



CIVIL PROCEDURE FORM NO. 8-A(2)

IN THE _____ JUDICIAL CIRCUIT, _____ COUNTY, MISSOURI

FILED

Judge or Division:	Circuit Court Case Number: Mo. P.S.C. Case Number: WO-2019-0184		AUG 7 2019 Missouri Public Service Commission 1:19pm MA (Date File Stamp)
Plaintiff/Petitioner: Missouri-American Water Company	Appellate Number:	<input type="checkbox"/> Filing as an Indigent	
	Date of Judgment/Decree/Order: (ATTACH A COPY) June 5, 2019	Court Reporter:	
Defendant/Respondent: Missouri Public Service Commission	Date Post Trial Motion Filed: June 14, 2019	<input type="checkbox"/> Sound Recording Equipment	
	Date Ruled Upon: July 10, 2019	The Record on Appeal will consist of: ____ Legal File only or <input checked="" type="checkbox"/> Legal File and Transcript	

Notice of Appeal to Missouri Court of Appeals - Civil

District: Western Eastern Southern

Notice is given that Missouri-American Water Company appeals from the judgment/decree/order entered in this action on June 5, 2019 (date).

Appellant's Name (If multiple, list all or attach additional pages) Missouri-American Water Company	Respondent's Name (If multiple, list all or attach additional pages) Missouri Public Service Commission
Address 727 Craig Road Saint Louis, MO 63141	Address 200 Madison Street P.O. Box 360 Jefferson City, MO 65102
Appellant's Attorney/Bar Number (If multiple, list all or attach additional pages) William R. England III, #23975, Timothy W. Luft, #40506 Dean L. Cooper, #36592	Respondent's Attorney/Bar Number (If multiple, list all or attach additional pages) Shelley Bruggemann, #52173
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Brief Description of Case (May be completed on a separate page) See Description of case attached	
Issues Expected To Be Raised On Appeal (May be completed on a separate page. Appellant is not bound by this list.) See Issue Expected to be Raised on Appeal attached.	

Docket Fee Information

The docket fee in the amount of \$70.00 is being tendered with this notice of appeal.

No docket fee is being tendered because:

a docket fee is not required by law pursuant to _____ (cite specific statute or other authority).

a motion to prosecute the appeal in forma pauperis has been or will be filed.

a docket fee in the amount of \$70.00 cannot be tendered at this time but will be submitted at a later date or this appeal will be subject to dismissal pursuant to Rule 84.08(a).

Signature of Attorney or Appellant



Date

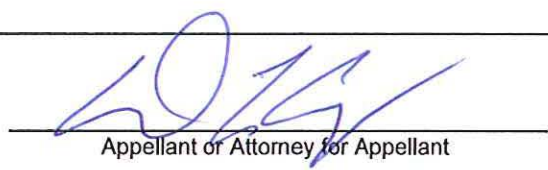
7 AUG 2019

Certificate of Service on Persons other than Registered Users of the Missouri eFiling System

I certify that on Aug 7, 2019 (date), a copy of the foregoing was sent to the following by facsimile, hand-delivery, electronic mail or U.S. mail postage prepaid to their last known addresses.

Missouri Public Service Commission

Office of the Public Counsel


Appellant or Attorney for Appellant

Directions to Clerk

Transmit a copy of the notice of appeal and all attached documents to the clerk of the Court of Appeals and to any person other than registered users of the eFiling system in a manner prescribed by Rule 43.01. Clerk shall then fill in the memorandum below. See Rule 81.08(i). Forward the docket fee to the Department of Revenue as required by statute.

Memorandum of the Clerk

I have this day served a copy of this notice by regular mail registered mail certified mail facsimile transmission to each of the following persons at the address stated below. If served by facsimile, include the time and date of transmission and the telephone number to which the document was transmitted.

I have transmitted a copy of the notice of appeal to the clerk of the Court of Appeals, Western District.

Docket fee in the amount of \$70.00 was received by this clerk on 8/17/2019 (date) which will be disbursed as required by statute.

No docket fee was received.

8/17/2019
Date

Melissa Anderson
Clerk

Additional Parties and Attorneys

List every party involved in the case not listed on page 1, indicate the position of the party in the circuit court (e.g. plaintiff, defendant, intervenor) and in the Court of Appeals (e.g. appellant or respondent) and the name of the attorney of record, if any, for each party. Attach additional pages to identify all parties and attorneys if necessary.

Party Name	Attorney Name
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Party Name	Attorney Name
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Brief Description of Case

On February 20, 2019, Missouri-American Water Company (Missouri-American or Company) filed an application with the Missouri Public Service Commission (Commission) to change its Infrastructure System Replacement Surcharge (ISRS). The ISRS adjustment was to recover costs incurred in connection with infrastructure system replacements made during the period October 1, 2018, through March 31, 2019 (ISRS period). Missouri-American's calculation of the ISRS revenue requirement included a Deferred Tax Asset created by the Net Operating Loss (NOL) from the ISRS investments during the ISRS period. At the evidentiary hearing, Missouri-American presented evidence that the ISRS investments create a NOL for the ISRS period. Missouri-American also presented evidence that its calculation of the ISRS is consistent with the Missouri ISRS statute, the tax normalization rules outlined in the Internal Revenue Service (IRS) Code, and the normalized method of accounting required by a 2010 Consent Agreement between the Company and the IRS.

The Commission's June 5, 2019 Report and Order (Order) found there was insufficient evidence to show a NOL in the ISRS period and excluded the Deferred Tax Asset from the ISRS calculation. The Commission's Order requires Missouri-American to deviate from the normalization requirements of the IRS Code and Consent Agreement. The deviation ordered by the Commission places Missouri-American at risk of a finding of violation by the IRS and loss of significant tax benefits currently benefitting customers. On June 14, 2019, Missouri-American filed its Application for Rehearing and Motion to Defer Ruling. Missouri-American requested the Commission defer ruling on the Application until the IRS responds to the Company's request for private letter ruling submitted to the IRS on June 5 and 6, 2019. A deferred ruling would have

preserved Missouri-American's opportunity to cure a finding of violation from the IRS, preventing the Company's potential loss of accelerated depreciation on a going-forward basis.

The Commission's treatment of NOL is the primary issue on appeal in WD82514, currently pending before the Court.

