

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

In the Matter of Missouri-American Water)
Company's Request for Authority to)
Implement General Rate Increase for Water)
and Sewer Service Provided in Missouri)
Service Areas)

Case No. WR-2022-0303

STATEMENTS OF POSITIONS

Comes now the Office of the Public Counsel (the "OPC") and submits this Statement of Positions:

1. ROE / Capital Structure / Cost of Debt: What is the appropriate return on equity to be used to determine the rate of return?

The Commission should use an allowed return on equity ("ROE") of 9.0% for determining MAWC's rate of return. The OPC's witness, Mr. David Murray, used cost of equity ("COE") models and assumptions consistent with those investors use to arrive at this recommended ROE. Mr. Murray estimates that the cost of equity for MAWC of 6.0% to 6.5% is currently around 100 basis points lower than his recent cost of equity estimate of 7.0% to 7.5% for Evergy Metro and Evergy Missouri West in Case Nos. ER-2022-0129 and ER-2022-0130, respectively and his recent cost of equity estimate of 7.25% to 7.5% for Spire Missouri in Case No. GR-2022-0179. Mr. Murray's findings are logically consistent with much higher price-to-earnings (P/E) ratios for both water utility stocks in general and American Water Works Company, Inc.'s ("American Water") specifically, as compared to those of the electric and gas utility industries. In fact, American Water's price-to-earnings (P/E) ratios are higher than any of its peers. American Water's business risk profile is consistent with a pure-play water utility holding company. Considering that American Water is MAWC's parent company and the value of its stock is based on investors assessment of its water utility business risk and the capital structure it uses to finance its investments in its water utilities, American Water's cost of equity is the best proxy for estimating MAWC's cost of equity. Additionally, the investment community recognizes the water utility industry as a lower-risk investment compared to the electric and gas utility industries. Mr. Murray took all of these factors into consideration in determining his 9.0% ROE recommendation. A 9.0% ROE is logically below the Commission's recent authorized ROE of 9.25% for The Empire District Electric Company in Case No. ER-2019-0374 and 9.37% for Spire Missouri in Case No. GR-2021-0108. (See Murray Direct Test. 3-26).

What capital structure should be used to determine the rate of return?

The Commission should set MAWC’s rate-of-return (“ROR”) based on a capital structure of 40.45% common equity and 59.55% long-term debt. This capital structure is based on American Water’s targeted market-based capital structure ratios, not the capital structure American Water targets for MAWC for ratemaking. MAWC’s common equity capital ratio is supported by American Water’s affiliate-borrowing from American Water Capital Corporation (“AWCC”) at a cost of 3.78%, while MAWC’s requested cost of long-term debt 4.5% is also a function of MAWC’s affiliate borrowings from AWCC. This capital structure also matches AWCC’s consolidated cost of debt of 4.02% to the capital structure third-party debt investors are invested. (Murray Direct Test. 39-47).

What is the appropriate cost of debt to use to determine the rate of return?

MAWC should be allowed a cost of debt of 4.06%. The 4.5% debt cost assigned to MAWC is a function of affiliate promissory notes assigned to MAWC from AWCC. Mr. Murray discovered that the cost of debt MAWC receives from AWCC is higher than the cost of debt American Water receives from AWCC (3.78% vs. 4.47%). Mr. Murray’s recommended cost of debt is based on all third-party debt issuances AWCC executes and MAWC executes. As a test of reasonableness, Mr. Murray testifies that Missouri’s other large electric and gas utilities have embedded costs of debt in the range of 3.91% to 4.005%. (Murray Direct Test. 46-47; Murray Rebuttal Test. 11, 17, 21-22; Murray Surrebuttal Test. 8).

Should the authorized rate of return be adjusted to consider the Commission’s approval/disapproval of MAWC’s request for a Revenue Stabilization Mechanism (RSM”) and/or a Post in Service Carrying Cost Capitalization Mechanism?

Yes. Based on the expectation that MAWC’s capital structure could support more debt due to lower volatility in financial metrics, the Commission should reduce MAWC’s allowed ROR by 27 basis points, from 6.06% to 5.79%. (Murray Rebuttal Test. 34-36).

2. Regulatory Policy Matters/Mechanisms:

a. Discrete Adjustments: What, if any, discrete adjustments should the Commission make related to matters that will be known and measurable prior to the operation of law date in this case?

MAWC seeks discrete adjustments for many items through May 31, 2023, which is beyond both the test-year and true-up period in this case. (See Selinger Direct Test. 21-25). The Commission should deny all of MAWC’s requested discrete adjustments. (See Robinett Rebuttal Test. 8-11; Bolin Direct Test. 7-9; Bolin Rebuttal Test. 13-14, 16; Bolin Surrebuttal Test. 6-8).

These discrete adjustments are akin to a future test year. (See Bolin Rebuttal Test. 16). They present many problems and, if the Commission were to allow them, they also

present logistical challenges. (See Robinett Rebuttal Test. 8-11; Bolin Direct Test. 7-9; Bolin Rebuttal Test. 13-14, 16; Bolin Surrebuttal Test. 6-8).

First, many of the discrete adjustments that MAWC requests will violate the known and measurable standard. (Bolin Direct Test. 7-8, Robinett Rebuttal Test. 9). In order to calculate MAWC's new rates, the Commission must identify what amounts to include in rates. If the Commission were to allow MAWC's proposed discrete adjustments through May 31, 2023, then it must inherently rely on budgeted, projected, or forecasted information in setting MAWC's new rates, which violates the known and measurable standard. (See Bolin Direct Test. 7).

Second, due to the timing of MAWC's proposed discrete adjustments, if the Commission were to allow the discrete adjustments, Staff will not have sufficient time to determine whether costs should be included in MAWC's rates. For instance, as to plant additions, Staff will not have sufficient time to evaluate the plant additions for prudence, final costs of the newly constructed plant, or to see if the plant is used and useful prior to new rates taking effect. (Bolin Direct Test. 7-8; Robinett Rebuttal Test. 10; Bolin Surrebuttal Test. 6). As to the adjustments to other rate base, revenue, and expense items, there will not be sufficient time for Staff to review these items to determine if it is appropriate to include them in the cost of service. (Bolin Direct Test. 8).

Third, the proposed discrete adjustments for capital projects may violate the used and useful standard. (*Id.*). The Commission has applied the used and useful standard to water and sewer utilities "in all or almost all instances over many years." (*Id.*).

Fourth, even if the amount of the discrete adjustment is known and measurable, recognition of the discrete adjustments would violate the matching principle in many circumstances. (See Bolin Surrebuttal Test. 7-8 (explaining when a discrete adjustment violates the matching principle)). The matching principle "requires that all major components of a utility's cost of service be measured at the same point in time in developing customer rates." (Bolin Direct Test. 9). "For historic test year ratemaking, the revenues/expense/rate base relationship is based upon actual past financial data." (*Id.*). However, if the Commission were to recognize MAWC's proposed discrete adjustments, in determining MAWC's rates in this case it would rely on some information from June 30, 2022, some information from December 2022, some *projected* information from May 31, 2023, and, in some instances, *projected* information from as late as December 2023. (See *id.*; Bolin Surrebuttal Test. 8).

Fifth, if the Commission recognizes the discrete adjustments for projected plant in service, then the Commission must also include the reconciliation as recommended by Ms. Bolin and Mr. Robinett. (Robinett Rebuttal Test. 10). This reconciliation will be logistically difficult, because, as Mr. Robinett explains, the reconciliation must be significant. (*Id.*). For instance, the Commission would need to track the depreciation expense and return on the items that are included in rates but not yet in service, so that it could determine what amount must be refunded to customers for the time that the

items are not in service. (*Id.*). The Commission would also need to perform a calculation of the amount recovered for plant in service projections that did not get expended. (*Id.*).

