

FILED
October 04, 2017
Data Center
Missouri Public
Service Commission

EXHIBIT
18

Exhibit No.:
Issue(s):
Witness/Type of Exhibit:
Sponsoring Party:
Case No.:

Response to Rebuttal Testimonies
Hyneman/Surrebuttal
Public Counsel
WU-2017-0296

SURREBUTTAL TESTIMONY

OF

CHARLES R. HYNEMAN

Submitted on Behalf of the Office of the Public Counsel

MISSOURI-AMERICAN WATER COMPANY

CASE NO. WU-2017-0296

September 14, 2017

OPC Exhibit No. 18
Date 9/21/17 Reporter un
File No. WU-2017-0296

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SURREBUTTAL TESTIMONY
OF
CHARLES R. HYNEMAN
MISSOURI-AMERICAN WATER COMPANY
CASE NO. WU-2017-0296

Introduction

Q. Please state your name, title and business address.

A. Charles R. Hyneman, Chief Accountant, Office of the Public Counsel (OPC or Public Counsel), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. What is the role of the Public Counsel?

A. The Public Counsel represents and protects the interests of the public in any proceeding before or on appeal from the Missouri Public Service Commission ("Commission").

Q. Are you the same Charles R. Hyneman who filed direct testimony in this case?

A. Yes.

Q. What is the purpose of your surrebuttal testimony?

A. This testimony responds to the rebuttal testimonies of Missouri American Water Company ("MAWC") witness Brian LaGrand and Staff witness Amanda McMellen.

Response to the Rebuttal Testimony of MAWC witness Brian LaGrand

Q. At page 2 of his rebuttal testimony MAWC Witness LaGrand states that costs deferred to NARUC USOA Account 186 are regulatory assets. Is he correct?

A. No, he is incorrect. Under generally accepted accounting principles ("GAAP"), a regulatory asset has a special, unique, and mandatory characteristic. That characteristic is that the expenses deferred by a utility are "probable" of recovery in a rate case. Unlike other

1 accounts, such as FERC Account 182.3 for electric and natural gas utilities, NARUC USOA
2 does not include any accounts that meet this GAAP requirement.

3 The closest account to a regulatory asset account in the NARUC USOA is Account 186
4 ("Account 186"), which is not a regulatory asset account. Account 186 is simply a
5 "deferred debit" account. Costs deferred to a deferred debit account have no association
6 with rate recovery and are therefore not a regulatory asset.

7 **Q. Can MAWC defer expenses to Account 186 on its own determination?**

8 **A.** Yes. In fact, MAWC can generally record revenues, expenses, gains and losses on its
9 own determination without Commission approval or notification to all USOA accounts
10 with a few exceptions. For example, Commission approval or notification is needed for
11 certain transactions in Accounts 105, Property Held for Future Use, Account 106 Utility
12 Plant Purchased or Sold, and Account 182 Extraordinary Property Losses.

13 No Commission approval or notification is needed for expenses, other than certain losses
14 on disposition of property, deferred to Account 186 Miscellaneous Deferred Debits.
15 Account 186 is the appropriate deferral account to record expenses "the proper final
16 disposition of which is uncertain."

17 **Q. What is the relevant GAAP that govern the recording of a regulatory asset by a**
18 **utility?**

19 **A.** The relevant GAAP is ASC 980. ASC 980-340-25-1 states:

20
21 "Rate actions of a regulator can provide reasonable assurance of
22 the existence of an asset. An entity shall capitalize all or part of an
23 incurred cost that would otherwise be charged to expense if both of
24 the following criteria are met:

- 25
26 a. It is probable that future revenue in an amount at least equal to the
27 capitalized amount will result from inclusion of that cost in
28 allowable costs for ratemaking purposes.

1 b. Based on available evidence, the future revenue will be provided to
2 permit recovery of the previously incurred cost rather than to
3 provide for the expected levels of similar future costs. If the
4 revenue will be provided through an automatic rate-adjustment
5 clause, this criterion requires that the regulator's intent clearly be
6 to permit recovery of the previously incurred cost.