Issues Expected to be Raised on Appeal

The Commission's June 5, 2019 Order is unlawful and/or unreasonable in that:

The Commission's Order ignores the uncontroverted competent and substantial evidence on the record that Missouri-American's ISRS investments created a Net Operating Loss (NOL) for the period October 1, 2018, through March 31, 2019 (ISRS period). By excluding the Deferred Tax Asset from the ISRS calculation, the Commission's Order requires Missouri-American to deviate from the Missouri ISRS statute, the Internal Revenue Service (IRS) Code, and the 2010 Consent Agreement between the IRS and the Company. The deviation ordered by the Commission places Missouri-American at risk of a finding of violation by the IRS and loss of significant tax benefits currently benefitting customers. The Commission's Order is also unjust and unreasonable in that it does not allow Missouri-American to preserve the opportunity to cure any normalization violation found by the IRS as a result of the Commission requiring Missouri-American to calculate the ISRS in such way.

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



In the Matter of the Petition of Missouri-American
Water Company for Approval to Change an
Infrastructure System Replacement Surcharge
(ISRS).

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)

File No. WO-2019-0184
Tariff No. YW-2019-0160

REPORT AND ORDER

Issue Date: June 5, 2019

Effective Date: June 15, 2019

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

In the Matter of the Petition of Missouri-American)	
Water Company for Approval to Change an)	File No. WO-2019-0184
Infrastructure System Replacement Surcharge)	Tariff No. YW-2019-0160
(ISRS).)	

APPEARANCES

Missouri-American Water Company:

William R. England and Dean L. Cooper, Brydon, Swearingen & England, PO Box 456, Jefferson City, Missouri 65102.

Staff of the Missouri Public Service Commission:

Mark Johnson, Deputy Counsel, and **Casi Aslin**, Associate Counsel, PO Box 360, 200 Madison Street, Jefferson City, Missouri 65102.

Office of the Public Counsel:

Lera Shemwell, Senior Public Counsel, PO Box 2230, 200 Madison St., Ste. 650, Jefferson City, Missouri, 65102.

Regulatory Law Judge: Charles Hatcher

REPORT AND ORDER

I. Procedural History

On February 20, 2019, Missouri-American Water Company (“MAWC”) filed an application and petition with the Missouri Public Service Commission (“Commission”) to change an Infrastructure System Replacement Surcharge (“ISRS”).

MAWC requests to adjust its ISRS rate to recover costs incurred in connection with infrastructure system replacements made during the period October 1, 2018, through March 31, 2019. The Commission issued notice of the application and provided an opportunity for interested persons to intervene. No requests to intervene were received. The Commission suspended the filed tariff sheet until June 20, 2019.

On April 22, 2019, the Staff of the Commission (“Staff”) filed its Recommendation and Memorandum proposing a number of corrections and adjustments to MAWC’s calculations. Staff recommended that the Commission reject the original tariff sheet and approve an ISRS rate for MAWC based on Staff’s determination of the appropriate amount of ISRS revenues.

On April 26, 2019, MAWC filed a response disagreeing with Staff’s recommendation. The Commission held an evidentiary hearing on May 17, 2019. In total, the Commission admitted the testimony of six witnesses and 13 exhibits into evidence. Post-hearing briefs were filed by May 28, 2019, and the case was deemed submitted for the Commission’s decision on that date.¹

After the evidentiary hearing, the Office of Public Counsel (“OPC”) moved to admit the hearing transcript from the evidentiary hearing in file number WO-2018-0373, which is

¹ “The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument.” Commission Rule 4 CSR 240-2.150(1).

currently on appeal, pending a decision on the same issue presented in this case.² MAWC requested the Commission deny OPC's motion, or in the alternative admit the pre-filed direct testimony of the case in addition to the transcript. Upon a request for specificity, OPC responded they wanted three lines of text from the WO-2018-0373 hearing transcript admitted.³ MAWC responded without objection, but with additional lines it wanted admitted to show context as it was the immediately preceding question.⁴

II. Findings of Fact

Any finding of fact for which it appears that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

1. The Office of the Public Counsel "may represent and protect the interests of the public in any proceeding before or appeal from the public service commission."⁵ The OPC participated in this matter.

2. Staff is a party in all Commission investigations, contested cases and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission.⁶

3. MAWC is an investor-owned water utility providing retail water service to large portions of Missouri, and specific to this case, most of St. Louis County.⁷

² The motion also requested admission of the Report and Order in file number WO-2018-0373, which does not need to be admitted to evidence in order to be cited.

³ The question and answer to be admitted from lines 16-18, p. 52 of Vol. 1 of the Hearing Transcript: OPC – An NOL is not attached to any certain infrastructure, any particular asset? Witness Wilde – You're correct with that.

⁴ The question and answer to be admitted from lines 13-15, p. 52 of Vol. 1 of the Hearing Transcript: OPC - Carryover means you're bringing forward from year to year? Witness Wilde – Correct.

⁵ Section 386.710(2), RSMo 2016; Commission Rules 4 CSR 240-2.010(10) and (15) and 2.040(2).

⁶ Commission Rules 4 CSR 240-2.010(10) and (21) and 2.040(1).

4. MAWC is a “water corporation” and a “public utility”, as defined in Sections 386.020(59) and (43), and 393.1000(7), RSMo 2016.⁸

5. Water corporations are permitted to recover certain infrastructure system replacement costs outside of a formal rate case through a surcharge on its customers’ bills.⁹

6. On February 20, 2019, MAWC filed a petition (“Petition”) for its St. Louis County service territory, requesting a change to its ISRS to recover eligible costs incurred for infrastructure system replacements made during the period October 1, 2018, through March 31, 2019, (“ISRS Period”) initially filed with pro forma ISRS costs for February 1 through March 31, 2019.¹⁰

7. The ISRS request exceeds one million dollars, but is not in excess of ten percent of the base revenue levels approved by the Commission in the last MAWC general rate case.¹¹

8. This is MAWC’s second ISRS filing since their most recent general rate case.¹² As part of that general rate case, MAWC’s then existing ISRS was reset to zero.¹³

9. MAWC’s first ISRS filing since their most recent general rate case, WO-2018-0373, is currently on appeal, pending a decision on the same issue presented in this case.

⁷ MAWC’s Petition to Establish an Infrastructure System Replacement Surcharge & Motion For Approval of Customer Notice, p. 1-2.