Finally, if the Commission includes MAWC's proposed discrete adjustments, it should also recognize any increases in revenues that MAWC will experience during this time period, including the sale for resale contract with the City of O'Fallon, currently pending before the Commission in Case Number WO-2023-0193. (*Id.* 11).

Ratemaking in Missouri relies on the use of a modified historical test year. (Bolin Direct Test. 6-7). Because MAWC's proposed discrete adjustments are akin to a future test year and present many problems and logistical challenges, the Commission must reject all of MAWC's proposed discrete adjustments.

b. Regulatory Deferrals: Should MAWC be allowed to defer depreciation expense as soon as new plant investment is placed into service? Should MAWC be allowed to capitalize post-in-service carrying costs?

No. The Commission should deny MAWC's request for both a depreciation deferral mechanism and a post-in-service carrying cost capitalization mechanism. (Robinett Rebuttal Test. 1-4; Bolin Rebuttal Test. 17-23; Bolin Surrebuttal Test. 2-5).

Mr. Robinett explains that these mechanisms are similar to plant in service accounting ("PISA"), which is available by statute for Missouri's electric utilities. (Robinett Rebuttal Test. 2-4). However, MAWC's requested mechanisms provide even more favorable treatment and contain less consumer protections than PISA legislation. (*See id.*). For instance, MAWC requests to defer 100% of depreciation expense and return for all non-WSIRA eligible investments where PISA allows for 85% only. (*Id.* 4). Further, MAWC's requested mechanisms apply to all non-WSIRA eligible assets, where PISA applies to only certain types of capital assets. (*Id.*). Also, no rate caps exist in MAWC's requested mechanisms, but rate caps exist in the PISA legislation. (*Id.*). MAWC's requested mechanisms also do not include a rate moratorium, as was required by the electric utilities who adopted PISA. (*Id.*). Finally, importantly, an electric utility who elects PISA treatment must wait until its next rate case to recover costs through its PISA mechanism. (Bolin Surrebuttal Test. 2). However, MAWC recovers costs associated with most of its plant investment between rate cases through its WSIRA mechanism. This mechanism allows recovery to begin within 180 days of filing the WSIRA application. (*Id.* 3). MAWC can file a WSIRA application twice in a twelve-month period. (*Id.* 3).

As to the depreciation deferral mechanism, Ms. Bolin explains that approximately 89% of newly added plant is included in customer rates through the WSIRA. (Bolin Rebuttal Test. 18). This leaves approximately 11% of newly added plant since MAWC's last rate case that is not currently included in MAWC's rates. (*Id.*). Although MAWC asserts that regulatory lag due to new investments is a primary driver of its alleged return on equity shortfall, this statement is based on information from years before the

WSIRA recovery mechanism became available. (*See id.* 18-19). As Ms. Bolin explains, “[i]f the WSIRA was effective beginning in 2012, MAWC’s return on equity percentages for the years 2012 through 2020 probable would likely have been higher than what Mr. LaGrand portrays in his Table BWL-1.” (*Id.*). Because most of MAWC’s plant is included in the WSIRA, a depreciation deferral mechanism is not needed. (*Id.* 19-20).

Similarly, if the Commission were to allow the post-in-service carrying cost capitalization mechanism, MAWC would receive a return on both plant that is retired between rate cases and on plant that is placed into service between rate cases. (*Id.* 21-22). This is inappropriate. (*Id.*).

MAWC’s requested depreciation deferral mechanism and post-in-service carrying cost capitalization mechanism represent even more than what is available to electric utilities under the PISA legislation and contain none of the consumer protections. (*See* Robinett Rebuttal Test. 2-4). Further, MAWC’s WSIRA recovery mechanism, which is authorized by statute, allows MAWC to recover its depreciation expense and return on most of its newly added plant between rate cases. (Bolin Rebuttal Test. 18-19). For at least these reasons, the Commission should not and need not authorize either of these two mechanisms for MAWC. (*See id.* 19-20). Therefore, the Commission should deny both of these mechanisms.

c. Revenue Stabilization Mechanism (RSM) / Decoupling: Should the Commission approve a RSM for MAWC?

No. The Commission should not approve a RSM for MAWC because MAWC has failed to show that it requires an RSM, the RSM would shift risks to customers with no corresponding reduction of return on equity, and the RSM MAWC proposes is not well-thought out. (*See* Mantle Rebuttal Test. 2-29).

Section 386.266.4 allows MAWC to “make an application to the commission” to request an RSM. *See* § 386.266.4 RSMo. The statute does not require the Commission to grant MAWC an RSM. *See id.* Rather, the § 386.266 gives the Commission the power “to approve, modify, or reject” MAWC’s application. *See* § 386.266.5 RSMo. The statute mandates what the Commission must find to grant a request for an RSM, including “an annual true-up which shall accurately and appropriately remedy any over- or under- collections . . .” *Id.*

MAWC has failed to show that it requires an RSM to earn a fair return on its investments. As Ms. Mantle explains, many of MAWC’s prior rate cases have been black box settlements that did not include a designated return on equity (“ROE”). (Mantle Rebuttal Test. 6). Therefore, “it is impossible to say whether MAWC has obtained the ROE that it thought was included in the settled revenue requirement.” (*Id.*). Further, MAWC identifies differences in billing determinants as one of the reasons that it requests an RSM. (*Id.* 6 (citing LaGrand Direct Test. 8-9)). However, as Ms. Mantle explains, an RSM “will not change billing determinants.” (*Id.* 7). Also,

an RSM does not necessarily increase the possibility of a higher return on equity for MAWC. (*Id.* 7-8). For instance, if the actual billed revenues are greater than the revenue requirement, than MAWC must return the additional amount to customers. (*Id.*). This would result in a lower ROE. (*Id.*). Over the past five years, all other things being equal, MAWC's ROE would have been lower if it had an RSM because its revenues collected were higher than the revenues set in the rate cases and these excesses would have been returned to customers. (*Id.* 8).

MAWC's request for an RSM also moves the risk of recovery from MAWC to its customers with no corresponding reduction in revenue requirement to compensate customers for the shift in risk. (*Id.* 4, 11-12). If the Commission were to adopt MAWC's request for an RSM, then customers would lose the predictability of how their actions affect their bills. (*Id.* 11-12). Even more, a customer can use less and their bill can be higher. (*Id.* 15). Particularly, "[w]ith a RSM, the revenues billed are constant regardless of customers' usage. Therefore, customers can use less and their bill could be higher if weather was wetter than normal and/or if their neighbors used considerably less than they did the previous year." (*Id.* 14). Further, as Ms. Mantle explains, neither MAWC nor its customers have control over the elements that equate to a reduction in usage, such as the weather and water-efficient fixtures. (*Id.* 12-13). MAWC itself is also encouraging its customers to use less water. (*Id.* 13 (citing Mr. Rea's testimony in which he states that "MAWC 'is committed to helping customers use water efficiently.'")). Therefore, MAWC has not shown that approving an RSM is beneficial for its customers.

Finally, the RSM proposed by MAWC has many problems, including, at least:

- 1) It improperly includes a mechanism to collect increases in production costs between rate cases;
- 2) The RSM rate is the same for all rate classes;
- 3) Revenue shortfalls are treated differently than revenue excesses; and
- 4) MAWC's proposed tariff sheets do not match the RSM proposed by the direct testimony of MAWC's witnesses.

(*Id.* 16-17). Ms. Mantle explains each of these problems more fully in her rebuttal testimony. (*See* 18-29). Ms. Mantle also explains the problems associated with the tariff sheets MAWC submitted to implement its proposed RSM. (*See generally* Mantle Class Cost of Service/Rate Design Rebuttal Test.)

