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	))))	 **File No. WR-2017-0285** **File No. SR-2017-0286**

REPLY BRIEF OF ST. JOSEPH, MISSOURI

COMES NOW the City of St. Joseph, Missouri ("St. Joseph"), intervenor and a member of the "Coalition Cities" with Warrensburg and Jefferson City in this matter, and for its Reply Brief states as follows:

RATE DESIGN – SINGLE-TARIFF PRICING, THREE-DISTRICT RATE DESIGN OR EIGHT-DISTRICT RATE DESIGN

For the reasons discussed in detail in the *Initial Post-Hearing Brief of St. Joseph, Missouri*, the Commission should reject the statewide (Single-Tariff Pricing) proposal of Missouri-American Water Company ("MAWC" or "Company") in this case and also the Three-District proposal of PSC Staff. Instead, the Commission should order the Company to calculate rates and produce tariffs designed to recover the revenue requirement agreed upon by Stipulation and Agreement in this case on the basis of the eight rate districts that existed prior to the Commission's 2016 decision in Case No. WR-2015-0301. St. Joseph commends its Initial Brief to the Commission for careful reading and review.

However, if the Commission decides against restoring the Eight-District rate design, it should reject Staff's Three-District proposal and finish its journey to Single-Tariff Pricing. If the Commission is going to consolidate rates, it should fully consolidate rates.

St. Joseph agrees with Staff when it says: "A primary benefit of district specific pricing is that the cost-causers pay for their own costs, a concept which is sometimes referred to as 'cost causation'."[1] However, Staff quickly deviates from that "primary benefit" with its Three-District proposal. Characterizing Single-Tariff Pricing and District-Specific Pricing as the "two extremes on the rate design spectrum," Staff argues for its Three-District model as a "hybrid": "This hybrid of the two extremes should likewise be approved in this case because it supports the economic and public policy goals of cost-causation ratemaking, rate shock minimization, and providing solutions for struggling water and sewer companies."[2] ***Staff's "hybrid" is the worst of all worlds for the citizens of St. Joseph.*** St. Joseph customers did not cause the need for a new Platte County water treatment plant,[3] but could pay more than $10 a month more for their water to pay for that plant, as the "anchor" of District 2.[4] Staff's Three-District "hybrid" does not reflect cost-causation, nor protect against "rate shock," for the people of St. Joseph.

Staff says it "cannot disagree that spreading the costs of necessary upgrades to a larger customer base is beneficial, but this benefit has been achieved already with the current consolidated three districts and it is not anticipated that adopting single tariff pricing would alter MAWC's growing footprint in the state."[5] **St. Joseph strongly disagrees that "this benefit has been achieved already" when, under Staff's rate**

[1] Staff's Initial Brief at 20, citing Exh. 104, Staff's CCOS & RD Report, p. 10, ll, 27-30.

[2] Staff's Initial Brief at 20.

[3] Marke cross, T-706, l. 24 – T-707, l. 7.

[4] Jenkins Direct, Exh. 18, p. 45; MAWC's Initial Brief at 24.

[5] Staff's Initial Brief, pp. 24-25.

design, it is being forced to bear the majority of the costs of the Platte County treatment plant, *costs which St. Joseph did not cause*.[6]

The Office of the Public Counsel had supported the Eight-District rate design in the previous case (WR-2015-0331).[7] However, in this case, OPC supports Staff's proposal to retain the existing three rate districts. Dr. Marke testified that having three rate districts comes closer to having costs paid by the cost-causer than do statewide rates. He also testified that there are arguments for the idea that consolidated pricing helps customers absorb rate shock and that the current three zones help do that. "You have strong anchors there."[8] ***The City of St. Joseph did not choose to be the anchor for District 2, to be the "deep-pocket" for Platte County and Brunswick*.** The citizens of St. Joseph feel the weight of being the anchor – being tied down by the anchor to drown in costs, in 2000 for itself and then, since 2016, for Riverside and Brunswick, both higher-cost systems,[9] as well.