⁸ *Id* at 2.

⁹ Sections 393.1000 to 393.1006, RSMo 2016.

¹⁰ Staff Recommendation, Appendix A, p. 1.

¹¹ Section 393.1003.1, RSMo 2016; Staff Recommendation, Appendix A, p. 2.

¹² Report and Order, *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, WR-2017-0285*, issued May 2, 2018; Order Approving Tariffs, *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, WR-2017-0285, et al.*, issued May 15, 2018.

¹³ Section 393.1006.6, RSMo 2016.

10. In conjunction with its Petition, MAWC filed a tariff sheet that would generate a total revenue requirement for MAWC's ISRS.¹⁴ MAWC's proposed ISRS revenue requirement was later updated by MAWC to \$9,706,228.¹⁵

11. MAWC attached supporting documentation to its Petition for completed plant additions. This included documentation identifying the type of additions, utility account, work order description, addition amount, depreciation rate, accumulated depreciation, and depreciation expense.¹⁶ The company also provided estimates of capital expenditures for projects completed through March 2019, which were subsequently replaced with updated actual cost information and provided to Staff.¹⁷

12. The term "net operating loss" is defined as "the excess of operating expenses over revenues."¹⁸ The Internal Revenue Code states, "For purposes of this section, the term 'net operating loss' means the excess of the deductions allowed by this chapter over the gross income."¹⁹

13. A net operating loss ("NOL") results when a utility does not have enough taxable income to utilize all of the tax deductions to which it would otherwise be entitled. The amount of unused deductions is the NOL, and is booked to a deferred tax asset account.²⁰ A deferred tax asset account allows the NOL to be carried forward, year to year, to be used to offset taxable income.²¹

¹⁴ MAWC's Petition to Establish an Infrastructure System Replacement Surcharge & Motion For Approval of Customer Notice, Appendix B.

¹⁵ Direct Testimony of Brian W. LaGrand, p. 4.

¹⁶ MAWC's Petition to Change Its Infrastructure System Replacement Surcharge & Motion For Approval of Customer Notice, Appendices D, E, and F.

¹⁷ Staff Recommendation, Appendix A, p. 1; Direct Testimony of Brian W. LaGrand, p. 4.

¹⁸ Deluxe Black's Law Dictionary, Sixth Edition.

¹⁹ I.R.C. Section 172(c).

²⁰ Direct Testimony of Mark Oligschlaeger, p. 5.

²¹ Rebuttal Testimony of Mark L. Oligschlaeger, p. 1-2.

14. An NOL is a tax return adjustment and not a regulatory item.²²

15. The documents MAWC filed in support of its ISRS petition included an amount for Accumulated Deferred Income Taxes ("ADIT").²³ MAWC also included a proposed calculation for a Deferred Tax Asset relating to an assumed NOL for the ISRS period in the amount of \$8,764,652.²⁴

16. On April 22, Staff submitted its *Staff Recommendation*. Staff's recommended revenue requirement for MAWC's ISRS is \$8,878,845.²⁵

17. The Staff Recommendation removed certain costs from the ISRS revenue requirement such as: repairs to customer owned appliances and equipment; charges associated with service lines; and accounting entries that were included in the prior ISRS case.²⁶ Removal of the listed items was not objected to by MAWC.²⁷

18. Staff and MAWC are in agreement with the *Staff Recommendation* except on one issue, specifically whether there is an NOL for the ISRS Period, and, if so, what impact it may have on the ISRS.²⁸

19. Staff recommended removing approximately \$8.85 million in Deferred Tax Asset²⁹ from MAWC's ISRS calculations because it was not an NOL resulting from the ISRS replacements during the ISRS Period.³⁰ This removal results in an \$827,383 reduction in MAWC's submitted ISRS costs.³¹

²² Direct Testimony of John S. Riley, p. 2.

²³ MAWC's Petition to Change Its Infrastructure System Replacement Surcharge & Motion For Approval of Customer Notice, Appendix C.

²⁴ Direct Testimony of Brian W. LaGrand, Schedule BWL-2; *see also* Rebuttal Testimony of Brian W. LaGrand, p. 3-4.

²⁵ Staff's Post-Hearing Brief, p. 4.

²⁶ Staff Recommendation, Appendix A, p. 4.

²⁷ MAWC's Response to Staff Recommendation, p. 1.

²⁸ MAWC's Response to Staff's Recommendation, p. 1; Staff's Post-Hearing Brief, p. 2.

²⁹ The \$8.85 million figure is derived from the Net Operating Loss/Taxable Income of \$36.7 million as shown on Schedule BWL-1, p. 2 of the Direct Testimony of Brian W. LaGrand.

³⁰ Staff Recommendation, Appendix A, p. 4.

³¹ Staff's Post-Hearing Brief, p. 5.

20. Only costs directly associated with qualifying ISRS plant that became in-service during the six months of the ISRS Period should be reflected in ISRS rates.³²

21. MAWC has a federal income tax NOL carryover (“NOL carryover”) from years prior to the ISRS Period.³³

22. MAWC’s NOL carryover has been decreasing over time since the start of 2018, and is expected to continue to decline through 2019 with the exception of a few months.³⁴

23. There are monthly increases to MAWC’s NOL carryover balance for the months of June, October, and November 2018, and February 2019, but these do not create an NOL as the other months are all decreases to NOL, because the net for the periods at issue is an overall decrease.³⁵

24. Including the four months of increases to MAWC’s NOL carryover balance, no net amount of NOL has actually been generated for federal income tax purposes by MAWC *on an aggregate basis* since January 1, 2018, the beginning of the ISRS Period from prior ISRS case WO-2018-0373.³⁶

25. MAWC’s presumption of an NOL calculates an NOL during the ISRS Period by subtracting depreciation, accelerated depreciation, repairs deduction, and interest expense from zero revenue generated by the subject ISRS replacements.³⁷

26. MAWC contends, “These deductions, taken against little ISRS revenue, create a NOL that is specifically associated with the ISRS investments.”³⁸

³² Direct Testimony of Mark L. Oligschlaeger, p. 7; see also Hearing Transcript, p. 17, 18, 49.

³³ Hearing Transcript, p. 42, and p. 47; Direct Testimony of John R. Wilde, p. 12; Direct Testimony of Karen Lyons, p. 5.

