

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

In the Matter of Missouri-American Water)
Company’s Request for Authority to Implement) Case No. WR-2017-0285, et al.
General Rate Increase for Water and Sewer)
Service Provided in Missouri Service Areas.)

OPC’S FIRST POSITION STATEMENT

COMES NOW the Missouri Office of Public Counsel (“OPC”), by and through undersigned counsel, and for *OPC’s First Position Statement* states as follows:

1. **Future Test Year** – *What is the appropriate test year for purposes of determining MAWC’s cost of service in this case?*

OPC supports a historical test year, and no party outside of the Company is supporting a future test year.¹

OPC maintains its position that a future test year is unlawful and inappropriate for the reasons explained in the Response to Motion to Establish Future Test Year and Test Year Recommendation.²

OPC continues to raise concerns that asymmetric information problems are compounded with a future test year because the Company is uniquely situated to make post-rate case management decisions that allow them to shed costs while reaping the benefits of inflated projections.³ Although Company argues it has not achieved revenues congruent with those

¹Missouri Office of the Public Counsel witness Dr. Geoff Marke, surrebuttal testimony, page 10, lines 10-11
² Response to Motion to Establish Future Test Year and Test Year Recommendation, WR-2017-0285 (arguing case law and statutes favor a historical test year among other things such as the fact that proposed legislation sought to authorize utilization of a partially forecasted test year); Also see Mo. Rev. Stat. §393.270.4 (the Commission shall consider all relevant factors including a “reasonable average return upon capital ***actually expended.***”)
³ Missouri Office of the Public Counsel witness Dr. Geoff Marke, rebuttal testimony, page 5, lines 9-23 and pg. 6, lines 1-2.

authorized, OPC argues that achieving returns should be viewed as an ongoing challenge, not an entitlement, just as in a competitive environment.⁴

In addition to OPC's advocacy on behalf of consumers related to this issue, individual consumers have been vocal at local public hearings about their opposition to the Company's future test year proposal.⁵ Customers believe the Company's audited financial data is superior to unaccounted for projections.⁶

OPC also concurs with the well-reasoned arguments from Mr. William D. Steinmeier, counsel for the City of St. Joseph, Missouri which cited to undersigned counsel having heard various arguments of utilities urging a future test year for thirty years; however, "the risk of over-charging customers by applying rates based on highly-speculative future revenues and costs remains the same."⁷ (emphasis added).

For many reasons expressed in testimony and through motions, OPC opposes the Company's request for a future test year.

2. Tax Cut and Job Act of 2017

a. Corporate Tax Rate Adjustment – *Should the Commission reduce the federal corporate income tax rate reflected in MAWC's cost of service from 35% to 21%?*

Yes. OPC is requesting the Commission include the new corporate tax rate of 21%.⁸

b. ADIT Going Forward Treatment – *How should the Commission address the portion of current ADIT balances that are overstated on account of the federal*

⁴ Missouri Office of the Public Counsel witness Dr. Geoff Marke, rebuttal testimony, Lines 7-18

⁵ Missouri Office of the Public Counsel witness Dr. Geoff Marke, surrebuttal testimony, page 10, fn 10 (citing to Local Public Hearing, Vol. 10, p. 26); *also see* Volume 12, Local Public Hearing – Jefferson City, page 18, lines 8-16; Volume 8, Local Public Hearing – Maryland Heights, pages 28, lines 19-25 and pages 29, lines 1-2.

⁶ *Id.*

⁷ Additional Response to Future Test Year Proposal, WR-2017-0285 (the "legal standard is not whether a future test year is explicitly *prohibited* by statute, but whether it is explicitly *authorized* by statute. Utility Consumers Council of Missouri v. PSC, 585 S.W.2d 41 (Mo. 1979) ("UCCM case").

⁸ Missouri Office of the Public Counsel witness John S. Riley, surrebuttal testimony, page 2, lines 13 - 19

income tax reduction?

