

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its offices in Jefferson City, Missouri on the 17<sup>th</sup> day of November, 2021.

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

**ORDER ON REMAND**

Issue Date: November 17, 2021

Effective Date: January 2, 2022

On March 2, 2020, Missouri-American Water Company (MAWC) filed a petition requesting authority from the Commission to change its Infrastructure System Replacement Surcharge (ISRS) for its St. Louis County service territory. On June 17, 2020, the Commission issued its *Report and Order*. On June 26, 2020, the Office of the Public Counsel (OPC) requested rehearing by the Commission, which was denied. On July 24, 2020, OPC appealed to the Western District Court of Appeals. On May 11, 2021, the Court of Appeals issued its decision finding the *Report and Order* was unlawful in that the Commission misinterpreted an advisory opinion issued by the Internal Revenue Service.<sup>1</sup> The Court of Appeals instructed the Commission to approve temporary rate adjustments in accordance with Section 386.520.2(2), RSMo, and consistent with its opinion.<sup>2</sup>

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<sup>1</sup> *In the Matter of the Petition of Missouri-American Water Company for Approval to Change and Infrastructure System Replacement Surcharge (ISRS)*, WD83924, opinion filed May 11, 2021, (Mo. App. W.D).

<sup>2</sup> *In the Matter of the Petition of Missouri-American Water Company for Approval to Change and Infrastructure System Replacement Surcharge (ISRS)*, WD83924, opinion filed May 11, 2021, (Mo. App. W.D), p. 15.

The Commission directed the parties (MAWC, OPC and the Staff of the Commission) to provide recommendations regarding how to proceed. The parties responded with a joint recommendation.

The parties recommended the Commission find the amount to be refunded to customers is \$19,172. The parties recommend the Commission direct the refund be returned to customers in the form of a one-time bill credit to MAWC's Rate A customers in St. Louis County. The parties propose the one-time bill credits begin January 2, 2022, and conclude no later than March 31, 2022 (to accommodate quarterly customers). Using the number of Rate A customers in St. Louis County as of October 19, 2021, this one-time bill credit will be \$0.06 per St. Louis County Rate A customer.

The parties request that the order directing the refund be effective on January 2, 2022. The parties explain that MAWC has filed a request for a Private Letter Ruling with the Internal Revenue Service in light of the Court of Appeals opinion. If the IRS were to indicate a normalization violation exists due to a rate refund or bill credit, providing the bill credit in 2022 will allow MAWC to argue that the violation did not occur until 2022. This timing will also potentially delay any impact of a normalization violation to customers as long as possible.

Ten days were allowed for responses to the parties' recommendation, per Commission Rule 20 CSR 4240-2.080(13), but no responses or objections were received. No other recommendations were received.

Section 386.520.2(2) directs the Commission to issue its order on remand within sixty days unless the Commission determines that additional time is necessary to properly calculate the rate adjustment, in which case the Commission shall issue its order within

one hundred twenty days. The Commission finds that additional time is necessary to calculate the rate adjustment because the parties did not file their recommendation until October 20, 2021, which was day forty-nine of the above specified sixty-day deadline.

The Commission has considered the parties' joint recommendation and will follow their recommendation. In compliance with the Court's mandate, the Commission will approve temporary rate adjustments in accordance with Section 386.520.2(2) and consistent with the Court's opinion.

**THE COMMISSION ORDERS THAT:**

1. In compliance with the Court's remand, the Commission orders temporary rate adjustments as described in the body of this order.
2. This order shall be effective on January 2, 2022.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Silvey, Chm., Rupp, Coleman, Holsman, and  
Kolkmeier CC., concur.

Hatcher, Regulatory Law Judge

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 17<sup>th</sup> day of November, 2021.**



  
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**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**November 17, 2021**

**File/Case No. WO-2020-0190**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

**Sincerely,**



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.