7
8 A cost that does not meet these asset recognition criteria at the date
9 the cost is incurred shall be recognized as a regulatory asset when
10 it does meet those criteria at a later date."
11

12 **Q. Did Mr. LaGrand provide any documentation to support his conclusion that Account**
13 **186 is a regulatory asset account?**

14 **A. No.**

15 **Q. Can a deferred cost be classified as a "miscellaneous deferred debit" and at the same**
16 **time be classified as a "regulatory asset"?**

17 **A. No, not for water utilities. Under FERC rules and the FERC USOA, if utility management**
18 **makes a determination that a particular cost incurred is not being recovered in rates currently**
19 **and utility management believes the expenses will be recovered in a subsequent FERC rate**
20 **case, the utility may defer the costs in FERC account 182.3, Other Regulatory Assets.**
21 **However, the explicit determination by utility management that the deferred cost is probable**
22 **of rate recovery is a mandatory requirement for the booking of any cost to a regulatory asset**
23 **account. In the NARUC USOA, no such allowance for the creation of a regulatory asset by**
24 **water utility management is authorized.**

25 **Q. What would have to occur before MAWC could classify deferred costs in account 186**
26 **as a regulatory asset instead of a deferred debit?**

27 **A. Under GAAP, there would have to be a determination made that the costs deferred are**
28 **probable of rate recovery. That determination would have to be made by MAWC**

1 management as the Commission explicitly does not make rate determinations in an AAO
2 case.

3 **Q. Does the Commission make ratemaking determinations in a rate case?**

4 A. Yes. That is one of the reasons why this issue should be addressed in a rate case. In
5 contrast, the best result MAWC can obtain in this AAO case is for the Commission to grant
6 deferral authority for the costs but no determination that the deferred costs are probable of
7 rate recovery. If MAWC does not make that determination, then the costs deferred are not
8 regulatory assets but simply deferred debits with no special ratemaking significance.

9 **Q. At page 3 of his rebuttal testimony Mr. LaGrand discusses the timing of MAWC's**
10 **filing of this case. Please comment.**

11 A. Mr. LaGrand is correct that MAWC did not file for this AAO "in the middle" of its current
12 rate case. However, MAWC filed its Notice of Intended Case Filing for its current rate case
13 on April 28, 2017. MAWC filed its request for an AAO on May 12, 2017, a full two weeks
14 after it notified the Commission it will soon be filing a rate case. Since MAWC knew at the
15 time it filed its AAO request that it would soon be filing a rate case, no AAO case should
16 have been filed and this issue should be addressed in MAWC's current rate case.

17 **Q. At page 4 line 4 of his rebuttal testimony Mr. LaGrand states that some costs**
18 **associated with lead service line replacements would be "lost" if MAWC did not file**
19 **for an AAO and addressed this issue in a rate case. Is this statement correct?**

20 A. No. First, utilities do not "lose" specific costs. Such a concept is overly simplistic and very
21 narrowly focused. It appears that Mr. LaGrand only believes MAWC recovers a specific
22 cost if that specific cost is included in a mathematical revenue requirement calculation on
23 which this Commission determines the revenue requirement used to set rates. This is just
24 not true.

1 I have been auditing Missouri utilities and the financial results of utility operations every
2 year since 1993. During this 24-year period I have not seen one instance where a Missouri
3 utility failed to recover enough money to pay for each expense item it books.

4 If MAWC earns a positive return on equity, which it has consistently done, it recovers each
5 and every dollar of expense in rates paid by its customers. No dollars are "lost" because
6 MAWC's shareholders are not guaranteed a profit level every year. Utility shareholders are
7 only granted an opportunity to earn a reasonable profit level as determined by this
8 Commission.

9 **Q. Did MAWC management unilaterally decide to begin incurring the additional expense**
10 **to replace customer-owned property?**

11 **A.** Yes, it did.

12 **Q. What standard has the Commission applied when considering prior AAO cases?**

13 **A.** While the Commission has no specific standards on the types of transactions or events for
14 granting a utility the authority to defer costs under an AAO it has generally required a
15 specific cost requested to be deferred to meet the FERC's definition of Extraordinary
16 Item in FERC's USOA. This definition is as follows:

17 Extraordinary Items.

18 It is the intent that net income shall reflect all items of profit and loss
19 during the period with the exception of prior period adjustments as
20 described in paragraph 7.1 and long-term debt as described in
21 paragraph 17 below. Those items related to the effects of events and
22 transactions which have occurred during the current period and
23 which are of unusual nature and infrequent occurrence shall be
24 considered extraordinary items. Accordingly, they will be events
25 and transactions of significant effect which are abnormal and
26 significantly different from the ordinary and typical activities of
27 the company, and which would not reasonably be expected to
28 recur in the foreseeable future. (In determining significance, items
29 should be considered individually and not in the aggregate. However,

the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate. To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See accounts 434 and 435.)