Because MAWC has failed to show that it requires an RSM, the RSM would shift risk onto MAWC's customers with no corresponding reduction in ROE, and the RSM that MAWC proposes has many problems, the Commission should not approve an RSM for MAWC.

If so, how should the RSM be structured in terms of revenue requirement, included customer classes, the calculation of refunds, the inclusion of production costs, or other factors?

The Commission should not approve an RSM for MAWC.

However, if the Commission approves an RSM for MAWC, then it should ensure that the RSM corrects each of the problems addressed in Ms. Mantle's Class Cost of Service Rebuttal Testimony. (*See generally* Mantle Class Cost of Service Rebuttal Test.).

d. Production Cost Tracker (if not in RSM): Should MAWC be allowed to implement a production cost tracker?

No. The Commission should not approve a production cost tracker for MAWC because MAWC has not carried its burden to show that it requires a production cost tracker. (Mantle Rebuttal Test. 29-31).

Perhaps most importantly, MAWC has not identified the specific costs that would be placed into this tracker, instead giving only a general definition. (*Id.* 30). Because of this, it would be nearly impossible to audit whether the costs that MAWC included in the tracker are actually production costs. (*Id.* 30-31). Further, the costs MAWC has identified—including costs related to fuel and power, chemicals, waste disposal, and purchased water—are costs incurred by most water and sewer utilities as ongoing costs of service. (Bolin Rebuttal Test. 8-9). Staff has already included a normalized and annualized level of expense for each item in its suggested revenue requirement. (*Id.* 9).

Further, the testimony MAWC submitted in this case shows that it does have a measure of control over some of its production costs. (Mantle Rebuttal Test. 30 (explaining that Mr. O'Drain's testimony describing different ways that MAWC has sourced procurement of chemicals shows that it has some control over costs)). Similarly, MAWC can control some costs through its actions. (*Id.* (explaining how MAWC can control postage and health insurance costs by emailing and shopping for insurance)).

MAWC also receives a return on its investment to compensate it for the risks it is taking, including fluctuations in the cost of service. (*Id.*). By approving a production cost tracker for MAWC, the Commission would be removing some of that risk.

Further, the use of trackers to provide reimbursement in rates to utilities or customers of any over- or under-recovery of individual rate component items should be rare and dependent on unique and unusual circumstances. (Bolin Rebuttal Test. 3, 6-7). The overuse of trackers can lead to skewed and unfair ratemaking results and decrease a utility's incentive to operate efficiently. (*Id.*).

For at least these reasons, the Commission should deny MAWC's request for a production cost tracker.

e. Bad Debt Cost Tracker: Should MAWC be allowed to implement a bad debt cost tracker?

No. The Commission should not allow MAWC to implement a bad debt cost tracker because bad debt expense is an ongoing cost of service item incurred by all major utilities that has been included in the cost of service in all general rate cases. (Bolin Rebuttal Test. 8). Staff has included an amount of bad debt expense to be included in MAWC's cost of and intends to re-examine bad debt expense as part of its true-up in this case. (*Id.*).

Further, the use of trackers to provide reimbursement in rates to utilities or customers of any over- or under-recovery of individual rate component items should be rare and dependent on unique and unusual circumstances. (Bolin Rebuttal Test. 3, 6-7). The overuse of trackers can lead to skewed and unfair ratemaking results and decrease a utility's incentive to operate efficiently. (*Id.*).

For at least these reasons, the Commission should not allow MAWC to implement a bad debt cost tracker.

3. Affiliate Transactions

a. Affiliate Transactions Rules: Should MAWC be required to file a Cost Allocation Manual with the Commission?

Yes. The Commission should require MAWC to file a new Cost Allocation Manual ("CAM") that is guided by existing standards for other regulated utilities, informed by stakeholder input, and approved by the Commission within six months of the date the Commission issues its Report and Order in this case. (Marke Direct Test. 13).

Should the Commission open a new rulemaking docket in order to draft affiliate transactions rules for water and sewer?

Yes. The Commission should open a new rulemaking docket to draft affiliate transactions rules for water and sewer that is limited to considering draft rules that mirror those in place for electric and gas utilities, but use the word "water" instead of electric and gas. (Marke Direct Test. 13). Because this limited consideration should move quickly, this new docket will ensure that large water utilities, such as MAWC, are subject to Commission-approved affiliate transaction rules, while the Commission considers broader changes to its affiliate transaction rules overall. (*See* Marke Surrebuttal Test. 13). Although MAWC and Staff point to at least two open dockets considering affiliate transaction rules, whether to open a new docket to consider this limited issue is not an "either or" option. The Commission can continue considering the broad issues presented in the other dockets while in the new docket expeditiously considering whether to promulgate water affiliate transaction rules that mirror those in place for electric and gas utilities, but use the word "water" instead of electric and gas.

b. Customer Privacy Preferences: Should the Commission update its customer privacy rules to ensure that Missouri ratepayers have the ability to decide how their personal information is used?

Yes. As Ms. Angela Schaben explained in her Direct Testimony, Missouri’s regulated utility customers do not have the same level of control over how their personal information is used as California’s regulated utility customers. (*See* Schaben Direct Test. 6-8). Personal information is an asset that can be bought and sold like any other commodity. (*Id.* 7-8). The Commission should update its privacy rules to “ensure that Missouri ratepayers have the same consumer privacy freedoms as California residents when attempting to manage their personal information . . .” (*Id.* 31).

Should MAWC update its website to make it easier for customers to manage how MAWC and American Water use their personal information?

Yes. If MAWC ratepayers are truly permitted the ability to manage their personal information, MAWC should make a concerted effort in raising awareness of these options and the consumer privacy link should be located in a ratepayer-friendly area on MAWC’s website. (Schaben Surrebuttal Test. 23). This will ensure that ratepayers are not discouraged from managing how their personal information is used, if they so choose. (*Id.*)

c. American Water Resources: What adjustment, if any, should the Commission make associated with American Water Resources Company’s (AWRC) logo used while AWRC was MAWC’s affiliate?

The Commission should disallow \$10 million to account for AWRC’s use of a logo that is substantially similar to MAWC’s logo on mailings to MAWC’s customers while AWRC was MAWC’s affiliate. (Schaben Surrebuttal Test. 17). In MAWC’s 2003 rate case, WR-2003-0500, MAWC filed a proposed affiliate transaction rule that included as Section 2(F) language that stated “[m]arketing materials, information or advertisements by an affiliate entity that share an exact or similar name, logo or trademark of the regulated utility shall clearly display or announce that the affiliate entity is not regulated by the Missouri Public Service Commission.” (*See id.* 9). The letter referenced in Ms. Schaben’s Direct Testimony included a logo that is substantially similar to MAWC’s logo. (*Id.* 15). The letter did not include any language that stated that AWRC was not regulated by the Commission. (*Id.* 16). To account for this, the Commission should recognize a \$10 million disallowance.

Should the Commission open an investigatory docket concerning the relationships and potential sharing of information between MAWC, AWRC, and American Water Works Company, Inc. affiliated entities (including the Service Company)?

Yes. American Water Works Company, Inc. (“American Water”) stands at the top of an interrelated corporate structure, which includes MAWC and American Water Service Company, Inc. (“Service Company”). (*See* Schaben Direct Test. 5, Schedule

ADS-D-4). This corporate structure used to include AWRC. (*Id.*: Marke Direct Test. 5-8). Although American Water sold AWRC, a revenue sharing agreement exists between the two entities, such that it continues to receive revenues from AWRC. (Marke Direct Test. 6-8). Although MAWC asserts that it does not share information with AWRC, it is not clear whether information shared between MAWC and the Service Company is then shared with AWRC. (*See* Schaben Surrebuttal Test. 18-20). Further, Ms. Schaben raises a concern regarding the sharing of the billing software between AWRC and American Water's regulated affiliates, including MAWC, which could relate to the potential shifting of non-regulated costs to regulated areas. (*Id.* 18). As Ms. Schaben explains, given the time constraints of this general rate case, the OPC has been unable to devote the time necessary to fully investigate these important issues. (*Id.* 20). Therefore, the Commission should open a separate investigatory docket to further explore the relationships and potential sharing of information between MAWC, AWRC, and AWWC's affiliated entities (including the Service Company) to ensure that MAWC's ratepayers' data is not being improperly shared with AWRC. (*See id.* 20).

