

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

In the Matter of Missouri-American Water)	
Company's Request for Authority to)	Case No. WR-2015-0301
Implement a General Rate Increase for)	Case No. SR-2015-0302
Water and Sewer Service Provided in)	
Missouri Service Areas.)	

PUBLIC COUNSEL'S POSITION STATEMENT

COMES NOW the Missouri Office of the Public Counsel ("Public Counsel" or "OPC") and for its Position Statement states as follows:

1. Regulatory Policy

OPC Position: Public Counsel asks the Commission to be mindful of the Commission's purpose in these matters - to ensure regulated, natural monopoly providers of an essential utility service efficiently to safely provide their customers with adequate and reliable services at just and reasonable rates.

2. Cost of Capital and Capital Structure

A. What Capital Structure should be used in this case?

OPC Position: An appropriate capital structure is: long-term debt 49.28%, preferred stock 0.12%, and common equity 50.59%.

B. What Return on Equity ("ROE") should be allowed?

OPC Position: An appropriate ROE for Missouri-American Water Company ("MAWC") is 9.0%.

C. What reduction to ROE should be imposed, if any, if the Revenue Stabilization Mechanism proposed by MAWC is adopted?

OPC Position: The associated reduction in earnings risk should be reflected in a minimum 0.25% reduction to ROE.

3. Revenue Stabilization Mechanism Proposal

Should the Commission adopt the Revenue Stabilization Mechanism proposed by MAWC?

OPC Position: No. OPC opposes the RSM because the proposal: 1) lacks the necessary statutory authority to be approved; 2) lacks sufficient detail; 3) violates fundamental regulatory principles that the Commission has relied upon for decades in determining just and reasonable rates; 4) will create customer confusion; 5) will magnify customer risk; and 6) will increase rate volatility.

4. District Allocations

Should a cap of \$20 per customer be imposed on allocations of Corporate A&G expenses and Service Company expenses to small districts?

OPC Position: Public Counsel takes no position on this issue at this time, but reserves the right to take a position on this issue in its post-hearing brief.

5. Faulty Metering Issue

How should the Commission address the faulty metering issue?

OPC Position: MAWC knew it had an issue with tens of thousands of faulty meters before filing this case yet chose not to disclose the problem to the Commission or the parties despite data requests seeking disclosure of “significant, unusual or abnormal events and significant or unusual changes in operations”. MAWC effectively prevented the other parties from investigating the impact of the meter failures on water usage, operating revenues, uncollectibles, water loss,

overtime, contract labor, delayed booking of the meters, customer service, and meter refunds. Public Counsel asks the Commission to take this failure to disclose into consideration as the Commission resolves the issues in this case and further requests the Commission open an investigatory docket into this issue.

6. Environmental Cost Adjustment Mechanism (“ECAM”) Proposal

Should an ECAM be approved in this case as proposed by MAWC and, if so, what conditions, if any, should be implemented?

OPC Position: No. MAWC has not met the basic requirements to be awarded an ECAM because: 1) MAWC has not shown it expects to incur significant costs due to environmental laws, statutes and regulations; 2) MAWC did not show that this mechanism is necessary for it to earn a reasonable rate of return; 3) MAWC did not meet the requirements of the Commission rules regarding the application for approval of an ECAM; and 4) the ECAM proposed by MAWC lacks customer protections and details for necessary for implementation.

7. Business Transformation Program

Has American Water Works allocated an appropriate share of the costs of this program to Missouri?

OPC Position: No. The unregulated subsidiaries of American Water Works (“AWW”) are permitted to use some Business Transformation (“BT”) Program applications yet AWW has not appropriately allocated a share to those subsidiaries.

8. Service Company Costs

Are the costs charged to MAWC by the Service Company for the various services it provides reasonable and appropriate?

OPC Position: No. MAWC has not demonstrated its overall service company costs are reasonable. OPC rejects the “overall reasonableness” test proposed by MAWC as not verifiable. Service Company costs, like all utility costs, should be scrutinized for prudence, reasonableness, appropriate allocation, and whether the inclusion of a specific costs is consistent with Commission’s rate case policies

9. Income Taxes

A. Should the Commission adopt the adjustment for the Domestic Production Activities Deduction (“DPAD”) proposed by OPC?

OPC Position: Yes. The Commission should order the reflection of the DPAD in MAWC’s stand-alone income tax calculation. The Commission should reject MAWC’s incorrect accusation that OPC’s position is a potential income tax normalization violation. The Commission should find that MAWC’s affiliate relationship with its parent company, as it relates to income tax transaction, is an unreasonable abuse of the affiliate relationship.