Q. Is this the same definition of Extraordinary Items used in the NARUC USOA?

A. No. The NARUC USOA in General Instruction No. 7 has a much simplified description of extraordinary items. The NARUC USOA only requires that items be "not typical" or "not customary" business activity of that company.

7. Extraordinary Items.

It is the intent that net income shall reflect all items of profit and loss during the period with the sole exception of prior period adjustments as described in General Instruction 8. Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company shall be considered extraordinary items. Commission approval must be obtained to treat an item as extraordinary. Such request must be accompanied by complete detailed information. (See accounts 433 and 43r).

Q. What is the sole purpose of the FERC and NARUC USOA language on Extraordinary Items?

A. The only purpose of this USOA language is to describe where the location on an income statement of certain expenses will be placed. Non-extraordinary items or expense will be classified as normal operating expenses and shown above the category of expenses that are classified as extraordinary expenses. That is the sole purpose of the USOA language on Extraordinary Items.

1 **Q. You stated earlier that the Missouri Commission has often used the Extraordinary**
2 **Item USOA language as a standard for approving utility requests to defer expenses as**
3 **a regulatory assets. Is that correct?**

4 **A.** Yes. While the Commission might determine its own standards for deferral of expenses in a
5 regulatory asset account, it is important to note that when the FASB created the
6 Extraordinary Item language and the FERC and NARUC adopted this language, it had
7 absolutely no relationship with anything other than where on the income statement certain
8 expenses will be reflected. Ordinary expenses are placed in the section above extraordinary
9 expenses on the income statement.

10 **Q. Explain why the FERC and the NARUC USOA requirements of Extraordinary Items**
11 **have nothing at all to do with deferral of costs in a regulatory asset account?**

12 **A.** FERC borrowed the concept of an Extraordinary Item from GAAP. My understanding is
13 that the concept of Extraordinary Items was first reflected in Accounting Principles Board
14 ("APB") Opinion No. 9, *Reporting the Results of Operations*, issued in 1966. In that
15 Opinion the APB concluded that net income for a period should reflect all items of profit
16 and loss recognized during the period except for certain prior period adjustments. The
17 Opinion further provided that extraordinary items should be segregated from the results of
18 ordinary operations and shown separately in the income statement and that their nature and
19 amounts should be disclosed.

20 **Q. Are you stating that the only purpose of the use of Extraordinary Items is to direct**
21 **where such costs are reflected on a company's income statement for financial**
22 **reporting purposes?**

23 **A.** Yes. FERC adopted this GAAP requirement for utilities to classify certain expenses as an
24 Extraordinary Item on the financial statements it requires to be filed with the FERC
25 annually, FERC Form 1 for electric utilities and FERC Form 2 for natural gas utilities.

1 This purpose (identifying where to reflect these expenses on an income statement) is
2 illustrated in the following quote from APB Opinion No. 30, *Reporting the Results of*
3 *Operations—Reporting the Effects of Disposal of a Segment of a Business, and*
4 *Extraordinary, Unusual and Infrequently Occurring Events and Transactions* issued in
5 1973:

6 5. Other accountants believe that the income statement is more useful
7 if the effects of events or transactions that occur infrequently and are
8 of an unusual nature are segregated from the results of the
9 continuing, ordinary, and typical operations of an entity.

10
11 They also believe that the criteria for income statement classification
12 should relate to the environment in which an entity operates. In their
13 view the criteria in APB Opinion No. 9, paragraph 21, for
14 determining whether an event or transaction should be reported as
15 extraordinary lack precision.

16
17 Accordingly, they conclude that the criteria should be clarified and
18 modified to provide that to be classified as an extraordinary item an
19 event or transaction should be both unusual in nature and infrequent
20 in occurrence when considered in relation to the environment in
21 which the entity operates.