4. Rate Base

a. Cash Working Capital: What are the appropriate expense lag days for support services, current federal income tax, and current state income tax?

The appropriate expense lag days for support services is positive 48.80 days. (Weathers Rebuttal Test. 4). This matches the expense lag days for contracted services. (*Id.*). Support Services and Contracted Services share similar services (audits, legal services, and accounting services, etc.) (*Id.* 5-6). The Iowa Commission accepted a similar recommendation in the 2020 Iowa-American Water Company case. (*Id.* 5).

The appropriate expense lag days for current federal income tax and current state income tax should be 365 days. (*Id.* 7). MAWC is similar to Spire Missouri, Inc. in that it does not incur an income tax liability. (*Id.* 8). The Commission accepted this Spire Missouri, Inc. recommendation in Case No. GR-2021-0108 in its Amended Report and Order. (*Id.* 8). Therefore, using a 365 day expense lag will remain consistent with the Commission's Report and Order in GR-2021-0180. (*Id.*).

b. Contributions in Aid of Construction (CIAC) / Amortization of CIAC: What is the appropriate amount of CIAC and amortized CIAC to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

c. Depreciation Reserve: What is the appropriate amount of depreciation reserve to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

d. Other Rate Base Items:

- i. What is the appropriate amount of materials and supplies to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- ii. What is the appropriate amount of customer advances to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- iii. What is the appropriate amount of prepayments to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- e. Pensions and Other Post-Employment Benefits (OPEBs) and Trackers: What is the appropriate amount of pensions and OPEBs to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

5. Property Tax Tracker (SB 745): Should MAWC be allowed to recover property tax amounts it has deferred since August 28, 2022, pursuant to SB 745?

No. In MAWC's last general rate case, Case Number WR-2020-0344, the Commission did not base MAWC's revenue requirement upon a level of property tax expense. (Bolin Rebuttal Test. 10-11). To utilize the tracker authorized by § 393.400 RSMo., the Commission must have established a level of property tax expense upon which it bases the revenue requirement. (*Id.*). Because the Commission did not do so, there is nothing to track MAWC's actual property tax expenses against. (*Id.*). Therefore, the Commission should not allow MAWC to recover property tax amounts it has deferred since August 28, 2022, pursuant to SB 745. (*See id.*).

6. Lead Service Lines:

- a. Deferred Customer Lead Lines: How should the unamortized balance be treated?**

The Commission should not allow MAWC to earn a return on a plant asset that it does not own. (*See McMellen Rebuttal Test. 3-4*). To allow MAWC to earn a return is unreasonable and should be rejected in total. (*Id.*). The company should recover carrying costs at the long-term debt rate in the AAO balance but not include any return on the total unamortized balance in the revenue requirement. (*Id.*).

Should MAWC provide information regarding its lead line replacement program in future WSIRA cases as proposed by OPC witness Marke?

Yes. The Commission should require MAWC to provide information regarding its lead line replacement program in future WSIRA cases as proposed by Dr. Marke to ensure that MAWC is actively pursuing federal funding for its lead line replacement program. (Marke Surrebuttal Test. 16).

The OPC is concerned that the federal government has set aside large amounts of funding for the removal of lead lines, but MAWC is not able to show that it has “taken any actionable efforts in an attempt to secure any of this funding.” (*Id.* 14; Marke Direct Test. 18-20). Although Dr. Marke raised these concerns in his Direct Testimony, MAWC has pointed to only four examples where it applied for federal funding assistance on capital projects. (Marke Surrebuttal Test. 14). MAWC received funding in only one of those instances. (*Id.*). Further, MAWC’s responses to the OPC’s data requests included in Dr. Marke’s Direct Testimony appear to show that MAWC is not taking a proactive effort to secure federal funding. (Marke Direct Test. 18-21). Similarly, the assertion on American Water’s website that private funding will help to fund the replacement of lead lines raises concerns that ratepayers “will be paying more for [their] cost of service than what they should and raises serious prudency issues moving forward.” (*Id.*).

To ensure that MAWC is prudently conducting its lead line replacement program by seeking federal funding where it is available, the Commission should order MAWC to provide “all action plans including deliverable time tables on identification and excavation of lead lines across its service territory in future” WSIRA dockets. (Marke Surrebuttal Test. 16).

b. Lead Service Line Funding: Should the Commission order MAWC to pursue all federal funding opportunities related to lead line replacements?

Yes. As explained above in response to issue 6a, the OPC is concerned that the federal government has set aside extraordinary amounts of money to assist with the cost of replacing lead lines, yet MAWC has identified only four instances where it pursued that funding. (Marke Direct Test. 18-20; Marke Surrebuttal Test. 14). MAWC’s failure to pursue all federal funding opportunities related to lead line replacements raises serious prudency concerns. (Marke Direct Test. 21-22; Marke Surrebuttal Test. 14-16). Therefore, the Commission should order MAWC to pursue all federal funding opportunities related to lead line replacements. (*See id.*).

Should MAWC be required to disclose its actions and plans with the Commission and stakeholders in the AW-2023-0156 docket?

Yes. As explained above in response to issue 6a, the OPC is concerned that the federal government has set aside extraordinary amounts of money to assist with the cost of replacing lead lines, yet MAWC has identified only four instances where it pursued

that funding. (Marke Direct Test. 18-20; Marke Surrebuttal Test. 14). The Commission has opened working docket AW-2023-0156 to “explore[] securing federal funding from the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022.” (Marke Surrebuttal Test. 15). The Commission should require MAWC to disclose its actions and plans to pursue federal funding from these two laws in that docket. (*Id.* 15-16).

7. Income Taxes:

- a. Excess ADIT Stub Period (Amortization & Tracker): Should the TCJA tracker balance be applied against the remaining stub period amortization to include as a credit on customer bills?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- b. Income Taxes: Should income taxes be included in MAWC’s cost of service?**

No. The Commission should not include income taxes in MAWC’s cost of service because MAWC does not have an income tax liability and MAWC is compensated for reducing American Water’s tax liability. (*See* Riley Direct Test. 4-5; Riley Rebuttal Test. 4-6). In order to bring the expense to zero, the Commission should order Staff to calculate income tax as they have done in this case, explained below, and also order Staff to apply the income tax compensation to the remaining balance. (Riley Rebuttal Test. 8).

If so, what is the appropriate methodology for determining how much should be included?

The Commission should not include tax in MAWC’s cost of service. However, if it does so, then the application of tax to the true-up calculations should reflect the same methodology that Staff applied in the income tax calculations in Account Schedule 11. (Riley Rebuttal Test. 7). As Mr. Riley explains, in this case, Staff has included repair expenses as a deduction to the net operating income before taxes. (*Id.*). “This is consistent with how the utilities apply repair expenses in the consolidated income tax returns and it is also consistent with how MAWC presented its tax calculations in its work papers for the current case as well as WR-2020-0344.” (*Id.*). This is not a normalization violation under the Internal Revenue Service’s (“IRS”) rules. (*Id.* 8). Because this method is not a normalization violation and matches how MAWC calculates its income taxes, if the Commission includes income tax in MAWC’s cost of service, it should use the method employed by Staff in calculating the amount of income tax to include.

c. Accumulated Deferred Income Tax (ADIT): Should ADIT be included in MAWC's cost of service?