³⁴ Direct Testimony of Karen Lyons, p. 5 and 6.

³⁵ Direct Testimony of Karen Lyons, p. 6.

³⁶ Hearing Transcript, p. 128; Rebuttal Testimony of Mark L. Oligschlaeger, p. 2 and 4; Direct Testimony of Karen Lyons, p. 6 and Schedule KL-d4.

³⁷ MAWC’s Post-Hearing Brief, p. 11-12.

27. For the current ISRS period, MAWC assumes \$0 in current revenues being received from the subject ISRS replacements.³⁹

28. MAWC assumes an ISRS-related income, associated with the *prior* ISRS, WO-2018-0373, at \$4.25 million.⁴⁰

29. The deferred tax liability is booked on the Company's books and records, and the NOL calculated by MAWC for 2018 does not exist because MAWC's tax return has not been filed.⁴¹ MAWC has not filed their 2018 income tax statement, and does not expect to until October 2019.⁴²

30. MAWC has not filed their 2019 income tax statement, and does not expect to until October 2020.⁴³

31. MAWC has not filed their claimed \$34 million NOL on any income tax filing nor has MAWC recorded such NOL on its books.⁴⁴

32. MAWC's submitted Exhibit Number 3C⁴⁵, a 2017 Form 1120 US Corporation income tax return, is stated by MAWC to be a "pro forma form"⁴⁶. The Commission notes that this form does not break down the estimated NOL to specific projects. This 2017 Form 1120 was not a part of American Water Works 2017 tax return.⁴⁷

33. MAWC witness John Wilde acknowledged that according to MAWC's 2017 pro forma tax form 1120 it had a negative taxable income and therefore generated a net

³⁸ Id at 12.

³⁹ Direct Testimony of Brian W. LaGrand, Schedule BWL-2, Line 47.

⁴⁰ Id at 12; Direct Testimony of Brian W. LaGrand, Schedule BWL-2, Line 53 adding together \$1,594,490 in revenue from 2018 with \$2,657,483 for 2019, both from the prior ISRS.

⁴¹ Hearing Transcript, p. 128.

⁴² Hearing Transcript, p. 42.

⁴³ Hearing Transcript, p. 49-50.

⁴⁴ Rebuttal Testimony of John R. Wilde, p. 3 noting that MAWC will in the future be filing income tax statements that will reflect the claimed \$34 million loss; see also Rebuttal Testimony of Karen Lyons, p. 4-5.

⁴⁵ Exhibit is marked Confidential.

⁴⁶ Hearing Transcript, p. 46.

⁴⁷ Hearing Transcript, pp. 36-37.

operating loss carryforward amount in 2017. Mr. Wilde also acknowledged that for 2018 MAWC expects taxable income to be a positive amount.⁴⁸

34. In answer to a question about the amount of NOLs to be included in federal tax filings, Witness Wilde testified "They are knowable. I don't know if they are known yet. They're not completed 100 percent."⁴⁹

35. NOL's are calculated on an overall basis.⁵⁰

36. NOL's are not split out for accounting purposes by the various tax deductions that may contribute to an NOL situation.⁵¹

37. MAWC projects that it will be able to reflect all of its net accelerated depreciation benefits associated with ISRS plant additions on its books during the next two years without the need to record any new offsetting NOL amount.⁵²

38. MAWC's NOL as of December 31, 2017, is currently reflected in MAWC's base rates as a result of MAWC's last general rate case, File Number WR-2017-0285, *Report and Order* issued May 2, 2018, and *Order Approving Tariffs* issued May 15, 2018.⁵³

39. MAWC's last general rate case, File Number WR-2017-0285, under the terms of the stipulation and agreement approved by the Commission in that case, provide that no further rate treatment of ISRS eligible costs, which includes NOL amounts, incurred prior to 2018 is allowed to be included in subsequent ISRS proceedings.⁵⁴

⁴⁸ Hearing Transcript, pp. 44-45.

⁴⁹ Hearing Transcript, p. 43.

⁵⁰ Rebuttal Testimony of Karen Lyons, p. 3.

⁵¹ *Id.*

⁵² Direct Testimony of Mark L. Oligschlaeger, p. 7; Direct Testimony of Karen Lyons, p. 5-6.

⁵³ Hearing Transcript, p. 24; Direct Testimony of Karen Lyons, p. 5 and 7.

⁵⁴ Hearing Transcript, p. 24.

40. The Internal Revenue Service (“IRS”) Private Letter Rulings cited by MAWC to support its position⁵⁵ address time periods in which the utility in question was generating NOL amounts and not a single-issue rate case.⁵⁶

41. The Private Letter Rulings contain a statement excluding their use as precedent, and further state that such Rulings are “directed only to the taxpayer who requested it”.⁵⁷

III. Conclusions of Law

MAWC is a “water corporation” and “public utility” as those terms are defined by Section 386.020, RSMo 2016.⁵⁸ MAWC is subject to the Commission’s jurisdiction, supervision, control, and regulation as provided in Chapters 386 and 393, RSMo. The Commission has the authority under Sections 393.1000 through 393.1006, RSMo, to consider and approve ISRS requests such as the one proposed in the Petition. Since MAWC brought the Petition, it bears the burden of proof.⁵⁹ The burden of proof is the preponderance of the evidence standard.⁶⁰ In order to meet this standard, MAWC must convince the Commission it is “more likely than not” that its allegations are true.⁶¹

Section 393.1006.2(4) provides that where the Commission finds that a petition complies with the statutory requirements, the Commission “shall enter an order authorizing the water corporation to impose an ISRS that is sufficient to recover “appropriate pretax

⁵⁵ Direct Testimony of John R. Wilde, Schedule JRW-1 through JRW-5; Private Letter Rulings are issued by the IRS to the taxpayer who requested them.

⁵⁶ Hearing Transcript, p. 99.

⁵⁷ Direct Testimony of John R. Wilde, Schedule JRW-5, p. 5.

⁵⁸ Unless otherwise stated, all statutory citations are to the Revised Statutes of Missouri 2016.

⁵⁹ “The burden of proof, meaning the obligation to establish the truth of the claim by preponderance of the evidence, rests throughout upon the party asserting the affirmative of the issue”. *Clapper v. Lakin*, 343 Mo. 710, 723, 123 S.W.2d 27, 33 (1938); see also Section 393.150.2.