The City of St. Joseph agrees with Public Counsel that Single-Tariff Pricing violates cost-causation principles, will not send proper price signals and may encourage 'gold-plating."[10] As stated by Public Counsel: "Single Tariff pricing socializes costs

---

[6] McGarry Direct, Exh. 329, pp. 12-14; Marke cross, T-706, l. 24 – T-707, l. 7. Busch cross, T-669-671.

[7] Marke cross, T-693, l. 23 – T-694, l. 1; T-708, ll. 1-7.

[8] T-698, ll. 14-16.

[9] McGarry Direct, Exh. 329, pp. 12-14; Busch cross, T-669-671; *Mo. Pub. Serv. Comm'n. v. Office of Pub. Counsel (In re Missouri-American Water Company's Request)*, 526 S.W.3d 253, at 259 (Mo. App. W.D. 2017).

across non-contiguous systems, meaning that the rates paid by customers are not likely to reflect the actual cost to serve their locality. [Citing Exh. 201, p. 9.] Cost causation principles in ratemaking are important in the rate setting process because it is responsive to price signals to the customer and the company."[11] **These are also reasons why Staff's proposed Three-District rate design should be rejected by the Commission in this case.** *See, Initial Post-Hearing Brief of St. Joseph, Missouri,* pages 4-5, and citations therein.

Company argues that its Single-Tariff Pricing "provides better incentives for larger water utilities to purchase under-performing water utilities. Many smaller water systems simply cannot attain the economies of scale needed to support the necessary investment to meet increasing water quality standards and, as a result, the quality of water suffers."[12] There is no indication in the record that the citizens and ratepayers of St. Joseph have caused this problem. That there may be poorly maintained water systems whose customers have not paid to adequately maintain or improve them is not the fault of the citizens and ratepayers of St. Joseph.

St. Joseph further agrees with OPC that Single-Tariff Pricing is not necessary to provide incentive to Missouri-American to acquire small, troubled systems because it already has sufficient incentive through statutes and rules. However, that is true as to the Three-District rate design, as well. As Mr. Busch testified: "Staff would point out that the Company continues to increase revenues through its robust acquisition

---

[10] Initial Brief of the Office of the Public Counsel, p. 35; *See also,* Initial Brief of the Consumers Council of Missouri, page 1.

[11] Initial Brief of the Office of the Public Counsel, p. 35.

[12] MAWC's Initial Brief at 26.

strategies."[13] The Commission correctly recognized, in WR-2015-0301, that Section 393.320, RSMo, "already allows for consolidation of newly acquired water systems into larger districts, [and] … it appears that no further reassurance of potential buyers is required."[14] Mr. McGarry testified for the Coalition Cities that Missouri-American has a "long history" of acquiring smaller companies, without regard to consolidated pricing.[15] Missouri-American was acquiring such small, troubled systems before the current Three-District rate design was implemented, including pre-2016 when the Eight-District rate design was in effect.[16] Neither Company's nor Staff's consolidated rate designs is necessary to incentivize Missouri-American to acquire small, troubled water systems.

Staff says it is difficult to allocate corporate costs to each separate service territory on a district-specific basis.[17] Mr. McGarry testified that he was "somewhat perplexed at this reasoning" since "the Company's and Staff's Cost of Service models already have allocators for MAWC's corporate costs." He concluded, "In my opinion, the Commission should disregard Staff's proposed reasoning here as the work to establish a corporate allocator at an eight-district level is no different from three."[18]

The Company has all the data it needs to re-establish the eight rate districts that existed prior to WR-2015-0301. Lacking the resources of Company, Staff or OPC, the

---

[13] Exhibit 116, Busch Rebuttal, pp. 10, ll. 10-12.

[14] WR-2015-0301, *Report and Order* (issued May 26, 2016), pp. 25-26.

[15] McGarry Direct, Exh. 329, p. 10, ll. 2-6.

[16] Jenkins cross, T-627-628; Busch cross, T-662, ll. 5-21.

[17] Staff's Initial Brief at 22.