Yes. The Commission should include ADIT in MAWC's cost of service because ADIT "represents a source of cost-free funds to MAWC." (Foster Direct Test. 16). Therefore, the Commission should include ADIT as a reduction to MAWC's rate base "to avoid having customers pay a return on funds that are provided cost-free to MAWC." (*Id.*).

If so, what is the appropriate methodology for determining how much should be included?

The Commission should calculate ADIT in the same manner that Staff calculated ADIT in this case. (*See* Foster Direct Test. 16-17).

8. Labor & Related:

a. Incentive Compensation: Should incentive compensation related to MAWC's financial performance be included in MAWC's cost of service?

No. The Commission should disallow 50% of the Annual Performance Plan ("APP") for non-union employees for the plan year 2021 because 50% of the APP is tied to MAWC's financial performance. (Horton Surrebuttal Test. 4-5) Further, the Commission should disallow 100% of the Long Term Performance Plan ("LTPP"), because this is a stock option incentive only plan offered to non-union management. Because MAWC is not paying any expenses associated with the LTPP, there is no cash outlay associated with it. (*Id.*). Therefore, MAWC should not be allowed to recover any amounts associated with LTPP. (*Id.*).

Similarly, MAWC should not be allowed to recover amounts associated with the Employee Stock Purchase Plan ("ESPP"). (*Id.* 5). With this program, MAWC is offering American Water Works Corporation, Inc. ("American Water") stock to its employees at a 15% discount. (*Id.*) MAWC records the discount on its books, but does not pay out any cash for offering this incentive to its employees. (*Id.*). Further, there is no guarantee that employees will purchase stock or continue to purchase stock. Therefore, MAWC should be not allowed to recover amounts associated with the ESPP either. (*Id.*).

b. Payroll: What is the appropriate amount of payroll expense to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- c. Payroll Taxes: What is the appropriate amount of payroll taxes to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- d. Employee Benefits (Other than Pensions and OBEs): What is the appropriate amount of employee benefits to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

9. Production Costs:

- a. Chemicals: What is the appropriate amount of chemical expense to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- b. Fuel and Power Expense: What is the appropriate amount of fuel and power expense to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- c. Purchased Water: What is the appropriate amount of purchased water expense to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- d. Waste Disposal: What is the appropriate amount of waste disposal expense to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- e. Water Loss Adjustment: What water loss percentage should be used to calculate chemical, fuel, and power expense?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

10. Maintenance Expenses:

- a. Hydrant Painting: What is the appropriate amount of hydrant painting to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- b. Main Break Expense: What is the appropriate amount of main break expense to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- c. Maintenance Supplies and Services Expense: What is the appropriate amount of maintenance supplies and services expense, other than main break, hydrant painting, and tank painting expense, to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- d. Tank Painting (Engineered Coatings): Should tank painting costs be treated as an expense or be capitalized? If expensed, what is the appropriate amount of tank painting expense to include in MAWC's cost of service? If capitalized, what is the appropriate amount of tank painting expense to remove from MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

11. Miscellaneous Expenses:

- a. Advertising Expense: What is the appropriate amount of advertising expense to include in MAWC's cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- b. Amortization of Regulatory Assets:**

- i. Emerald Pointe Pipeline: What is the appropriate accounting treatment of the section of the Emerald Pointe pipeline owned by the City of Hollister?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

ii. City of Purcell: Should MAWC be allowed to recover the costs it incurred to operate the City of Purcell’s systems before MAWC acquired them?

No. The Commission should not allow MAWC to recover the costs it incurred to operate the City of Purcell’s (“Purcell”) systems prior to MAWC’s acquisition of the systems because these are costs MAWC incurred prior to owning the systems and should not be the responsibility of MAWC’s current customers. (*See* Riley Rebuttal Test. 2-4). Further, neither Staff nor MAWC have provided sufficient information to include all of the identified costs. (*Id.* 3-4).

MAWC began to operate Purcell’s systems when Purcell could no longer provide safe and adequate water and sewer service. (*Id.* 2). Purcell and MAWC entered into an Operation and Management Agreement under which MAWC would be paid \$6,500 monthly for services and another \$500 per month for “costs associated with billing and collecting revenues.” (*Id.* 2 (quoting the Operations and Management Agreement)). MAWC acted as an independent contractor in operating the Purcell systems prior to its acquisition of the systems. (*Id.* 3). However, Purcell “did not make its obligated monthly payments to MAWC.” (Horton Direct Test. 21). Therefore, Staff included these costs in its amortization expense. (*Id.*).

The payment of the costs MAWC incurred to operate the Purcell systems prior to MAWC’s acquisition of the systems should be a private matter between Purcell and MAWC. (Riley Rebuttal Test. 3-4). The Commission should not allow MAWC to recover these costs.

If so, what is the appropriate accounting treatment of MAWC’s costs to operate the City of Purcell’s systems before MAWC acquired them?

The Commission should not allow MAWC to recover the costs it incurred to operate the Purcell systems prior to its acquisition of the systems. However, if the Commission allows MAWC to recover these costs, then the OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

c. Bad Debt Expense: What is the appropriate amount of bad debt expense to include in MAWC’s cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

d. Building Maintenance and Services: What is the appropriate amount of building maintenance to include in MAWC’s cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- e. **Contract Services (Outside Services – Accounting, Legal, Missouri One Call, etc.): What is the appropriate amount of outside services to include in MAWC’s cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- f. **Credit Card Fees: What is the appropriate amount of credit card and e-check fees to include in MAWC’s cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- g. **Dues and Donations: What is the appropriate amount of dues and donations expense to include in MAWC’s cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- h. **Employee Expenses: What is the appropriate amount of employee expenses to include in MAWC’s cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- i. **Insurance (Other than Group): What is the appropriate amount of insurance expense to include in MAWC’s cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- j. **Leases (Rents and Transportation): Should non-renewed leases be removed from MAWC’s cost of service? What is the appropriate amount of transportation lease expense to include in MAWC’s cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- k. **Lobbying Expenses: Has MAWC removed all lobbying expenses from its cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

l. Office Supply and Services Expense: What is the appropriate amount of office supply and services expenses to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

m. Penalties Expense: What is the appropriate amount of penalties expense to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

n. Postage Expense: What is the appropriate amount of postage expense to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

o. Promotional Items: What is the appropriate amount of promotional items expense to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

p. Property Taxes: What is the appropriate amount of property tax to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

q. PSC Assessment: What is the appropriate amount of PSC Assessment to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

r. Rate Case Expense: Should rate case expense be shared between ratepayers and shareholders and, if so, how?

Yes. The Commission should order MAWC to share its rate case expense with its ratepayers with MAWC bearing 2/3 of the cost of this rate case and its ratepayers bearing 1/3 of the cost. (Riley Direct Test. 2-4; Riley Surrebuttal Test. 5-6). As Mr. Riley explains, MAWC has complete control over its rate case, including the decision of when to bring a new rate case. (Riley Surrebuttal Test. 5). Here, MAWC chose to return to the Commission to request a rate increase only two years after its prior rate case. (*Id.*). MAWC completed three WSIRA cases during that timeframe, which have

supplied it with nearly \$54 million in revenue requirement since the last rate case. (*Id.* 5-6). Given the unique circumstances of this case, the Commission should require MAWC to bear 2/3 of the expense associated with this rate case and should require ratepayers to bear only 1/3. (Riley Direct Test. 2-4; Riley Surrebuttal Test. 5-6).

What is the appropriate accounting treatment of rate case expense?