⁶⁰ *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996).

⁶¹ *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999); *Rodriguez*, 936 S.W.2d at 109 -111; *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

revenues.” Section 393.1000(1) defines “appropriate pretax revenues” to include “recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective ISRS.”

IV. Decision

The issue presented in this case is whether MAWC has proven by a preponderance of the evidence that an NOL exists for the ISRS Period and is associated with the ISRS replacements. We break this down into two questions: 1) is MAWC generating an NOL during the ISRS Period; and 2) if it is generating an NOL, is that NOL associated with the replacements included in the proposed ISRS.

Is there an NOL for MAWC in the ISRS Period?

MAWC has the burden of proof to show that an NOL exists for the ISRS Period. In this case, evidence that an NOL exists is limited to estimates. Evidence that an NOL exists includes: a pro-forma corporate income tax return; testimony that exact tax filing numbers have not yet been calculated; and testimony that income tax returns for the time period at issue have not yet been filed. Alternatively, MAWC presents its theory that an NOL is shown by subtracting the depreciations and deductions from ISRS replacements from ISRS revenues, to show a loss from the ISRS investment. Without supporting tax documentation and without supporting evidence in the utility's books, the Commission cannot determine if an NOL will, or does, exist based on estimates.

MAWC is expected to continue utilizing prior NOL carryovers to offset its taxable income in 2018 and 2019, but will not generate a new NOL in the aggregate, although it already has had four months where its carryover NOL amount increased for that month. As MAWC is expected to have taxable income in 2018 and 2019, it is reasonable to conclude

that MAWC is not generating an NOL during the ISRS Period. MAWC also seems to argue that apart from the NOL carryover, it experiences an NOL every time it invests in ISRS plant up until the ISRS rate for that ISRS plant is implemented and collected.

On the contrary, the record indicates that NOLs are not specifically tracked as to origin. The record also indicates that an NOL is an accounting item, not a regulatory item, and that it is a term encompassing an annual or longer period. The record further shows that prior instances of NOL are addressed in full rate cases, as MAWC's pre-December 2017 NOL was addressed in its most recent full rate case.

Since the IRS Private Letter Rulings only address periods where an NOL is generated, and none involve single-issue ratemaking, there is no legal support for MAWC's position that an exclusion of an NOL would violate normalization requirements of the IRS Code.⁶²

The Commission, for the reasons discussed herein, finds there is not sufficient evidence to show an NOL being generated in the ISRS Period.

If there is an NOL, is it associated with the replacements included in the currently effective ISRS?

Since there is not sufficient evidence to show an NOL occurring in the ISRS Period, the question of whether an NOL is associated with the ISRS investment is moot.

V. Conclusion

Based on Staff's adjustments to exclude the ineligible costs, the corrected ISRS calculation will result in MAWC collecting ISRS revenues in the amount of \$8,878,845. The Commission also concludes that the appropriate rate design is that which was testified to by Matthew J. Barnes and to which there were no objections.

⁶² Hearing Transcript, p. 94 to 99.

MAWC has complied with the requirements of the applicable ISRS statutes to authorize its use of an ISRS, however, for the reasons previously stated, the recovery should not include NOL. The Commission concludes that MAWC shall be permitted to establish an ISRS to recover ISRS revenues for this case in the amount of \$8,878,845. Since the revenues and rates authorized in this order differ from those contained in the tariffs MAWC first submitted, the Commission will reject those tariffs. The Commission will allow MAWC an opportunity to submit new tariffs consistent with this order.

Section 393.1015.2(3), RSMo, requires the Commission to issue an order to become effective not later than 120 days after the petition is filed. That deadline is June 20, 2018, so the Commission will make this order effective on June 15, 2019.

THE COMMISSION ORDERS THAT:

1. Missouri-American Water Company is authorized to establish an Infrastructure System Replacement Surcharge ("ISRS") sufficient to recover ISRS revenues in the amount of \$8,878,845. Missouri-American Water Company is authorized to file an ISRS rate for each customer class as described in the body of this order.

2. The tariff sheet filed by Missouri-American Water Company on February 20, 2019, and assigned Tariff Tracking No. YW-2019-0160, is rejected.

3. Missouri-American Water Company is authorized to file new tariffs to recover the revenue authorized in this Report and Order.

4. The motion of the Office of Public Counsel to admit the evidentiary hearing transcript from case WO-2018-0373, and the responding request from Missouri-American Water Company to admit the pre-filed testimony from case WO-2018-0373 are denied.

5. The request of the Office of Public Counsel to admit lines 16-18 of page 52 of the evidentiary hearing transcript from case WO-2018-0373, and the responding request

from Missouri-American Water Company to admit lines 13-15 of page 52 of the evidentiary hearing transcript from case WO-2018-0373 are granted.

6. Missouri-American Water Company shall file notice with the Missouri Public Service Commission within 10 days the issuance of a conclusion or a statement of violation from the Internal Revenue Service regarding Missouri-American Water Company's February 1, 2019, letter to the Internal Revenue Service self-reporting a possible violation of its consent order and/or normalization rules.⁶³

7. This order shall become effective on June 15, 2019.

BY THE COMMISSION



A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur

Hatcher, Regulatory Law Judge

⁶³ Response to Commission Request (EFIS Item Number 30).

**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-2019-0184
Approval to Change an Infrastructure)	
System Replacement Surcharge (ISRS).)	

**APPLICATION FOR REHEARING
AND
MOTION TO DEFER RULING**

COMES NOW Missouri-American Water Company, and pursuant to §386.500, RSMo., submits its *Application for Rehearing and Motion to Defer Ruling* concerning the *Report and Order* issued by the Missouri Public Service Commission (“Commission”) in the above-captioned matter on June 5, 2019. In support hereof, MAWC states as follows:

INTRODUCTION

1. The Commission’s *Report and Order* thwarts the intent of Congress in creating the normalization rules to provide the utility an interest free source of funds to invest in utility property. (IRS Revenue Proc. 2-17-47 (“Congress enacted the ITC and accelerated depreciation to stimulate investment.”)) The evidence shows that MAWC will have a Net Operating Loss (“NOL”) associated with the eligible infrastructure system replacements made between October 1, 2018 and March 31, 2019. That is, when new revenues are compared to book tax depreciation difference and other items, the Company is experiencing a NOL for both 2018 and 2019 of a little more than \$34 million. MAWC’s calculations are within the meaning of Section 393.1000(1)(a) and the normalization rules, as the NOL reflected by MAWC is calculated expressly and exclusively based upon such eligible plant and the actual ISRS revenues.