[18] McGarry Rebuttal, Exh. 330, p. 9, l. 11 – p. 10, l. 6.

Coalition Cities could not compel these other parties to calculate Eight-District rates. However, **Exhibit 136** provides the Commission with detailed information concerning the rate impacts of the Company's Single Tariff proposal and continuation of the Three-District pricing model. The Commission should direct the Company and Staff to provide the same amount of detail concerning Eight-District prices, and to develop tariffs for those eight rate districts.

Only District-Specific Pricing would establish reasonable rates on a cost-causation basis and avoid unfair subsidization of some customers' rates by other customers. For all these reasons, and those elaborated in the *Initial Post-Hearing Brief of St. Joseph*, the Commission should adopt an Eight-District rate design for Missouri-American in this case. **However, under no circumstance should the Commission continue the existing Three-District rate design, as proposed by Staff.** [19]

RATE OFFSET MECHANISM

If either the Company's or the Staff's rate design proposal is adopted by the Commission, absent a rate-offset mechanism, customers in the Coalition Cities will be forced to bear costs of capital investments in other distant service areas, despite having already borne alone for years the costs of capital investments in their own service areas. To mitigate that inequitable outcome, the Commission should direct the

[19] Contrary to statements by Company in its Initial Brief at p. 32, the Coalition Cities do not argue that consolidated tariffs are unlawful. However, not every exercise of the authority to implement consolidated rates is lawful. For example, consolidation of rates is only lawful in Missouri if the record supports the Commission conclusion that such consolidation is not unfair or unreasonable. *Mo. Pub. Serv. Comm'n. v. Office of Pub. Counsel (In re Missouri-American Water Company's Request)*, 526 S.W.3d 253, at 262 (Mo. App. W.D. 2017).

Company to use a "rate-offset" mechanism as proposed by Mr. McGarry.[20] A rate-offset mechanism is a reasonable and necessary transitional step to either Staff's or Company's rate design in this case.[21]

In addition to the Coalition Cities, the Cities of Joplin and Riverside both support the creation of a working group or collaborative process to explore and develop a rate-offset mechanism if the Commission decides to employ a consolidated rate design in this case.

Company argues in its Initial Brief, as it had at hearing, "that the offset mechanism is nothing more than a round-about way to re-establish a form of District Specific Pricing …." St. Joseph answered that argument very directly in its Initial Post-Hearing Brief at Page 15. *If* the Commission determines to approve Company's Single-Tariff rate design or to retain Staff's Three-District rate design, the rate offset would simply represent an effort to accomplish some semblance of fairness and equity for the Coalition Cities, which have paid their own way for years without subsidies from other service areas but now could be forced to also subsidize other service areas.

Company also argues that the rate-offset is "premised on the false assumption that certain of the Coalition Cities have 'already paid' for capital improvements in their service area."[22] Of course, the Coalition Cities are well-aware, and have freely acknowledged, that the major capital improvements for which they have been paying in

[20] McGarry Direct, Exh. 329, p. 14, l. 13 – p. 15, l. 22.

[21] *See,* Opening Statement of Mr. Lumley for Warrensburg, T-587.

[22] MAWC Initial Brief at 35.

water rates for years are not yet fully-depreciated.[23] However, all costs reflecting those capital projects that have been recognized in MAWC's rates since those improvements became used and useful were borne solely by the customers in those service areas until at least 2016.[24]

Staff says that, if the Commission were to order a working group on a rate-offset mechanism, the first question would be whether the mechanism would involve retroactive ratemaking.[25] The rate-offset mechanism would not change the Company's revenue requirement, so no retroactive ratemaking would occur. It would simply change the Company's rate design, a matter in which the Commission has great discretion.[26] Staff also raises a concern about whether the rate offset mechanism would constitute undue discrimination or undue preference since it is only proposed to apply to the Coalition Cities.[27] A working group could evaluate whether other service areas of the Company have also had major investments since 2000 that should be considered and compensated for in the rate offset. Neither of these concerns is an obstacle to the creation of a working group or collaborative process as requested by the Coalition Cities.