The Commission should order that MAWC include a normalized amount of rate case expense in its cost of service. (Riley Surrebuttal Test. 3; Horton Rebuttal Test. 1-3). The Commission should accept Staff's recommendation to normalize MAWC's rate case expense over three years to account for MAWC's typical filing of a rate case every three years, as required by the WSIRA statute. (Horton Rebuttal Test. 3). As Ms. Horton explained, rate case expense "is not a unique cost for MAWC, or any utility, that ensures guaranteed recovery without regard to regulatory lag." (*Id.*). Normalizing rate case expense "provides an incentive to control rate case expense, because a utility may or may not recover all of those costs through the normalized amount." (*Id.*). Therefore, the Commission should normalize MAWC's rate case expense.

Should MAWC be allowed to recover the unamortized rate case expense attributable to Case Number WR-2020-0344?

The Commission should allow MAWC to recover the cost of the depreciation study that was agreed to in Case Number WR-2020-0344. (Riley Surrebuttal Test. 2). However, the Commission should not allow MAWC to recover the remaining unamortized rate case expense attributable to Case Number WR-2020-0344. (*Id.* 2-3). This will account for the fact that MAWC has returned for a rate case one year earlier than the OPC expected when it agreed to a three year amortization of rate case expense in MAWC's last rate case. (*Id.*; Riley Direct Test. 3).

Should MAWC be allowed to recover the legal expenses attributable to Barnes and Thornburg LLP?

No. MAWC has failed to show that it requires Barnes and Thornburg LLP's assistance in addition to the assistance it receives from Brydon Swearingen & England PC and its inside counsel. (Riley Surrebuttal Test. 3-4; Riley Direct Test. 3-4). As Mr. Riley explains, MAWC has not required an additional law firm in its prior four cases and it has not shown that this rate case materially differs from those cases. (Riley Surrebuttal Test. 3-4). Because MAWC has failed to show that it requires the additional legal assistance, the Commission should disallow the legal expenses attributable to Barnes and Thornburg LLP. (*Id.*).

s. Support Services (Service Company): What is the appropriate amount of Service Company costs to include in MAWC's cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- t. Telecommunications Expense: What is the appropriate amount of telecommunications expense to include in MAWC’s cost of service?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

12. Billing Determinants:

- a. Declining Usage: What is the appropriate methodology for normalizing residential customer usage?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- b. Normalized Residential Customer Usage: What is the appropriate methodology to calculate normalized residential customer usage?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- c. Revenues: What is the appropriate number of residential meters to use for calculating the minimum charge to include in revenues? What is the appropriate amount of Other Operating, Miscellaneous, and Unbilled revenues?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

- d. Revenues – Customer Commodity: What are the appropriate usage revenues for water rates A, J, resale, and private fire? What are the appropriate usage revenues for sewer rates for residential, commercial, industrial, and OPA customers?**

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

13. Class Cost of Service:

- a. Cost of Service Studies: What are the appropriate allocation factors to be used to determine the revenue requirement allocation?**

The Commission should use the allocation factors presented in Mr. Jordan Seaver’s Rebuttal Testimony. (Seaver Rebuttal Test. 5-7). Alternatively, the Commission should order MAWC to update the class cost of service study using the updated CAS 11 and 12 to determine the new total usage allocation factors. (*Id.*). As Mr. Seaver explains, MAWC developed its allocation factors using usage statistics that did not include information for the test year months of April, May, and June 2022. (*Id.* 3). Rather, MAWC “used estimated usage data for the test year because that data was not available at the time of Mr. Selinger’s” class cost of service study. (*Id.*). This use of

estimated data makes Mr. Selinger’s class cost of service study imprecise. (*Id.*). To account for these problems with Mr. Selinger’s class cost of service study, the Commission should use the allocation factors presented in Mr. Seaver’s Rebuttal Testimony or the Commission should order MAWC to update the class cost of service study using the updated CAS 11 and 12 to determine the new total usage allocation factors.

Should the Commission utilize the Class Cost of Service Studies filed in this case to determine the appropriate allocation of the revenue requirement to the various customer classes?

The Commission should not utilize MAWC’s class cost of service study, filed by Mr. Selinger because it is based on estimated data. (*See* Seaver Rebuttal Test. 3). The OPC takes no position on whether the Commission should utilize either Staff or MIEC’s class cost of service study, but reserves the right to do so after the close of evidence.

If so, what should be the allocation of the revenue requirement to each class?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

How should the revenues associated with special contracts be treated in developing the class cost of service?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

14. Rate Design

a. Meter Charge Consolidation: What meter charges should be used?

The Commission should not allow MAWC to consolidate its meter charges for customers who have 5/8-inch meters and those who have a 3/4-inch meter because it has not carried its burden to show that consolidation is necessary and its proposal to consolidate the meters would come at a great cost to customers. (*See* Roth Rebuttal Test. 4-5). MAWC has not specified its plan to replace the meters, including whether the replacements will be done at the end of the meter’s useful life and which meters it will replace. (*Id.*). As Ms. Roth testifies, “[o]ver time the replacement of 5/8-inch meters with 3/4-inch meters will cost customers approximately an additional \$16,325,400 in meter costs alone.” (*Id.* 5). This amount “does not include costs related to installation and the return of and return on rate base.” (*Id.*). The Commission should order MAWC to maintain its current meter charges.

b. Single Tariff Pricing: Should the Commission consolidate Rate Class A across St. Louis County and non-St. Louis County customers?

No. The Commission should not consolidate Rate Class A customers across St. Louis County and non-St. Louis County customers because to consolidate these two sets of customers would fail to recognize the different costs of service for the two sets of customers. (*See* Marke Surrebuttal Test. 4-9; York Direct Test. 23).

Regulation attempts to adhere to the principal of cost causation by serving as a proxy for the market. (Marke Surrebuttal Test. 4). It is “not a means for socialization with additional costs for profit for the natural monopoly.” (*Id.*).

As Dr. Marke explains, over 300 miles separates MAWC’s St. Louis and St. Joseph customers. (Marke Surrebuttal Test. 4-5). However, if the Commission allows MAWC to consolidate its Rate A customers, then St. Louis customers will be paying for improvements made to serve St. Joseph customers, and vice versa. (*Id.*). Further, consolidating all of MAWC’s Rate A customers fails to recognize the different costs MAWC incurs to serve certain customers based on the source of their water. (*Id.* 6-9). There is also a concern that customers will pay more under a diluted pricing structure, due to “gold plating.” (*Id.* 9).

Because in consolidating these sets of customers, the Commission would be moving away from the principal of cost causation, the Commission should not allow MAWC to consolidate Rate A customers across St. Louis County and non-St. Louis County.

15. Allowance for Funds Used During Construction: What is the appropriate capitalization rate to apply to construction work in progress?

Construction work in progress (“CWIP”) should be capitalized based on the cost of short-term debt. (Murray Rebuttal Test. 4). Mr. Murray’s review of MAWC’s proposed discrete adjustments for capital structure illustrated that MAWC’s capital structure is not a function of customary financing practices for a stand-alone company. (*Id.* 2-4). This disrupts the original intent of the Allowance for Funds Used During Construction formula, which logically applies 100% of short-term debt to the capitalization rate because this is typically how CWIP is funded. (*See id.* 4).

16. Corporate Allocations – Tariff Groups: What is the appropriate allocation of corporate costs to the tariff districts?

The OPC takes no position on this issue at this time, but reserves the right to do so after the close of evidence.

17. Customer Service: Should MAWC conduct an independent audit of its call center apparatus to assess its customer service performance?