B. What is the appropriate amount of Deferred Income Tax expense to include in the cost of service calculation?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

10. Energy Efficiency

A. Should the Commission adopt the capital deferral mechanism and collaborative proposed by MoDOE to incentivize MAWC to increase supply-side energy efficiency and water loss reduction investment?

OPC Position: No. DE's proposal lacks sufficient detail and is not supported by any empirical analysis.

B. Should the Commission adopt the demand-side water efficiency program and collaborative proposed by MoDOE?

OPC Position: No. DE's proposal lacks sufficient detail and is not supported by any empirical analysis.

11. Depreciation Issues

A. What is the appropriate depreciation rate to apply to sewer CIAC?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

B. Should amounts relating to sewer assets placed by MAWC in water rate base accounts and vice versa be excluded from the cost of service calculation?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

C. Given that every water and sewer district has at least one USOA account improperly carrying a negative reserve balance, should Staff's recommended adjustments be adopted?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

D. Should the depreciation reserve adjustment of \$23,555 recommended by Staff for Ozark Meadows be adopted to offset the improper negative reserve account and, if so, should it be amortized to rates over five years?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

E. Has MAWC failed to depreciate the Business Transformation Program as required by the Stipulation and Agreement in Case No. WR-2011-0337, and, if so, how should this be resolved?

OPC Position: Yes. Depreciation of the BT Program should continue at twenty years as agreed to in the last rate case.

F. Should the depreciation rates ordered in Case No. ER-2011-0337 be continued in effect as recommended by Staff?

OPC Position: Yes.

G. Should MAWC be permitted to use the Remaining Life Method on all but general plant accounts?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

H. How should the retirement of the Parkville Water Treatment Plant be handled?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

12. Capitalized O&M Depreciation

Should MAWC capitalize a portion of depreciation expense on tools and equipment partly used on capital projects?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

13. Property Taxes Expense

Should Property Tax Expense be calculated based on actual known and measureable expenses or on estimated expenses not payable until December 2016?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

14. Main Break Expense

How should Main Break Expense be calculated?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

15. Lobbying Expense

Should the following items be excluded from the cost of service calculation?

A. MEDA expense?

B. A portion of 10 Service Company salaries for lobbying-related job duties?

OPC Position: All lobbying costs, both payments to outside vendors and internal payroll/benefits costs, should be removed from expenses in cost of service and from plant in service in rate base.

16. Legal Expense

Should Legal Expense be based on actual payments or on accruals?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

17. Affiliate Transaction Rulemaking

Should the Commission open a separate case to consider adopting an affiliate transaction rule for water companies?

OPC Position: Yes. Water company customers should receive the same protections from affiliate transaction abuse as Missouri’s electric and gas company customers through the adoption of water affiliate transaction rules. OPC recommends the Commission develop and promulgate water utility affiliate transaction rules that include the same ratepayer protections as the electric and natural gas affiliate transaction rules. OPC recommends the Commission order MAWC to create a new Cost Allocation Manual (“CAM”) guided by existing standards for other regulated utilities and informed by stakeholder input. The Commission should order MAWC to file a proposed CAM for approval within six months of the date of its Report and Order in this rate case.

18. Payroll & Payroll Taxes

A. Should a scheduled raise that will take effect after the end of the true-up period be included in the cost of service calculation?

OPC Position: Consistent with the Commission’s rate case matching principle, only payroll increases are actually paid within the test year and test year true up period should be reflected in cost of service.

B. How much overtime should be included in the cost of service calculation?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

C. How much Service Company payroll and related expenses should be included in the cost of service calculation?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

19. Dues & Donations Expense

Should state-level Chamber of Commerce expenses be excluded from rates?

OPC Position: OPC supports the long-standing Commission policy of allowing one payment for Chamber of Commerce membership dues for each city in MAWC's service territory but not for the State Chamber of Commerce. All other dues not directly related to the provision of utility service should be excluded from cost of service.

20. Atrazine Settlement

A. Should the amount received through the Atrazine Settlement be shared 50-50 between ratepayers and shareholders or 100 percent be allocated to ratepayers as a reimbursement for amounts they have previously paid?

OPC Position: Public Counsel proposes to refund 100% of the settlement amount to ratepayers because ratepayers have already been charged 100% the costs to test and treat for Atrazine in utility rates. Also MAWC employees did not separately track their time related to the Atrazine settlement but instead time spent on this issue was considered part of their normal utility work responsibilities. There were also no additional expenses incurred by MAWC as a result of the lawsuit.

B. What is the appropriate amortization period to return the regulatory liability amount to ratepayers, three years or five years?

