

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

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)

Case No. WR-2022-0303

**RESPONSE IN SUPPORT OF STAFF'S MOTION TO STRIKE AND IN OPPOSITION
TO MAWC'S MOTION FOR LEAVE**

Comes now the Office of the Public Counsel (the "OPC") and in response to the Public Service Commission of the State of Missouri's (the "Commission") Order Directing Filing (Doc. 191), Missouri American Water Company's ("MAWC") Motion for Leave to Late File the Rebuttal Testimony of Takisha Walker (the "Motion for Leave") (Doc. 180), and Staff's Motion to Strike MAWC's Rebuttal Testimony of Takisha Walker and to Deny MAWC's Motion for Leave to Late File Rebuttal Testimony of Takisha Walker (the "Motion to Strike") (Doc. 186), respectfully states:

1. On February 14, 2023, MAWC filed its Motion for Leave seeking Commission approval to late-file the Rebuttal Testimony of Takisha Walker. MAWC asserts that it served Ms. Walker's testimony on the other Parties to this matter on January 18, 2023, but "inadvertently did not file" Ms. Walker's testimony. (Mot. for Leave 1). MAWC maintains that because it served Ms. Walker's testimony on the parties on January 18, 2023, "there will be no prejudice to the parties as a result of a grant of" its Motion for Leave. (*Id.*).
2. On February 16, 2023, Staff filed the Motion to Strike requesting that the Commission deny the Motion for Leave and strike Ms. Walker's testimony. (Mot. to Strike 3). Staff explains that MAWC did not properly file and serve Ms. Walker's testimony in accordance with the Commission's Order Setting a Procedural Schedule (the "Order") and identifies

the prejudice that will result related to MAWC’s late filing of Ms. Walker’s testimony. (*Id.* 3).

3. If the Commission does not strike Ms. Walker’s testimony, Staff alternatively requests that the Commission allow Staff to respond to Ms. Walker’s testimony through the true-up phase or through live surrebuttal testimony during the scheduled hearing. (*Id.* 3-4). Further, Staff asks that the Commission enlarge the time to submit data requests “on the limited issue addressed in Ms. Walker’s testimony.” (*Id.* 4).
4. The OPC agrees with Staff’s analysis regarding MAWC’s failure to properly file and serve Ms. Walker’s testimony as required by the Order. (*See id.* 1-3). Further, the OPC shares the concerns Staff expressed in the Motion to Strike, namely that there will not be “ample time to investigate, request further information through data requests . . .draft, and file a response to this testimony prior to the scheduled hearing date of February 27, 2023 . . .” (*Id.* 3).
5. The OPC supports Staff’s request to strike Ms. Walker’s testimony. (*See id.*).
6. Alternatively, if the Commission grants MAWC’s Motion for Leave and allows MAWC to file Ms. Walker’s testimony, the OPC requests that the Commission allow *all* parties¹ to respond to Ms. Walker’s rebuttal testimony through the true-up phase, through live surrebuttal testimony during the schedule hearing, and through an enlargement of time to submit data requests on the limited issues addressed in Ms. Walker’s testimony.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission deny MAWC’s Motion for Leave, grant Staff’s Motion to Strike, and strike Ms. Walker’s

¹ The OPC notes that as the alternative relief requested in its Motion to Strike Staff requests only that the Commission allow Staff an opportunity to respond to Ms. Walker’s testimony. (Mot. to Strike 3-4). If the Commission grants MAWC’s Motion for Leave, the OPC requests that the Commission afford all parties to this matter, including the OPC, an opportunity to respond to Ms. Walker’s testimony.

testimony from the record. Alternatively, the OPC respectfully requests that the Commission afford *all* parties to this matter an opportunity to respond to Ms. Walker’s testimony through the true-up phase, through live surrebuttal testimony during the scheduled hearing, and through an enlargement of time to submit data requests on the limited issues addressed in Ms. Walker’s testimony.

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 17th day of February 2023.

/s/ Lindsay VanGerpen