Yes. Staff raised valid concerns regarding MAWC’s call centers and customer service, including that “[a]s of September 2022 the [average speed of answer] for MAWC customers in 2022 is 799 second (13 minutes and 19 seconds).” (*See generally* Thomason Direct Test.).¹ The Commission should require MAWC to conduct an independent audit of its call centers, which should include, but not be limited to, “operational areas such as: call center performance metrics, the virtual call center, call center training, and call routing.” (*Id.* 12). This will assist American Water in “identifying the factors hindering its call center performance and provide a path forward to improvement.” (*Id.*). MAWC should provide documentation of the results of the audit to Staff. (*Id.*).

18. Extension of Company Mains Rule: Should the Commission allow MAWC to change its tariff Rule 23 Extension of Company Mains?

No. MAWC has failed to provide sufficient information to show that the Commission should allow it to change its tariff Rule 23. (*See* Robinett Rebuttal Test. 4-8). For instance, Mr. Robinett explains that in response to an OPC data request, MAWC stated that it “does not track cost of service for individual customers.” (*Id.* 5). Based on this, Mr. Robinett infers that MAWC “likely does not track line extension cost of service either.” (*Id.*). “If MAWC is not currently tracking revenue produced by recent line extensions to prove that those are cost effective and not being subsidized by other customers, then it cannot conclude that increasing the amount of its upfront payment will have no effect on current existing customers.” (*Id.*).

Further, the information that MAWC provided to support Schedule JTK-1 to Mr. Kaiser’s Direct Testimony includes several problems. (Robinett Surrebuttal Test. 4-5). These include:

- (1) St. Charles is listed separately from St. Louis, even though St. Charles is considered part of St. Louis for purposes of Rule 23;
- (2) certain information is hardcoded, with no explanation as to how MAWC calculated the amount or why it varies in some instances;
- (3) MAWC aggregated the data over four years, as opposed to calculating the amount of its contribution to individual projects;

¹ The OPC notes that on February 14, MAWC attempted to late file the Rebuttal Testimony of Takisha Walker, which addresses this issue. (*See generally* Mot. for Leave, Doc. 180). Staff, in response, moved to strike Ms. Walker’s testimony, or, alternatively, for the Commission to grant Staff an opportunity to respond and for an extension of the time to submit data requests. (*See generally* Mot. to Strike, Doc. 186). Although the OPC supports Staff’s Motion to Strike Ms. Walker’s testimony, the OPC has requested that if the Commission allows MAWC to late file Ms. Walker’s testimony, all parties be given an opportunity to respond to her testimony. (*See generally* Rep. in Support of Motion to Strike, Doc. 195). The OPC reserves the right to amend its position on this issue upon the Commission’s determination of the pending motions.

(4) the information does not appear to include all of MAWC's contributions, including the amount that MAWC would pay under the current cost sharing mechanisms. (*See id.* 3-5).

To determine whether MAWC's current line extension policy is cost effective and whether MAWC needs to change the policy, the Commission should order monthly reports for the service line extension in Excel format. (Robinett Rebuttal Test. 7). These reports should include "a brief description of the extension; area/location name; total cost of extension; cost covered by MAWC (as a total and percentage); number of connections made during the preceding month; revenue collected from the new customers who started taking service during the month and, separately, revenues from the customers who were already taking service on that extension; and finally usage data of the line extension." (*Id.* 7). The Commission should also order MAWC to retain any requests for proposals or bid information "so that parties may determine the prudence of line extensions in the next general rate proceeding." (*Id.*).

Until such time that the Commission can determine that the current line extension policy is cost effective and current customers are not subsidizing new customers, the Commission should not allow MAWC to change its tariff Rule 23. (Robinett Rebuttal Test. 7; Robinett Surrebuttal Test. 11-12).

If so, should the 120-day time frame be removed?

The Commission should not allow MAWC to change its tariff Rule 23. However, if it does so, the Commission should not allow MAWC to remove the 120-day time frame because MAWC has not shown that its removal is necessary. (*See Williams Class Cost of Service Rebuttal Test. 3; Robinett Surrebuttal Test. 3-5*). The Commission should order MAWC to submit the report proposed in Mr. Robinett's Rebuttal Testimony and consider the data that is received in response to this report prior to amending MAWC's Rule 23. (*See Robinett Rebuttal Test. 7; Robinett Surrebuttal Test. 11*).

Should the Commission adopt MAWC's proposed 65:35 funding ratio?

The Commission should not allow MAWC to change its tariff Rule 23.

However, if it does so, the Commission should not adopt MAWC's proposed 65:35 funding ratio because MAWC based this amount on the maximum hypothetical refund for main extensions for all subdivisions from 2018 through 2022. (*Williams Class Cost of Service Rebuttal Test. 3*). Specifically, MAWC's recommendation is "based on the assumption that all of the lots in each subdivision will be built out, that MAWC paid four times the average revenue for each lot, and that the new developer will take water service at its premises within 120 days after the date MAWC accepts the main." (*Id.*). The information that MAWC submitted in response to Staff Data Request Number 0264 and in Mr. Kaiser's testimony shows these are invalid assumptions. (*Id.*). Tellingly, "[b]etween 2018 and 2022 there were 2,371 lots planned to be developed, but only 1,653 lots were actually developed." (*Id.*). Further, MAWC did not provide data to show how often homes take

water service within the 120-day timeframe. (*Id.*) For these reasons, although the Commission should not allow MAWC to change its tariff Rule 23, if it does so, then it should not adopt MAWC's proposed 65:35 funding ratio.

Should the Commission adopt Staff's proposed 75:25 funding ratio?

The Commission should not allow MAWC to change its tariff Rule 23.

However, if it does so, the Commission should not adopt Staff's proposed 75:25 funding ratio. (*See generally* Robinett Surrebuttal Test.). In reaching its recommended funding ratio, Staff relies on much of the same flawed information that it criticizes MAWC for relying on. (*See id.* 2-3). This information is flawed in at least several ways, including:

- (1) it lists St. Charles separately from St. Louis even though St. Charles is considered part of the St. Louis district;
- (2) certain information is hardcoded, with no explanation as to how MAWC calculated the amount or why it varies in some instances and matches in other instances;
- (3) MAWC aggregated the data over four years, as opposed to calculating the amount of its contribution to individual projects;
- (4) the information does not appear to include all of MAWC's contributions, including the amount that MAWC would pay under the current cost sharing mechanisms. (*See id.* 3-5).

Further, Staff has not explained why it conducted its calculations as it did to arrive at its recommended funding ratio. (*See id.* 7-8). For instance, as Mr. Robinett explains, Mr. Williams relies on a median value to calculate two components of his calculation. (*Id.*). However, "[a] median has no relevant purpose, it is a middle number of a set of data. The mean could differ wildly from the median if the number distributions are skewed one way or another." (*Id.*).

Also, although Staff states that it would "prefer to rely on historical data rather than hypothetical data" (Williams Class Cost of Service Rebuttal Test. 4), Staff actually relies on the same hypothetical data that MAWC relies on (Robinett Surrebuttal Test. 8).

The Commission should not allow MAWC to change its tariff Rule 23. However, if it does so, for at least these reasons, the Commission should not accept Staff's proposed 75:25 funding ratio.

19. Late Fees: Should MAWC reduce its late fees from 1.5% per month to .25% per month?

Yes. A 1.5% late fee is not an appropriate deterrent to non-payment and the addition of a fee to a customer who already struggles to pay his or her bill will only increase the likelihood of disconnection. (Marke Direct Test. 25). Dr. Marke's suggested 0.25% late fee matches that agreed to by several of Missouri's large regulated utilities, including Evergy Missouri Mero, Evergy Missouri West, and Empire District Electric Company. (Marke Surrebuttal Test. 20-21). To more accurately reflect the cost of service, minimize the punitive pressure on struggling customers, and continue to incentivize timely payments, the Commission should lower the amount of MAWC's late fees to 0.25%. (Marke Direct Test. 26).