OPC Position: The amortization period should be five years.

21. Other Employee Benefits & Group Insurance

A. What is the appropriate level of other employee benefits to include in rates for MAWC and Service Company?

B. What is the appropriate level of group insurance to include in rates for MAWC and Service Company?

OPC Position: Public Counsel takes no position on these issues at this time but reserves the right to take a position in its post-hearing brief.

22. Pension and OPEBs

A. What is appropriate amount of pension and OPEBS expense to include in the cost of service calculation?

B. Should the pension tracker allow for rate base treatment of differences between the amount of MAWC's cash investment in its pension trust fund and its rate recovery for pension expense?

OPC Position: Public Counsel takes no position on these issues at this time but reserves the right to take a position in its post-hearing brief.

23. Rents & Leases Expense

A. What amount should be included in the cost of service calculation for Transportation Lease Expense?

B. What amount should be included in the cost of service calculation for other leases?

OPC Position: Public Counsel supports the Staff's position on these issues.

24. Miscellaneous Expenses

What miscellaneous expense items should be included in the cost of service calculation?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

25. Rate Case Expense

A. Over what period should rate case expense be normalized?

OPC Position: Public Counsel supports the Staff's position on the normalization period as reasonable.

B. Should certain rate case expenses be shared between ratepayers and shareholders? If so, which expenses and how?

OPC Position: Rate case expense should be allocated to ratepayers and shareholders consistent with the sharing ordered in Case No. ER-2014-0370, which is the ratio of a fair and reasonable rate increase ordered by the Commission over the proposed rate increase as updated in its true-up proposal.

C. What expenses should be included in rate case expense?

OPC Position: Public Counsel's position is the normalized level of prudent and reasonable rate case expense actually incurred and paid by MAWC to process this rate case through the Commission's January 31, 2016 test year true-up cutoff date. This amount would not include costs associated with prior rate cases or estimated or projected payments. In addition, the OPC does not recommend rate case costs in this case include costs for testimony and other consultant work products that are the same or essentially the same as was produced and filed in the 2011 rate case.

26. Purchased Water Expense

What is the appropriate level of expense to reflect in rates for the Spring Valley district for purchased water?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

27. Emerald Pointe Pipeline Rate Base Treatment

Should the cost associated with the portion of a pipeline that was contributed to the City of Hollister be included in rate base?

OPC Position: No. Public Counsel supports the Staff's position on this issue.

28. Electricity, Fuel and Heating Oil Expense

What is the appropriate level of electricity, fuel and heating oil expense to include in rates?

OPC Position: Public Counsel takes no position on this issue at this time, but reserves the right to take a position in its post-hearing brief.

29. Cash Working Capital

A. What is the appropriate billing lag?

B. What is the appropriate expense lead or lag treatment for Service Company expenses?

OPC Position: Public Counsel takes no position on these issues at this time but reserves the right to take a position in its post-hearing brief.

30. Arnold Plant Amortization

A. Should costs related to a treatment plant owned by MSD but used by MAWC under contract be amortized over the life of the asset or the term of the contract?

B. Should the difference between the contractual amount being amortized over the contract term or life of the asset be included in rate base?

OPC Position: Public Counsel supports the Staff’s position on these issues.

31. District Consolidation/Consolidated Pricing

Should the Commission adopt the consolidation of districts proposed by Staff, the alternative consolidation proposed by MAWC, or maintain the status quo as proposed by OPC?

OPC Position: Further consolidation of the water districts is not presently supported by the facts in this case.

32. Rate Design & Customer Charge

A. How should rates be designed?

OPC Position: OPC supports the Division of Energy’s (“DE”) position to only collect “customer-related costs” through the customer charge and to recover service capacity and minimum consumption costs through the volumetric charge.

B. How should the customer charge be adjusted?

OPC Position: OPC supports DE’s position to only collect “customer-related costs” through the customer charge and to recover service capacity and minimum consumption costs through the volumetric charge.

C. How should purchased power expense be allocated?

OPC Position: Public Counsel takes no position on these issues at this time but reserves the right to take a position in its post-hearing brief.

33. Incentive Compensation Expense

Should Incentive Compensation related to earnings per share (“EPS”) and other financial goals be included in the cost of service calculation?

OPC Position: Earnings and Equity-based Incentive Compensation should not be included in the cost of service calculation consistent with the Commission’s long-term policy prohibiting such inclusion. Earnings and Equity-based Incentive Compensation provides management incentives contrary to utility ratepayer interests and only support shareholder interests.

34. Low-Income Tariff

Should the Commission adopt a low-income tariff for MAWC?