2. Staff’s calculation, as adopted by the *Report and Order*, does not accurately reflect the cost-free capital associated with the ISRS plant as it steps outside the bounds of the statute and

“borrows” from MAWC’s base rate revenues to assert that customers have provided the necessary capital. In order for customers to have paid \$9,290,765 of accumulated deferred income taxes (“ADIT”), Staff must impute, or “borrow,” revenues from base rates set in the Company’s last rate case.¹ However, those rates were set on a test year ending December 31, 2017, which did not include any of the ISRS plant investments made in 2018 and 2019.² Essentially, the method adopted by the Commission is double counting those base rate revenues in order to reduce the ISRS revenue requirement.

3. The final arbiter as to this situation is the Internal Revenue Service (“IRS”). MAWC’s request for a private letter ruling concerning the normalization issue was submitted to the IRS on June 5 and June 6, 2019. Should the IRS ultimately find there to be a normalization violation as a result of the Commission’s decision, tax professionals indicate that the consequence of such a violation would be the loss of accelerated depreciation for the Company on a going-forward basis. Those professionals further indicate that the only way to avoid the loss of accelerated depreciation where a normalization violation exists is to have an opportunity to cure such violation – not on a prospective basis, but from the beginning of the violation. The worst result for everyone involved (to include both the Company and its customers) would be an IRS finding of a normalization violation at a point in time when the opportunity to cure has passed. Accordingly, in addition to its rehearing application, MAWC has included a Motion to Defer Ruling. The purpose of that Motion is to provide an opportunity for the party that will have the final word on this issue (the IRS) to provide guidance to MAWC and the Commission.

¹ Tr. 81-83, Oligschlaeger.

² *Id.*

APPLICATION FOR REHEARING

4. The *Report and Order* of the Missouri Public Service Commission is unlawful, unreasonable, unjust, arbitrary and an abuse of discretion for one or more or all of the reasons hereinafter set forth. For the reasons stated in the following paragraphs, the decision of the Commission should be reheard and the *Report and Order* should be amended or superseded to address and correct the matters of error raised by the Company.

5. In MAWC's Infrastructure System Replacement Surcharge Application, the Company included a Deferred Tax asset created by the Net Operating Loss ("NOL") from the ISRS investments that were the subject of its Application consistent with the ISRS statute.³ The Commission concluded that the Company had not presented evidence sufficient to support that it will have a NOL in the ISRS Period,⁴ rejected the tariff sheet filed by MAWC on February 20, 2019⁵, and authorized MAWC to file new tariffs omitting an Deferred Tax asset created by an NOL.⁶ In support of its decision, the Commission states, among other things, that "[a]s MAWC is expected to have taxable income in 2018 and 2019, it is reasonable to conclude that MAWC is not generating an NOL during the ISRS period."⁷ (emphasis added)

6. The Commission's Order disregards uncontroverted evidence in the record showing that MAWC will have a Deferred Tax asset associated with the eligible infrastructure system replacements made between October 1, 2018 and March 31, 2019 (i.e. "during the ISRS

³ Section 393.1000(1)(a), RSMo, (emphasis added) defines "Appropriate Pretax Revenues" as:

[T]he revenues necessary to produce net operating income equal to: (a) The water corporation's weighted cost of capital multiplied by the net original cost of eligible infrastructure replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective ISRS.

⁴ Order at p. 12.

⁵ Order at p. 13; Tariff Tracking No. YW-2019-0160.

⁶ Order at p. 13.

⁷ Order at p. 11-12.

period”). The calculation of the Deferred Tax liability and the Deferred Tax asset (Net Operating Loss (“NOL”)) MAWC proposes to reflect are contained in the Direct Testimony of MAWC witness Brian LaGrand.⁸ The Company included depreciation and interest expense that occurred during the ISRS period, as well as accelerated depreciation, and the repairs deduction.⁹ These deductions, taken against little ISRS revenue, create a NOL that is specifically associated with the ISRS investments. This NOL is multiplied by the effective tax rate to determine the Deferred Tax asset to include in rate base. Consequently, the Commission’s finding that there was “not sufficient evidence” of an NOL being generated during the ISRS period¹⁰ is without basis because there is ample evidence in the record showing a NOL from the ISRS investments that were the subject of its Application.

7. As stated above, the intent of Congress in creating the normalization rules is to provide the utility an interest free source of funds to invest in utility property.¹¹ To the extent that the utility does not receive this interest free source of funds (or cost-free capital) because taking the accelerated depreciation deduction causes a taxable loss, that taxable loss needs to be included in (i.e offset against) the Deferred Tax liability so that the customers are not benefiting before the utility company receives the benefits.¹² The normalization rules say that the accelerated depreciation used in the Cost of Service calculation (for current expense) must use the same method and life used in the rate base reduction so as not to have a mismatch of the benefits.¹³

8. The practical effect of the *Report and Order* (i.e., to eliminate the recognition of the Deferred Tax asset, while continuing to reflect the Deferred Tax liability) is inconsistent with

⁸ Exh. 4, LaGrand Dir., Sched. BWL-2.

⁹ Exh. 4, LaGrand Dir., Sched. BWL-2, p. 2 of 7;

¹⁰ Order at p. 12.

¹¹ IRS Revenue Proc. 2-17-47 (“Congress enacted the ITC and accelerated depreciation to stimulate investment.”)

¹² Exh. 1, Wilde Dir., p. 5.

¹³ *Id.*

a normalized method of accounting because the impact of ignoring the Deferred Tax Asset provides customers with the benefit of the tax deduction now, through a lower ISRS rate, even though the Company is unable to benefit from those tax deductions at this time. Any ratemaking order which would jeopardize a public utility's eligibility to utilize accelerated depreciation as permitted by 26 U.S.C.A. § 167(1) would be "unreasonable." See *State ex rel. Empire Dist. Electric Co. v. Public Service Commission*, 714 S.W.2d 623, 631; 1986 Mo. App. LEXIS 4184, 24 (Mo.App. 1986).

