

In the Matter of the Application and Petition of )  
Missouri-American Water Company Requesting the ) **Case No. WX-2015-0209**  
Commission Promulgate a Revenue Decoupling )  
Mechanism for the Water and Sewer Industry. )

COMES NOW the Office of the Public Counsel (“Public Counsel”) and submits this reply to the Staff of the Missouri Public Service Commission (“Staff”) and the Missouri Industrial Energy Consumers (“MIEC”) as follows:

1. Staff filed its recommendation that the Commission reject Missouri-American Water Company’s (“MAWC”) proposed rulemaking because the rule would establish an unlawful decoupling mechanism.<sup>1</sup> Public Counsel agrees with Staff’s conclusion; the proposed Revenue Stabilization Mechanism (“RSM”) for water and sewer corporations is unlawful.

<sup>1</sup> EFIS Doc. No. 5.

considering any of the other factors that impact cost recovery in a specific case or that deal with customer impacts and allocation of risk. Elevating one factor above all others, or considering one factor to the detriment of all others in setting rates – which is exactly what this proposed mechanism does – and without any evidentiary support for weighing the factor in that way, violates UCCM and may also violate the due process rights of customers. Moreover, and as importantly, setting a guaranteed level of revenue removes the Company’s incentive to reduce costs and seek efficiencies.

3. Additionally, requiring any credit or refund through decoupling re-determines rates already established and paid, and thus, constitutes unlawful retroactive ratemaking. *See UCCM*, pp. 58-59. As proposed, the decoupling mechanism would allow the company, if it experiences disappointing revenues, to track the difference between anticipated and realized revenues and then charge customers an increased amount in rates going forward. The ratepayers would have no control over their bills, nor would they even be aware of the actual price they pay for service. Under decoupling, customers pay a higher amount for services they already have received in order to insure the company against financial loss. Thus, in addition to being unlawful, the proposed mechanism is unreasonable.

4. Moreover, the utility has the best visibility on its own financial status, and so, can time rate cases to its maximum benefit. Where a utility finds itself in a position in which its revenues are inadequate to cover costs, the Company can file a rate case. There is no practical need to resort to the extraordinary and illegal mechanism proposed here.<sup>2</sup>

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<sup>2</sup> MAWC’s last rate case was filed in June of 2011. *See* Case No. WR-2011-0337. If MAWC were under-earning, certainly the Company already would have filed a new rate case.

## **Reply to MIEC**

5. In its filing, MIEC recommends that the Commission reject MAWC's petition for rulemaking and addresses two issues with which Public Counsel agrees. However, MIEC's other comments and conclusions regarding "rate design" are unreasonable and detrimental to residential ratepayers.

6. First, Public Counsel agrees that declining usage per customer does not justify a decoupling mechanism. A decoupling mechanism fundamentally changes the link between a customer's usage habits and the customer's bill for utility services. Decoupling severs the link between usage and bill amount, diminishing both the customers' *ability* to control their bills and the *incentive* to conserve water. By eliminating the financial reward associated with conservation customers may be encouraged to increase usage.

7. Second, Public Counsel agrees that the impact of weather on revenues does not justify a new decoupling mechanism. The impact of weather on revenues is not new. In fact, in rate proceedings, weather is "normalized" to determine appropriate prospective rates. As it relates to weather, the decoupling mechanism is a "solution" in search of a problem.

8. Public Counsel's general agreement with MIEC does not extend to its comments regarding rate design, which are irrelevant to MAWC's application in any event. For monopoly utilities, already insulated from competition, a separate customer charge provides additional protection from the market risks every other business faces. With a customer charge, the company collects a certain amount of money from every customer – even if the customer never uses a drop of water. Thus, the company no longer bears the financial risk that a customer will not use any water that month; instead, the customer guarantees the company's revenue. MIEC's passing suggestion to increase customer charges drastically transforms the customer charge from

a relatively benign recoupment of the modest costs associated with that particular customer's added cost to the system for meters, billing postage, etc., and makes the customer charge just another form of decoupling.

9. Rather than stripping customers of the ability to manage their own bills through the implementation of higher customer charges, the better public policy is to empower customers through pricing to make meaningful choices about consumption. In that way, a customer may choose to decrease their bill through changes in consumption. The negative impact on residential ratepayers, whether it is through MAWC's decoupling mechanism or some other method, suggests that such ideas, even if legal, should be rejected. Customers should pay for what they use and not be converted into insurers of last resort for the monopoly utility.

10. In conclusion, a decoupling mechanism is prohibited by Missouri law and is bad public policy. The mechanism shifts risk from the company to the ratepayers, reduces the company's incentive to seek operational efficiencies, reduces customers' ability to control their bills, and reduces customers' conservation incentive. Further, the rate design comments offered by MIEC result in similar negative impacts on ratepayers and are, in any event, not germane to MAWC's application. The Commission should reject MAWC's request for rulemaking.

WHEREFORE, Public Counsel respectfully submits its reply to Staff and MIEC

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 7<sup>th</sup> day of April 2015.

/s/ Tim Opitz