company for ) **File No. WO-2020-0190**  
Approval to Change its Infrastructure )  
System Replacement Surcharge (ISRS) )

**MAWC STATEMENT OF POSITIONS**

**COMES NOW** Missouri-American Water Company (“MAWC” or “Company”), and, as its *Statement of Positions* concerning the issues contained in the *List of Issues, List and Order of Witnesses, Order of Cross-Examination and Order of Opening* filed on May 28, 2020, states as follows to the Missouri Public Service Commission (“Commission”):

- 1. Should MAWC’s incremental pre-tax revenue requirement in this matter include a total of \$35,328 associated with MAWC’s proposal to address alleged normalization violations related to eligible infrastructure system replacements included in MAWC’s currently effective ISRS?**

**MAWC Position:** Yes. The \$35,328 adjustment to the incremental pre-tax revenue requirement referenced by this issue is proposed in order to cure a normalization issue identified in a Private Letter Ruling (“PLR”) MAWC received from the Internal Revenue Service (“IRS”).

MAWC’s last three ISRS cases (Files Nos. WO-2018-0373, WO-2019-0184, and WO-2019-0389) concerned an issue related to a potential tax normalization violation associated with accumulated deferred income taxes and the reflection of a net operating loss (“NOL”) within the ISRS. In the PLR the Company received from the IRS, the IRS determined that the Commission’s actions in reflecting a full deduction of applicable accelerated depreciation amounts without an offset for a NOL amount in computing the ISRS surcharge constituted a violation of the IRS Code’s normalization restrictions. However, the IRS also ruled that the

Commission's treatment of reflecting a full deduction of applicable repair allowance amounts did not violate the normalization restrictions within the Code.

Because of the PLR's finding that the Company violated the tax normalization rules in regard to applicable accelerated depreciation amounts, a failure to cure the normalization violation in some fashion could cause MAWC to lose significant tax benefits currently benefiting customers. Specifically, MAWC could lose its ability to claim accelerated tax depreciation deductions. Accelerated tax depreciation allows the Company to expense investments faster for tax purposes than for book purposes. This differential, sometimes described as a "zero interest loan" from the government, is a reduction to rate base. All else being equal, both the Company's revenue requirement and the customer's rates are lower when the Company can utilize this tax treatment.

Making the adjustment as proposed by the Company and Staff has several benefits. First, addressing the matter in this manner provides more certainty in terms of truly curing the issue with respect to the IRS. As Company witness John Wilde explains, the IRS requires normalization violations to be remedied at the "next available opportunity." Second, addressing the issue within the current ISRS ensures that the Company collects no more and no less than the identified amount and allows recovery to be received from only those customers to which the ISRS applies. Lastly, as a practical matter, the relatively small amount associated with the cure makes this solution very manageable.

*Wilde, Dir., All; Reb., All.*  
*LaGrand, Dir., pp. 5-6.*

- 2. Should MAWC's incremental pre-tax revenue requirement in this matter include recognition of deferred taxes associated with accelerated depreciation tax timing differences?**

**MAWC Position:** Yes. Section 393.1000(1)(a) indicates that “appropriate pretax revenues” associated with an ISRS include “accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure replacements which are included in a currently effective ISRS.” MAWC’s ISRS recognizes accumulated deferred income taxes, along with the above-referenced NOL deferred tax asset, associated with the eligible infrastructure system replacements included in MAWC’s current ISRS.

*Wilde, Dir., All; Reb., All.*  
*LaGrand, Dir., pp. 5-6.*

**WHEREFORE**, MAWC respectfully requests the Commission consider this *Statement of Positions* and issue such orders as it should find to be reasonable and just.

Respectfully submitted,



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ATTORNEYS FOR MISSOURI-AMERICAN WATER COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing document was sent via electronic mail on this 29<sup>th</sup> day of May, 2020, to:

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