9. Further, the Commission's *Report and Order* is inconsistent with the ISRS statutes. The ISRS is a form of single-issue ratemaking that is only concerned with identifying the incremental or isolated revenue requirement related to ISRS eligible plant investments.¹⁴ Staff witness Oligschlaeger agreed that the ISRS statute is only concerned with identifying the incremental or isolated revenue requirement related to ISRS eligible plant investments put into service during the period of time at issue.¹⁵ Because the ISRS is viewed as an exception to the general rule against single-issue ratemaking, the ISRS statutes are viewed by the courts very narrowly.¹⁶ Accordingly, only the items outlined in the statute should be examined – and they should be examined in isolation.¹⁷

10. A plain reading of Section 393.1006(1)(a), RSMo, indicates that MAWC should recover the weighted cost of capital associated with ISRS plant. The rate base in that calculation includes accumulated deferred income taxes ("ADIT"). Both Staff witness Lyons and Oligschlaeger agree the ADIT should be the net accumulated deferred tax balance associated with

¹⁴ Tr. 78, Oligschlaeger.

¹⁵ Tr. 78, Oligschlaeger.

¹⁶ See *PSC v. Office of Pub. Counsel (In re Laclede Gas Co.)*, 539 S.W.3d 835 (Mo. Ct. App. 2017) and *Verified Application & in re Liberty Energy (Midstates) Corp. v. Office of Pub. Counsel*, 464 S.W.3d 520 (Mo. 2015).

¹⁷ Tr. 120, Lyons; Tr. 78-79, Oligschlaeger.

ISRS and that this amount should be representative of interest free capital available to fund these investments. However, ultimately, Staff does just the opposite. Staff calculates an ADIT balance related to ISRS eligible property by assuming additional interest free capital of \$9,290,765 was made available to fund \$66,167,640 of expenditures.¹⁸ Staff acknowledges that customers have not paid ADIT of \$9,290,765, as MAWC has only collected \$4,251,973 of ISRS revenue in 2018 and 2019 to date.¹⁹ The reflection of \$4,251,973 of ISRS revenue is contrary to Finding of Fact No. 25, which states in part that MAWC calculates the NOL by subtracting certain items “from zero revenue generated by the subject ISRS replacements.”²⁰

11. In order for customers to have paid \$9,290,765 of ADIT, Staff must impute, or “borrow,” revenues from base rates which were set in the Company’s last rate case.²¹ However, those rates were set on a test year ending December 31, 2017, which did not include any of the ISRS plant investments made in 2018 and 2019.²² Thus, contrary to the Commission’s Finding of Fact No. 19, MAWC’s Deferred Tax asset IS an NOL resulting from the ISRS replacements during the ISRS period.²³

12. Findings of Fact Nos. 29 and 31 discount the NOL in part because the “the NOL calculated by MAWC for 2018 does not exist because MAWC’s tax return has not been filed” and “MAWC has not filed their claimed \$34 million NOL on any income tax filing.”²⁴ These statements ignore the fact that the Deferred Tax liability (the impact of accelerated depreciation) is similarly dependent on an unfiled tax return. OPC witness Riley agreed that accelerated depreciation is a tax return adjustment and no accelerated depreciation has yet been claimed on a

¹⁸ Tr. 128, Lyons.

¹⁹ Tr. 124, Lyons.

²⁰ Order at p. 7.

²¹ Tr. 81-83, Oligschlaeger.

²² *Id.*

²³ Order at p. 7.

²⁴ Order at p. 8.

tax return for the ISRS plant that is the subject of this case.²⁵ Because of this, Staff witness Lyons has no idea what accumulated deferred income taxes MAWC will have on its 2018 tax return.²⁶ However, the Commission has included those deferred income tax amounts in its calculation of the Deferred Tax liability.

13. Finding of Fact No. 20 states that “only costs directly associated with qualifying ISRS plant that became in-service during the six months of the ISRS Period should be reflected in rates.” However, Staff witness Lyons agreed that when the ISRS is viewed in “isolation,” it is clear the customers through ISRS rates in this case and the prior case have not paid enough revenue to support the deferred tax liability reflected by Staff.²⁷ Thus, Staff assumes that the Deferred Tax liability has been paid by customers from base rates.²⁸ This violates the Section 393.1000(1)(a) requirement that accumulated deferred income taxes be “associated with eligible infrastructure system replacements.” It also violates the principle found in Finding of Fact No. 39, as the Commission’s calculation includes “further rate treatment of ISRS eligible costs . . . incurred prior to 2018 . . . to be included in subsequent ISRS proceedings” through the borrowing of revenues from base rates.

14. Excluding the Deferred Tax asset (i.e. net operating loss) from the ADIT results in Total ADIT of \$9,290,765, and implies an additional \$8,764,652 of interest-free capital became available to MAWC during the ISRS period.²⁹ However, since MAWC is not currently a federal cash taxpayer, this interest-free capital has not been made available to MAWC.

²⁵ Tr. 60, Riley.

²⁶ Tr. 117, Lyons.

²⁷ Tr. 129, Lyons.

²⁸ Tr. 128, Lyons.

²⁹ The difference in these numbers (\$526,112) is the total of lines 7 and 25 of Exh. 4, LaGrand Dir., Sched. BWL-2, p. 1 of 7, and is also described as the Net Deferred Income Taxes on page 2 of 7, line 75 (\$253,833, plus \$272,279).

15. The consequences for violation of the normalization rules are extremely significant. A finding by the Internal Revenue Service during an audit (or as the result of a required self-report by MAWC) that the Company violated the tax normalization rules, or the terms of the IRS consent agreement, could cause the loss of significant tax benefits currently benefiting customers. Specifically, MAWC could lose its ability to claim accelerated tax depreciation deductions and tax repair deductions.³⁰

16. If the Company were no longer able to use accelerated depreciation or take the repairs deduction, it would result in higher rates for customers. Both the repairs deduction and accelerated depreciation allow the Company to expense investments faster for tax purposes than for book purposes. This differential, previously 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 normalized tax treatment.³¹

MOTION TO DEFER RULING ON THIS APPLICATION FOR REHEARING

17. The Commission recognizes the significance that a finding of normalization violation would have in that its *Report and Order* includes the following direction:

Missouri-American Water Company shall file notice with the Missouri Public Service Commission within 10 days the issuance of a conclusion or a statement of violation from the Internal Revenue Service regarding Missouri-American Water Company’s February 1, 2019, letter to the Internal Revenue Service self-reporting a possible violation of its consent order and/or normalization rules.³²

³⁰ Exh. 1, Wilde Dir., p. 9.

