

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

In the Matter of the Petition of)
Missouri-American Water Company for) **File No. WO-2020-0410**
Approval to Change its Infrastructure)
System Replacement Surcharge (ISRS))

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW Missouri-American Water Company (MAWC), the Office of the Public Counsel (OPC), and the Staff of the Missouri Public Service Commission (Staff) (together, the Parties), and submit this *Unanimous Stipulation and Agreement* (Stipulation and Agreement):

BACKGROUND

1. On August 28, 2020, MAWC filed a *Petition to Change its Infrastructure System Replacement Surcharge & Motion For Approval of Customer Notice*. By this filing, MAWC requested an adjustment to its ISRS rates and charges for ISRS-eligible infrastructure system replacements and relocations.

2. The Parties agree and intend this *Unanimous Stipulation and Agreement* to settle only the issues of the ISRS revenue requirement to be approved by the Commission in the above captioned cases. This settlement is the product of extensive negotiations aimed at an amicable resolution of the present cases and none of the signatories to this *Unanimous Stipulation and Agreement* concede any issue of law or fact not expressly stated herein.

RESOLUTION

3. **ISRS Revenue Requirement:** The Parties agree that, subject to the below paragraphs, the Commission approve ISRS surcharge revenues in this case in the incremental

pre-tax revenue amount of \$3,429,008, with a total current and cumulative ISRS surcharge of \$34,523,721.¹

4. **Rate Design:** The revenue requirement shall be allocated to the rate classes pursuant to the rate design described in Staff's Memorandum filed on October 27, 2020.

5. **Resolution of OPC objection to Staff recommendation:** The OPC raised an issue challenging the recovery of amounts related to a deferred tax asset (Net Operating Loss ("NOL")) in its objection to the Staff *Recommendation* filed on October 27, 2020. While the OPC maintains that Staff and the Company have erred in failing to include an offset to the ISRS revenue requirement to account for accelerated deferred income taxes due to the misapplication of an alleged NOL, the OPC also acknowledges that MAWC has presented evidence of ISRS eligible plant additions in an amount that exceeds the statutory limits imposed on ISRS recovery, thus negating the practical effect of this error on the ISRS revenue requirement to be approved. The parties agree that because the error alleged by the OPC will not have a practical effect on the ISRS revenue requirement, there is no need for further adjudication of this issue in this case. This provision does not constitute an admission of error or fault on the part of any signatory and shall not be construed to impede any legal claim, argument, or defense regarding this matter to be made in any other ISRS case.

GENERAL PROVISIONS

6. Unless otherwise explicitly provided herein, none of the Parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation to, any other method of cost determination or cost allocation or revenue-related methodology. Other than as explicitly provided herein, none of the Parties shall be prejudiced or bound in any manner in this or any other proceeding by the terms

¹ This amount includes total cumulative ISRS revenues of \$31,825,616 and total reconciled amounts of \$2,698,105.

of this Stipulation and Agreement regardless of whether this Stipulation and Agreement is approved.

7. This Stipulation and Agreement has resulted from negotiations among the Parties and the terms hereof are interdependent. If the Commission does not approve this Stipulation and Agreement unconditionally and without modification, then this Stipulation and Agreement shall be void and no Party shall be bound by any of the agreements or provisions hereof.


8. If the Commission does not unconditionally approve this Stipulation and Agreement without modification, and notwithstanding the provision herein that it shall become void, neither this Stipulation and Agreement nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Party has for a decision in accordance with §536.080 RSMo or Article V, Section 18 of the Missouri Constitution, and the Parties shall retain all procedural and due process rights as fully as though this Stipulation and Agreement had not been presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this Stipulation and Agreement shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any purpose whatsoever.

9. In the event the Commission unconditionally accepts the specific terms of this Stipulation and Agreement without modification, the Parties waive the following rights only as to the issues resolved herein: 1) their respective rights to present oral argument and written briefs pursuant to §536.080.1 RSMo; 2) their respective rights to seek rehearing, pursuant to §536.500 RSMo; and 3) their respective rights to judicial review pursuant to §386.510 RSMo. This waiver applies only to a final unappealed Commission order unconditionally approving this Stipulation

and Agreement issued in this proceeding and only to the issues that are resolved hereby. It does not apply to any matters raised in any prior or subsequent Commission proceeding or any matters not explicitly addressed by this Stipulation and Agreement.

WHEREFORE, for the foregoing reasons, the undersigned Parties respectfully request that the Commission issue its Order approving the terms and conditions of this *Unanimous Stipulation and Agreement*.

Respectfully submitted,

 _____ Dean L. Cooper Mo. Bar 36592 BRYDON, SWEARENGEN & ENGLAND P.C. 312 East Capitol Avenue P.O. Box 456 Jefferson City, MO 65102-0456 Telephone: (573) 635-7166 dcooper@brydonlaw.com Timothy W. Luft, Mo Bar 40506 MISSOURI-AMERICAN WATER COMPANY 727 Craig Road St. Louis, MO 63141 (314) 996-2279 (314) 997-2451 (telefax) Timothy.Luft@amwater.com ATTORNEYS FOR MISSOURI-AMERICAN WATER COMPANY	<u>/s/ Mark Johnson</u> Mark Johnson, Mo. Bar No. 64940 Deputy Counsel P.O. Box 360 Jefferson City, MO 65102 573-751-7431 (Voice) 573-751-9285 (Fax) mark.johnson@psc.mo.gov ATTORNEY FOR THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION
OFFICE OF THE PUBLIC COUNSEL By: <u>/s/ John Clizer</u> John Clizer (#69043) Senior Counsel P.O. Box 2230 Jefferson City, MO 65102 Telephone: (573) 751-5324 Facsimile: (573) 751-5562 E-mail: john.clizer@opc.mo.gov	

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 13th day of November, 2020, to:

Office of the General Counsel
Governor Office Building
Jefferson City, MO 65101
staffcounsel@psc.mo.gov

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