Consistent with prior rate cases, OPC urges the Commission to adopt a 20 year recovery for protected ADIT and a 10 year recovery for unprotected ADIT.⁹

- c. Other TCJA Impacts – *How should the Commission treat any other cost of service impacts arising from the TCJA besides the federal corporate tax rate reduction and excess ADIT amounts?*

The Commission should allow a reasonable estimated amount of overstated deferred tax to be flowed back through rates in this case and allow a tracker so that over/under collection of the tax can be corrected with the next general rate case. The Company should be able to provide a reasonable estimate of protected and unprotected ADIT before the conclusion of the hearing.¹⁰

- d. *Are there other items that should be deferred and considered as part of TCJA implementation?*

Not that OPC is aware of at this time.

3. **Production Costs -Waste Disposal** – *What is the appropriate amount of waste disposal expense to recover in rates?*

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's calculation of \$2,411,043 which uses actual expenses that occurred in the test year and update period of January 1, 2016 through June 30, 2017.¹¹

4. **Allocations** – *What is the appropriate method to allocate MAWC corporate costs to the*

⁹ Missouri Office of the Public Counsel witness John S. Riley, surrebuttal testimony, page 3, lines 14 - 25

¹⁰ Missouri Office of the Public Counsel witness John S. Riley, surrebuttal testimony, page 2, lines 15 – 19, and page 3, lines 1 - 13

¹¹ Missouri Public Service Commission Staff Report – Cost of Service, page 78, lines 22 - 30, and page 79, lines 1 - 3

water and sewer districts?

OPC did not write testimony on this specific issue. However, OPC is supportive of Staff's continual use of allocating corporate costs according to multiple allocation factors based on cost causers, which has been used by Staff since at least 2008.¹²

5. Property Tax – *What is the appropriate amount of property tax to recover in rates?*

OPC proposes the actual property taxes paid in 2017 of \$19,430,458 should be included in MAWC's cost of service.¹³ Property taxes will be known and measurable and paid by the end of 2017 so this is the appropriate level to use in this case.¹⁴ To the extent a stub period AAO, as explained by MAWC witness Jim Jenkins would seek to include property tax increases litigated in WU-2017-0351, OPC does not believe these types of taxes warrant an AAO for the reasons argued in WU-2017-0351.¹⁵

6. Cloud Computing –

a. Should expenses associated with Cloud Computing be booked in USOA account 303 or USOA account 930.2?

Neither. The Company did not present a specific asset or expense for rate recovery in this case. OPC believes specific Cloud Computing expenses and assets should be addressed at such time when the Company can provide a more detailed proposal with specifics regarding the assets it would apply to for all parties to study.¹⁶

b. Should the capital costs associated with Cloud Computing be booked in

¹² Missouri Public Service Commission Staff witness Keith Foster, surrebuttal testimony, page 4, lines 5 - 9

¹³ Missouri Office of the Public Counsel witness John S. Riley, rebuttal testimony, page 4, lines 1 – 4, and the Company response to Staff data request 162

¹⁴ Missouri Office of the Public Counsel witness John S. Riley, rebuttal testimony, page 4, lines 1-4

¹⁵ Missouri Office of the Public Counsel witness John S. Riley, surrebuttal testimony, page 4, lines 1-21 and pg. 5, lines 1 -11.

¹⁶ Missouri Office of the Public Counsel witness John S. Riley, rebuttal testimony, page 3, lines 5 - 12

USOA account 303 or USOA account 391.25?

Neither. The Company did not present a specific asset or expense for rate recovery in this case. OPC believes specific Cloud Computing expenses and assets should be addressed at such time when the Company can provide a more detailed proposal with specifics regarding the assets it would apply to for all parties to study.¹⁶

WHEREFORE, OPC submits OPC's First Position Statement as its positions for this Commission's consideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On this 20th day of February, 2018, I hereby certify that a true and correct copy of the foregoing motion was submitted to all relevant parties by depositing this motion into the Commission's Electronic Filing Information System ("EFIS").

/s/ Ryan D. Smith