³¹ Exh. 1, Wilde Dir., p. 14

³² Order at p. 14.

18. Additionally, counsel for both the Staff and the OPC stated that should Staff's (now Commission's) approach create a normalization violation, they would agree that the amounts identified by MAWC should be added to the ISRS revenue requirement.³³

19. There is no requirement that the Commission rule on this Application for Rehearing by a date certain. Given the issues associated with a normalization violation (no matter how small the Commission may believe the chance that a normalization violation will be found), MAWC requests that the Commission take this Application for Rehearing under advisement and *not* issue a ruling thereon until such time as the Company obtains a private letter ruling from the IRS on whether application of the findings by the Commission for the period in question would cause a violation of tax normalization rules. Such a delay would provide the Commission with an opportunity to cure any normalization violation that might be found to exist as a result of this case. It further would avoid cost and time that would otherwise be expended by MAWC and Staff personnel in the processing of an appeal.

CONCLUSION


MAWC requests that the Commission defer ruling on this Application for Rehearing until such time as the Company obtains a private letter ruling from the IRS concerning whether application of the findings by the Commission for the period in question would cause a violation of tax normalization rules.

Thereafter, for the reasons stated herein, MAWC respectfully requests that the Commission grant the Company's Application for Rehearing for the reasons aforesaid, and upon rehearing, issue a superseding or correction order directing that ISRS tariffs be filed sufficient to recover ISRS revenues in the amount of \$9,706,228 by including the Deferred Tax Asset in the ISRS

³³ Tr. 26-27, Staff Counsel; Tr. 27-28, OPC Counsel.

calculations and making such other findings as are consistent with the matters set forth above.

Respectfully submitted,



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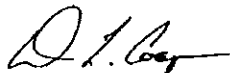
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document was sent via electronic mail on this 14th day of June, 2019, to:

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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office in
Jefferson City on the 10th day of
July, 2019.

In the Matter of the Petition of Missouri-American)
Water Company for Approval to Change an) File No. WO-2019-0184
Infrastructure System Replacement Surcharge) Tariff No. YW-2019-0219
(ISRS))

**ORDER DENYING APPLICATION FOR REHEARING
AND MOTION TO DEFER RULING**

Issue Date: July 10, 2019

Effective Date: July 10, 2019

On June 5, 2019, the Missouri Public Service Commission issued a *Report and Order* effective June 15, 2019, regarding Missouri-American Water Company's application to change its infrastructure system replacement surcharge. On June 14, 2019, Missouri-American filed a timely application for rehearing.

Section 386.500.1, RSMo 2016, states that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." In the judgment of the Commission, the application for rehearing does not demonstrate sufficient reason to rehear the matter.

Missouri-American also included in their application for rehearing a motion to defer ruling. The motion to defer ruling requests the Commission not issue a ruling on the application for rehearing until such time as Missouri-American obtains a private letter ruling from the Internal Revenue Service ("IRS") regarding what Missouri-American fears is a normalization violation. Missouri-American submitted its request for a private letter ruling to

the IRS on June 5-6, 2019, and asserts that this request will allow the IRS to provide guidance to Missouri-American and the Commission. In the judgment of the Commission, the motion to defer ruling does not demonstrate sufficient reason to stay a ruling on the rehearing application due to the uncertain timing of a response from the IRS, and as the Commission has already supported its reasoning in its decision in its *Report and Order*.

The Commission will deny the application for rehearing and the motion to defer ruling.

THE COMMISSION ORDERS THAT:

1. Missouri-American Water Company's *Application for Rehearing And Motion To Defer Ruling* filed on June 14, 2019, is denied.
2. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur.

Hatcher, Regulatory Law Judge

Missouri American Water
 WO-2019-0184
 Reconciliation

	Annualized Revenue Requirement	Tariffed Rates (per 100 gallons)		
		Rate A	Rate B	Rate J
Missouri American Water Position	\$9,706,228	\$0.49778	\$0.00914	\$0.00873
Value of Deferred Tax / NOL Issue	(\$827,383)	(\$0.02558)	(\$0.00063)	(\$0.00060)
Staff Position / Commission Order	\$8,878,845	\$0.47220	\$0.00851	\$0.00813

Notes:

1. Revenue requirements agree to Schedule KL-r1 in the Rebuttal Testimony of Staff witness Karen Lyons
2. Staff Position / Commission Order tariffed rates agree to MAWC's 11th Revised Sheet No. RT 10

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office in
Jefferson City on the 10th day of
July, 2019.

In the Matter of the Petition of Missouri-American)
Water Company for Approval to Change an) File No. WO-2019-0184
Infrastructure System Replacement Surcharge) Tariff No. YW-2019-0219
(ISRS))

ORDER APPROVING RECONCILIATION OF CONTESTED ISSUE

Issue Date: July 10, 2019

Effective Date: July 10, 2019

Section 386.420.4, RSMo 2016, requires the Commission to prepare and approve a detailed reconciliation regarding the dollar value and rate or charge impact of the contested issue decided by the Commission in this case. The law requires the Commission to allow the parties an opportunity to provide written input regarding that reconciliation.

On June 18, 2019, Missouri-American Water Company filed its *Motion to Approve Reconciliation*. In its motion, Missouri-American states that both the Staff of the Commission and the Office of Public Counsel were informed of the reconciliation amount and calculation, and both agree with the dollar value of the contested issue. There were no other parties to this proceeding.

The Commission finds that the reconciliation submitted by Missouri-American is an accurate representation of the dollar value and rate or charge impact of the issue decided by the Commission. The Commission further finds that the submitted reconciliation satisfies the requirements of Section 386.420.4, RSMo 2016. The Commission will approve the reconciliation.

THE COMMISSION ORDERS THAT:

1. The reconciliation filed by Missouri-American Water Company on June 18, 2019, is approved.
2. This order shall be effective when issued.

BY THE COMMISSION



Morris L. Woodruff

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur.

Hatcher, Regulatory Law Judge