22
23 They also believe that to enhance the usefulness of the income
24 statement (a) the results of continuing operations of an entity should
25 be reported separately from the operations of a segment of the
26 business which has been or will be discontinued and (b) the gain or
27 loss from disposal of a segment should be reported in conjunction
28 with the operations of the segment and not as an extraordinary item.

29
30 They further believe that material events and transactions that are either
31 unusual or occur infrequently, but not both, should be adequately disclosed.

32
33 **Q. Does this language in APB 30 reflect, from an accounting perspective, that the issue of**
34 **extraordinary items has no relationship at all with deferral of costs, regulatory assets**
35 **or AAOs?**

1 A. Yes. That is correct. As the foregoing APB Opinion shows, the concept of extraordinary
2 items was meant only to provide clarity and enhance the usefulness of the information on an
3 income statement. However, as noted, the Missouri Commission has generally used the
4 extraordinary item guidance as the metric to evaluate requests for AAOs.

5 **Q. Are you aware how the Commission adopted the concept of extraordinary items being**
6 **applied to AAOs and regulatory assets?**

7 A. No. But importantly, there is an inherent conflict with the Commission's process for
8 granting AAOs and the creation of regulatory assets. When this Commission grants an
9 AAO and orders an expense to be deferred to a regulatory asset account, it is, in effect,
10 granting probable rate recovery for these deferrals if the GAAP guidance in ASC 980 is
11 considered. However, the Commission routinely states in its AAOs that it is making no
12 ratemaking determination at all in granting an AAO. That is a significant conflict that
13 should be resolved.

14 **Q. Does this conflict exist because of a misapplication of the concept of extraordinary**
15 **items?**

16 A. In part, yes. This conflict does not exist at the FERC in either FERC accounting or FERC
17 ratemaking. The simple reason is that, unlike the Missouri Commission, the FERC makes
18 no association with extraordinary items and regulatory assets. The FERC places the
19 requirement to evaluate the evidence and make the determination of the probability of rate
20 recovery on utility management. In practice, the Missouri Commission has placed that
21 requirement on itself. Therefore, the Missouri Commission actually makes ratemaking
22 determination in granting an AAO and ordering a utility to defer the expenses to a
23 regulatory asset account. Anything booked to that regulatory asset account is, by definition
24 and by accounting requirement, probable of rate recovery.

1 **Q. Please continue.**

2 A. When the FERC created Account 182.3, Other regulatory assets in 1993, it stated that there
3 are only two requirements for a utility to book costs as a regulatory asset. The requirements
4 are that the expenses are 1) not being recovered in current rates and 2) utility management
5 has determined, based on available evidence, such as past Commission rate case orders
6 and/or policies, that this specific expense is probable of being granted rate recovery in the
7 utility's next rate case. That is the basis of FERC account 182.3, Other Regulatory Assets
8 and that is the basis of the requirements of a regulatory asset in ASC 980.

9 In Missouri filings, utilities and the Commission Staff have inappropriately shifted the
10 burden of determining the probability of rate recovery of the deferred costs to the
11 Commission, where it does not belong outside of a general rate case.

12 Whether or not the Commission determines that a cost is an "extraordinary item" should
13 have no impact on the probability of rate recovery. Even if the Commission determines an
14 item to be extraordinary, the responsibility to decide how to "book" the costs remains with
15 utility management.

16 **Q. At page 3 line 23 of his rebuttal testimony Mr. LaGrand states that without filing for**
17 **the AAO, "the Company would have uncertainty over the proper treatment of these**
18 **costs for more than one year." Please comment.**

19 A. First, it is not the role of this Commission to provide the utility with any degree of certainty
20 for costs incurred outside of a rate case test year. The accounting for costs the utility incurs
21 outside of a rate case is determined solely by utility management in accordance with the
22 appropriate USOA.

23 Second, this statement by Mr. LaGrand is simply not true. There *is* certainty over the proper
24 treatment of the costs; however MAWC seeks to deviate from the proper treatment. The

1 “uncertainty” related to these costs is simply a creation of MAWC when it undertook a
2 project to replace customer-owned property.

3 **Q. Is it possible for MAWC to obtain any degree of rate “certainty” for these costs in an**
4 **AAO case?**

5 **A.** No, it is not.

6 **Q. Is it possible for MAWC to obtain a degree of rate “certainty” for these costs in its**
7 **current rate case?**

8 **A.** Yes, it certainly is. This is why OPC’s proposal is a benefit to the utility shareholders.

