

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

In the Matter of the Joint Application of        )  
Hickory Hills Water & Sewer Co., Inc. and    )  
Missouri-American Water Company, for        )  
MAWC to Acquire Certain Water and         )  
Sewer Assets of Hickory Hills and, in        )  
Connection Therewith, Issue Indebtedness   )  
and Encumber Assets.                            )

File No. WA-2016-0019

**THE OFFICE OF THE PUBLIC COUNSEL’S RESPONSE TO MAWC**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response to MAWC states as follows:

1. On October 9, 2015, Public Counsel stated that it does not oppose the transfer of Hickory Hills Water & Sewer Co., Inc. (Hickory Hills) to Missouri-American Water Company, Inc. (MAWC). However, Public Counsel stated that it does not necessarily agree with all of the statements in the Staff of the Missouri Public Service Commission (Staff) Recommendation and attached Memorandum filed on October 2, 2015.
2. On October 13, 2015, MAWC filed its Response to Staff Recommendation and Public Counsel Response.
3. On October 14, 2015, the Commission issued an Order Directing Filing requiring Public Counsel to file a response to MAWC’s October 13<sup>th</sup> filing by October 26, 2015.
4. In its filing, MAWC objects to Public Counsel’s position and states the following:  
  
First, the Public Counsel’s general reference to “many other issues addressed by Staff’s Memorandum” is not helpful to this process. Hickory Hills is a situation in need of a solution. If MAWC is going to attempt to provide that solution, it should have full knowledge of the issues that Public Counsel believes are raised by Staff’s Memorandum so that MAWC may make an informed decision as to whether or not to proceed with this matter.

5. MAWC's response raises three issues in its filing:
  - (1) Which MAWC service area the Commission shall designate as consolidated with Hickory Hills Water & Sewer Co., Inc. under Section 393.320.6, RSMo Supp. 2013.
  - (2) Whether the purchase price includes an acquisition premium and, if so, whether the acquisition premium was reasonable or detrimental to the public under *State ex rel. AG Processing, Inc. v. Pub. Serv. Comm'n of State*, 120 S.W.3d 732, 736 (Mo. banc 2003).
  - (3) Whether the Commission should convene a local public hearing.
6. Public Counsel believes that other than the issue of whether a local public hearing should be held,<sup>1</sup> the issues MAWC seeks Public Counsel's agreement on are actually issues which are more properly determined by the Commission at a rate case rather than in a transfer case.
7. The first issue raised by MAWC is noted as a "Rate Area" issue. Public Counsel did not oppose the Joint Application seeking to transfer of Hickory Hills to MAWC. As part of that Joint Application, Public Counsel did not oppose MAWC's request to consolidate Hickory Hills with the St. Louis Metro District upon the date of acquisition merely for the purposes of Section 393.320, RSMo. However, if Public Counsel believes it is appropriate to oppose the ratemaking consolidation of the Hickory Hills customers, who are located in Moniteau County near California, MO, with the customers in the St. Louis Metro area, it reserves the right to do so in any rate case.
8. Public Counsel has no intention to waive its right in the current MAWC rate case, WR-2015-0301, or any future MAWC rate case, to propose any rate design, including district-specific pricing, it believes to be just and reasonable for customers. If that is what MAWC seeks to

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<sup>1</sup> Public Counsel notes that MAWC did not oppose Public Counsel's request for a local public hearing, nor did Hickory Hills. Public Counsel responded to Staff's Objection in a separate filing dated October 23, 2015.

accomplish through the Joint Application, Public Counsel would be forced to withdraw its statement of no opposition and would instead have to object to the transfer.

9. Similarly, Public Counsel has no intention to waive its right to address how the purchase price paid by MAWC will be accounted for in future MAWC rates.

10. Public Counsel has stated that it agrees that it is just and reasonable that the net book value as of August 31, 2015 be used to determine Hickory Hills' rate base in this case.<sup>2</sup> Public Counsel also agrees that the net book value of Hickory Hills' assets as of August 31, 2015 was approximately \$8,902, all of which is attributed to the water system.<sup>3</sup>

11. However, Public Counsel has stated its concerns with Staff's recommendation that the Commission authorize MAWC to book a regulatory asset, split equally between water and sewer, associated with amounts paid related to Mr. Cover's receivership fees and personal loan payoff.<sup>4</sup>

12. At first glance, Staff's recommendation seems to have the potential to move inappropriately payment of receivership fees and repayment of personal loans from expense items to rate base items on which a rate of return will be applied. In fact, MAWC states: "If the purchase price is treated as Staff has suggested, it will equal rate base."<sup>5</sup> So, it certainly seems that is what MAWC is expecting.

13. However, the exact ratemaking treatment of this regulatory asset sought by MAWC and Staff will not be known until it is decided by the Commission in a rate case. It is premature for

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<sup>2</sup> Memorandum attached to *Staff's Recommendation*, page 4; "Mr. Cover personally took out a loan to pay off Hickory Hills' debt that the Receiver inherited from Hickory Hills' original owners and to compensate two customers for sewer backup claims against the Hickory Hills."

<sup>3</sup> *Id.*, page 4.

<sup>4</sup> *Id.*, pages 4 and 7.

<sup>5</sup> *Response to Staff Recommendation and Public Counsel Response*, page 4.

MAWC to expect the rate base treatment of these expense items to be agreed to by Public Counsel in the acquisition case.

14. Public Counsel is well aware of the issues regarding this system and the need to find a permanent owner to provide safe and adequate service. However, Public Counsel will not waive its statutory right to present any evidence and take any position in a rate case it believes necessary to ensure just and reasonable rates for the customers of Hickory Hills and the other customers of MAWC.

15. Public Counsel states again that it does not oppose the transfer of Hickory Hills to MAWC. But Public Counsel reserves the right to take up the rate area/rate design and purchase price/rate base issues, and any other issues it deems appropriate, in any MAWC rate case involving the current customers of Hickory Hills. If this is not sufficient for MAWC, Public Counsel must instead oppose the Joint Application.

**WHEREFORE**, Public Counsel respectfully submits its response.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

**/s/ Christina L. Baker**

By: \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the parties of record this 26<sup>th</sup> day of October 2015:

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