OPC Position: Public Counsel is generally supportive of initiatives to assist Missouri’s low-income utility customers. However, MAWC did not propose a low-income tariff until surrebuttal testimony and parties have not had an opportunity to investigate MAWC’s proposal. Further, parties do not have answers to questions regarding whether statutory authority exists for creating a separate low-income rate. Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

35. Relocation Expense

What amount of relocation expense should be included in the cost of service calculation?

OPC Position: Public Counsel supports MAWC’s three-year amortization of reasonable relocation expenses.

36. Waste Disposal Expense

What amount of waste disposal expense should be included in the cost of service calculation?

OPC Position: Public Counsel supports the Staff's position on this issue.

37. Residential Customer Usage/Revenues

How should normalized residential usage be determined for calculating revenues? Is the Company experiencing declining usage?

OPC Position: OPC recommends a positive adjustment to residential water district revenues of \$8,454,110. The Commission should approve OPC's residential revenue normalization using an average of five years of billing usage ending in December 2015 for the following three reasons: First, it is an adjustment to test year revenues preserving the ratemaking matching principle. MAWC adjustment projects usage past the test year and true-up year which violates the ratemaking matching principle. Second, OPC has great concerns regarding the application of statistical methods MAWC uses given the questionable integrity of the usage and customer number data. In addition to problems described in OPC testimony, the discovery by Staff that MAWC was aware of the thousands of faulty meters exemplifies the inappropriateness of using any statistical analysis to make a projection of revenues based on MAWC's billing data. Third, while MAWC repeatedly states weather impacts water usage, it did not include in its analysis the impact of weather on water usage.

38. Non-Residential Revenues

A. What is the appropriate annualized customer level for each revenue class?

B. *What is the appropriate annualized revenue to include in rates for all non-residential categories?*

C. *Should 5-year averages be used in calculating Miscellaneous Revenues or should the Test Year values be used?*

OPC Position: Public Counsel takes no position on these issues at this time but reserves the right to take a position in its post-hearing brief.

39. Miscellaneous Charges

Should existing miscellaneous charges be modified and, if so, how?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

40. Infrastructure System Replacement Surcharge (ISRS)

How should the Commission address the Western District Court of Appeal's opinion in WD78792?

OPC Position: MAWC' ISRS sheet should be deleted from the tariff consistent with the Missouri Court of Appeal's opinion finding on this issue.

41. Chemicals Expense

What amount of chemicals expense should be included in the cost of service calculation?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

42. Insurance Other Than Group Expense

What amount of insurance expense should be included in the cost of service calculation with respect to the following items:

A. *Directors and Officers Liability Policy? Kidnap and Ransom Insurance?*

OPC Position: Kidnap and Ransom Policy premiums should not be included in cost of service.

B. MAWC's proposed retrospective accrual adjustment?

OPC Position: Until MAWC provides verifiable data that the retrospective adjustment is an actual insurance premium cash payment, no dollars associated with this issue should be included. If MAWC provides verifiable cost data consistent with the nature of this item's volatility, this item should be normalized over a 10-year period.

43. Advertising Expense

What amount of advertising expense should be included in the cost of service calculation?

OPC Position: Public Counsel supports the Staff's position on this issue.

44. Promotional Items Expense

What amount of expense relating to promotional giveaway items should be included in the cost of service calculation?

OPC Position: Public Counsel takes no position on this issue at this time but reserves the right to take a position in its post-hearing brief.

45. Tank Painting Expense & Tank Painting Tracker

A. Should the tank painting tracker be continued?

OPC Position: No. Sufficient evidence is available to create a normalized level of tank painting expense.

B. If so, what should the base be?

C. How much tank painting expense should be included in the cost of service calculation for the amortization of the regulatory asset?

OPC Position: OPC supports the Staff's proposed five-year amortization of expenses deferred under the prior tracker.

46. Postage Expense

What amount of postage expense should be included in the cost of service calculation?

OPC Position: Public Counsel recommends an annual level of \$1,273,857. This results in a decrease of \$19,522 to the test year books and records of \$1,293,379.

47. Union Issues

A. Should the Commission condition any rate increase upon MAWC's filling unfilled bargaining unit positions?

B. Should the Commission order semi-annual reporting of various items as urged by the Unions?

C. Should the Commission order MAWC to comply with and implement American Water Works' valve maintenance program?

OPC Position: Public Counsel takes no position on these issues at this time but reserves the right to take a position in its post-hearing brief.

WHEREFORE, the Office of the Public Counsel respectfully submits this Position Statement.

Respectfully submitted,

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 11th day of March 2016.

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