---

[23] Jenkins cross, T-625, l. 13 – T-626, l. 4.

[24] *Id.*

[25] Staff's Initial Brief at 26.

[26] *Mo. Pub. Serv. Comm'n. v. Office of Pub. Counsel (In re Missouri-American Water Company's Request)*, 526 S.W.3d 253 (Mo. App. W.D. 2017).

[27] Staff's Initial Brief at 26-27.

COLLABORATIVE OR WORKING GROUP PROCESS TO EXPLORE CAPITAL EXPENDITURE TRACKING MECHANISMS

Staff argues against the Coalition Cities' proposal to establish a working group or collaborative process to explore capital expenditure tracking mechanisms.[28] Staff argues: "By continuing with the filing of the yearly five-year capital expenditure budget, the parties are allowed an opportunity to review the budget and expenditures plan, to examine changes from year to year, and to better address or protect against any potential overinvestment that can occur under a consolidated pricing approach."[29]

Even assuming that Staff and OPC have sufficient time and resources to fully review and evaluate Company's five-year capital budgets,[30] both Staff's and Company's proposed consolidated rate designs make it harder for local governments, businesses and citizens to evaluate the Company's planned capital expenditures. Not only does a community need to study and evaluate capital projects proposed for its own service area, but it must necessarily seek to evaluate the projects proposed for every other service area to see how their costs might affect them locally through consolidated rates. District-Specific Pricing allows those directly affected by such capital expenditures to evaluate the Company's plans efficiently and seek to impact those plans. As Mr. McGarry testified: "… consolidated pricing also makes it easier for the Company to bury and hide expenses in massive and consolidated financials."[31]

---

[28] Staff's Initial Brief at 28.

[29] *Id.*

[30] Initial Post-Hearing Brief of St. Joseph, Missouri, at pp. 8-9; McGarry Rebuttal, Exh. 330, p. 9, ll. 3-6; Busch cross, T-661, ll. 18-22; Marke cross, T-694, l. 6 – T-696, l. 21.

CONCLUSION

At the time the Coalition Cities formed their coalition in this case, the Cities expected that Staff would support the Company's Single-Tariff Pricing proposal, based on the Commission's preference for that rate design as expressed in the *Report and Order* in Case No. WR-2015-0301.[32] *If* the Commission is not persuaded upon the record herein to return to the Eight-District rate design proposed and supported by the Coalition Cities, those Cities may find themselves in different positions as to the choice between Company and Staff's proposals in this case.

If the Commission decides only between the Company and Staff rate design proposals in this case, the City of St. Joseph strongly encourages the Commission to adopt the Company's Single-Tariff Pricing proposal as between the two. Continuation of the existing Three-District rate design would be the worst of all worlds for the City of St. Joseph. If the Commission decides against reverting to an Eight-District rate design, it should finish the process it announced it was starting in its *Report and Order* in WR-2015-0301.[33]

If the Commission decides not to return to the Eight-District rate design, St. Joseph further urges the Commission to establish a working group or collaborative process to explore and develop the rate-offset mechanism discussed above.

---

[31] McGarry Rebuttal, Exh. 330, p. 9, ll. 1-3.

[32] WR-2015-0301, *Report and Order,* p. 28 (issued May 26, 2016).

[33] *Id*.

Respectfully submitted,

/s/ William D. Steinmeier

William D. Steinmeier, MoBar #25689
WILLIAM D. STEINMEIER, P.C.
2031 Tower Drive
P.O. Box 104595
Jefferson City, MO 65110-4595
Phone: 573-659-8672
Fax: 573-636-2305
Email: wds@wdspc.com

COUNSEL FOR THE CITY OF
ST. JOSEPH, MISSOURI

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been served electronically on the PSC Staff Counsel's office (at staffcounselservice@psc.mo.gov), on the Office of the Public Counsel (at opcservice@ded.mo.gov) and on parties of record on this 9th day of April 2018.

/s/ William D. Steinmeier

William D. Steinmeier