

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

In the Matter of Missouri-American	)	
Water Company for Certificate	)	
Of Convenience and Necessity	)	
Authorizing it to Install, Own, Acquire,	)	<b>Case No. WA-2017-0278</b>
Construct, Operate, Control, Manage, and	)	<b>SA-2017-0279</b>
Maintain Water and Sewer Systems	)	
In an Area of St. Louis County, Missouri.	)	

**RESPONSE TO STAFF RECOMMENDATION**

**COMES NOW** the Missouri Office of the Public Counsel (“OPC”), by and through undersigned counsel, and files this Response to Staff Recommendation filed by the Missouri Public Service Commission’s Staff (“Staff”). In support thereof, OPC states as follows:

1. OPC does not believe a hearing is required provided that MAWC submits a filing which adequately addresses the concerns outlined herein and Staff does not hereafter object.
2. On April 21, 2017, Missouri-American Water Company (“MAWC”) filed an application and, if necessary, Motion for Waiver for a Certificate of Convenience and Necessity (“CCN”) to serve an area generally known as the Pevely Farms subdivision in St. Louis County, Missouri. In connection therewith, MAWC would acquire the assets of Pevely Farms Homeowner Association to serve a growing customer base which currently consists of approximately 52 water and wastewater customers.
3. On June 20, 2017, Staff filed a Recommendation to grant MAWC a CCN to provide regulated water and wastewater services subject to 16 enumerated recommendations.
4. OPC notes that Staff has incorrectly cited to a sixth Tartan factor in this case and at least one other case, WA-2017-0278 and SM-2017-0150.<sup>1</sup> Although there is no sixth Tartan factor, Staff’s purported sixth factor may more appropriately be contemplated under the first of the five Tartan factors, which evaluates the need for service. OPC requests that the Commission not unduly emphasize any of the Tartan factors.
5. OPC seeks to clarify one of the sentences in Staff’s Recommendation which indicates that the “water system is adequate to provide domestic service to the approximately 150 subdivision lots.”<sup>2</sup> Staff’s Recommendation indicates that there are 52 customers and

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<sup>1</sup> EFIS, WA-2017-0278, Staff Recommendation, Official Case File Memorandum, Page 3 of 7; and EFIS, SM-2017-0150, Item No. 27, Staff Recommendation, Official Case File Memorandum, Pg. 3 of 19

<sup>2</sup> EFIS, WA-2017-0278, Staff Recommendation, Official Case File Memorandum, Page 2 of 7.

approximately ten new homes under construction. OPC reviewed MAWC's response to Staff's Data Requests, and OPC notes that MAWC anticipates capital improvements will be necessary for treatment and distribution storage to meet capacity needs, customer growth in the area, and to address risks to facilities during extreme flooding events. Therefore, OPC questions whether the water system is adequate to meet demand from an additional 100 customers as new homes are built on the subdivision lots.

6. OPC supports Staff's enumerated recommendations 1-9 and 11-16.

7. OPC has some concerns with Staff's 10<sup>th</sup> recommendation which advocates for the Commission to "[r]equire MAWC to provide in its next general rate case an analysis documenting its proposed rate base values for Pevely Farms [sic] water and sewer system assets, including an appropriate offset for associated CIAC."<sup>3</sup>

8. Staff also indicated that based on "Staff's review of Pevely Farm's [sic] plant invoices in this proceeding, the purchase price being paid by MAWC may be below the net book value of Pevely Farms' assets. The determination of the value of any acquisition adjustment will be made in MAWC's first general rate filing in which it seeks recovery of Pevely Farms [sic] capital and expense costs."<sup>4</sup>

9. In another acquisition case involving MAWC, WA-2017-0181, OPC faced a similar problem when Staff filed a similar recommendation that failed to calculate or estimate rate base.

10. OPC recognizes difficulties and constraints with calculating the rate base of assets that are controlled by entities who are outside the jurisdiction of the Public Service Commission.

11. However, OPC is concerned that the holding of *State ex rel. AG Processing, Inc. v. PSC*, 120 SW3d 732 (Mo. 2003) is not being addressed when no one has considered the reasonableness of an acquisition discount or premium, if any, in the context of an acquisition case.

12. Staff has requested that an analysis of the acquisition adjustment be delayed until the next general rate case; however, Staff does not clarify whether they are recommending consideration of this issue in what they describe as a "pending case[] . . . WR-2017-0285 and SR-2017-0286"<sup>5</sup> or for some other rate case in the distant future.

13. OPC believes all of the issues contained herein can be resolved without hearing if Staff does not object and if MAWC were to file a statement reflecting its position as to (i) the

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<sup>3</sup> EFIS, WA-2017-0278, Staff Recommendation, Official Case File Memorandum, Page 7 of 7

<sup>4</sup> *Id.* at Page 4 of 7

<sup>5</sup> *Id.* at Page 5 of 7

timing of when MAWC is seeking to calculate its rate base, and (ii) MAWC's affirmation that it will not be seeking recovery of an acquisition premium, if any.

**WHEREFORE**, OPC requests that the Commission approves MAWC's application and grants MAWC a CCN to provide water and wastewater service to the area known as Pevely Farms under the conditions contained herein and that the Commission order any other relief it deems as just and reasonable.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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**CERTIFICATE OF SERVICE**

On this 30th day of June, 2017, 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