Should MAWC make information regarding late fees more easily accessible on its website?

Yes. Currently, to find the amount of a late fee that a customer may be charged, he or she must navigate to MAWC's "Water and Wastewater Rates" section and locate Tariff Sheet No. RT 9.1. (Marke Surrebuttal Test. 21). This information should be more easily accessible on MAWC's website. (See Marke Direct Test. 26; Marke Surrebuttal Test. 21). MAWC states in testimony that it has "absolutely no intention to hide fees from the customer" and has agreed to work with OPC and Staff "to make sure the late fees are clearly communicated to customers." (LaGrand Rebuttal Test. 24). Therefore, the Commission should order MAWC to work with OPC and Staff to make information regarding late fees more easily accessible on its website.

20. Customer Programs: Should programs proposed by OPC (Critical Needs Program and Ameren Missouri's Rehousing Pilot Program) be adopted for MAWC and, if so, how should they be funded?

Yes. The Commission should order MAWC to participate in the Critical Needs Program and the Rehousing Pilot Program. (Marke Direct Test. 22-25). As to the Critical Needs Program, consistent with Spire Missouri, Ameren Missouri, Empire District Electric, Empire District Gas, Evergy Missouri Metro, and Evergy Missouri West, MAWC should contribute \$500,000 per year for a minimum of three years, using a 50/50 sharing of costs between ratepayers and shareholders. (Marke Direct Test. 24). For the Rehousing Pilot Program, MAWC should also contribute \$500,000 per year, shared 50/50 between ratepayers and shareholders. (*Id.* 25).

The Critical Needs Program, which is modeled after Baltimore Gas & Electric's Critical Needs Program that has subsequently been adopted as a statutory requirement for utilities in Maryland, streamlines and expedites the processes to help customers stay connected to regulated utility service. (*Id.* 22-23). As Dr. Marke explains, "[s]ince the beginning of the year, stakeholders from the Staff, OPC, Ameren Missouri, Empire District Electric, Spire Missouri, Legal Services of Eastern Missouri, and Consumer Counsel have been working together with the United Way of St. Louis and Joplin on the Critical Needs Pilot Program."

(*Id.* 23). “As it stands, the Critical Needs Program is being rolled out as an enhancement to the United Way[’]s 2-11 System through an interoperable software platform called Unite-Us. This platform is then linked with all major hospitals and hundreds of non-profit and other entry points for customers in crisis.” (*Id.* 23-24).

MAWC “agrees to join the other Missouri utilities participating in” the Critical Needs Program. (LaGrand Rebuttal Test. 30).

The Rehousing Pilot Program began in Ameren Missouri’s last rate case, Case Number ER-2021-0240. (Marke Direct Test. 24). Since that time, both Evergy Missouri Metro and Evergy Missouri West have agreed to begin piloting the program in their service territories in 2023. (*Id.*). This low-income program is “targeted at transitional housing customers based on recommendations from an independent third party (Apprise) study over Ameren Missouri’s low-income programs.” (*Id.*). Each of the 500 targeted participants per year receive an amount of money “to be allocated towards arrearages, and/or future bill credits to help the[] . . . clients transition to stable housing arrangements with new utility accounts.” (*Id.* (footnote omitted)). The Commission should order MAWC to partner with Ameren Missouri, Evergy Missouri Metro, Evergy Missouri West, and their respective housing shelter agencies moving forward. (*Id.* 25). Participants for MAWC should each receive \$500. (*Id.*).

The Commission should order MAWC to participate in both the Critical Needs Program and the Rehousing Pilot Program, with a \$500,000 contribution shared 50/50 between ratepayers and shareholders. (*Id.* 24-25) To ensure that the programs are successful and done in a cost effective manner, the Commission should also order that the programs be evaluated. (Marke Surrebuttal Test. 20).

21. Technology Investments: Is MAWC paying an appropriate amount of capital expenditures and operations and maintenance expense to account for Enterprise Solutions investments?

No. MAWC has not shown that it is paying an appropriate amount of capital expenditures and operations and maintenance expense to account for Enterprise Solutions investments. (*See* Schaben Rebuttal Test. 5-14). Specifically, MAWC has not shown that its capital software upgrades and/or enhancements meet GAPP rules. (*Id.* 13).

Should an amount be removed from rate base and the revenue requirement calculation in this case as a result of this issue?

Yes. The Commission should remove **_____**

22. Utility Excavation Coordination: Should MAWC be ordered to meet with Staff and OPC to discuss coordinating main replacement with municipalities and other public utilities and to report its efforts to pursue cost savings?

Yes. The Commission should order MAWC to both report on its efforts to pursue cost savings through excavation coordination and to meet with Staff and OPC to discuss what actions MAWC will document and what information will be included in the reports. (Marke Direct Test. 15).

Ms. Losli testifies to MAWC's increased restoration costs. (Losli Direct Test. 5-6 (describing the increase in restoration requirements and stating that "[t]his has driven replacement costs upward considerably as restoration is now often more than 50 percent of the cost of water main replacement.")). Ms. Losli also states that it "has invested or has planned investment of approximately \$746 million in water facilities and \$26 million in wastewater facilities from January 1, 2021 through May 31, 2023." (*Id.* 6).

Given MAWC's WSIRA, which will "accelerate the deployment of copious amounts of capital investment," costs, including restoration costs, are likely to remain high and may even reach higher. (*See* Marke Direct Test. 14-15). Therefore, "cost saving should be at the forefront of all parties' priorities." (*Id.*). Further, there are a number of benefits associated with MAWC coordinating main replacements with other entities. (*See id.* 14). These include: "[a]voided surprises, relocations, construction delays, public inconvenience and redesigns; [s]avings in operational time and dollars; [i]ncreased safety to works and the surrounding community; and [a]voidance of duplicative extraction and paving." (*Id.*)

To ensure that MAWC is acting prudently, the Commission should order MAWC "to document, report and ultimately benchmark its efforts taken and savings incurred from coordination with public and private actors impacted by any excavation of its distribution system on a bi-annual basis." (*Id.* 15). The Commission should also order MAWC to meet with Staff and OPC at least twice to discuss coordinating main replacements and what will be included in the reports MAWC files. (*Id.*).

Should the Commission open a working docket to explore cost savings practices?

Yes. In addition to ordering MAWC to report on its coordination efforts and to meet with Staff and OPC to discuss these efforts, the Commission should open a working docket to explore cost saving possibilities that may result from coordinating excavation efforts. (Marke Direct Test. 15). This working docket should include a one-day annual workshop, with invitations sent to "all regulated utilities, the Missouri Municipal League, the Missouri Department of Transportation, and other relevant actors to provide a forum to examine the possibility for cost savings from: Memorandums of Understanding ("MOU's");¹ Shared-Savings Agreements ("SSA's"); and Shared Best Practices on Coordinated Activity." (*Id.*).

As was discussed above, costs associated with excavation and restoration are increasing. (*See* Losli Direct Test. 5-6). In providing an open forum to discuss coordinating excavation and restoration efforts, the Commission could help to achieve the benefits Dr. Marke noted

in his Direct Testimony, which could include measurable cost savings. (*See* Marke Direct Test. 14-15; Marke Surrebuttal Test. 18-19). Therefore, the Commission should open a working docket to explore cost saving practices that could result from coordination of utility excavations.

23. Water Sewer Infrastructure Rate Adjustment (WSIRA): Should the rate of return the Commission establishes for the WSIRA include income tax?

No. MAWC does not have an annual tax liability. (Riley Rebuttal Test. 4-6, 10-11). To include income tax in the calculation of the rate of return during interim rate proceedings would compensate MAWC for a cost that it does not incur. (*See id.*).

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission accept these Statements of Positions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 21st day of February 2023.

/s/ Lindsay VanGerpen