9 **Q. At pages 4-5 of his rebuttal testimony Mr. LaGrand states four reasons why he**
10 **disagrees with OPC’s proposed treatment of the cost of replacing lead service lines.**
11 **Please discuss each of these four points.**

12 **A.** In his first reason Mr. LaGrand notes his concern about costs incurred prior to the start of
13 the proposed pilot program. He alleges that these costs will not be “recovered” by MAWC.
14 This conclusion is baseless. These costs, as with all other costs incurred by MAWC, will be
15 recovered from ratepayers. The concern actually expressed by Mr. LaGrand is that MAWC
16 will not have as high a profit level as it would if the Commission guaranteed direct rate
17 recovery of each and every dollar spent on lead service lines. As I noted above, it is not the
18 role of regulation to guarantee a certain level of profit. Mr. LaGrand seeks such a guarantee
19 and that is the reason why his argument is without merit.

20 Mr. LaGrand’s second reason why he opposes OPC’s proposal is based on his belief that
21 “amortization of the pilot program costs should begin only once new rates go into effect.”
22 The second point raised by MAWC is based on a false representation of the matching
23 principle. The matching principle matches the incurrence of costs to the benefit received
24 from the incurrence of costs, not the specific month of rate recovery. The proper treatment

1 for these costs is that the amortization to expense should begin immediately or very soon
2 after the project starts. To delay the amortization of the expense deferral to a date
3 significantly later than the date when the benefit of the expense is received (pilot program
4 commenced) is the true distortion of the matching principle.

5 Mr. LaGrand is not describing the matching principle of accounting but a distorted principle
6 that says recognition of a cost incurred must be delayed until the date when rates are
7 changed so that the cost can be directly included in the revenue requirement calculation.
8 That is not how rate regulation is supposed to work.

9 **Q. Please continue with Mr. LaGrand's third reason why he opposes OPC's proposed**
10 **treatment of MAWC's cost of a pilot program.**

11 **A.** Mr. LaGrand's third reason is simply his opinion that MAWC's revenue requirement in the
12 rate case "should include a return on the investment made, not simply a repayment of the
13 capital investment as proposed." I understand that is his opinion but he does not offer any
14 reason why this unique pilot program to examine the possible safety and policy concerns
15 surrounding lead service lines requires an inflated earnings opportunity.

16 MAWC can fund this two-year pilot program with short-term debt and should commit to
17 only seeking its cost of this short-term debt as a component of this regulatory treatment
18 while the company and stakeholders explore the issue of lead service line replacement in
19 greater detail. This is a simple, fair, and reasonable request that reflects the cost a prudent
20 utility would bear given the nature of this project.

21 **Q. Is it common for this Commission to require only short-term debt costs be applied to**
22 **utility projects?**

23 **A.** Yes. As I noted in my direct testimony the Commission ordered Kansas City Power &
24 Light Company to include its short-term debt rate as the financing cost of its off-system
25 sales tracker during the period of its experimental regulatory plan. Also, for all electric

1 utilities in Missouri, the Commission requires that any under- or over-collection of fuel and
2 purchased power costs included in the fuel adjustment clause (FAC) tracker be accrued with
3 a short-term debt interest rate.

4 **Q. Please continue with Mr. LaGrand's fourth and final reason why he opposes OPC's**
5 **proposed treatment of MAWC's cost of this lead service line program.**

6 **A.** Mr. LaGrand states that MAWC's "opportunity cost of capital, and not the short term debt
7 rate of American Water Works Company, is the correct financing cost to use." In his
8 rebuttal testimony he puts forth no evidence to support this opinion with the exception that
9 he disagreed with a statement I made in my direct testimony.

10 In my direct testimony I associated the ratemaking treatment of this lead service line project,
11 an experimental pilot program, with the ratemaking treatment ordered by the Commission
12 for KCPL's off-system sales tracker in KCPL's experiential regulatory plan. I made no
13 attempt to attribute any similarities of an off-system sales tracker with a lead service line
14 program. My intent in my testimony was only to recognize the fact that the Commission,
15 especially in experimental-type programs, as OPC is proposing with its pilot program, has
16 applied a short-term debt rate as the appropriate project financing cost.

17 **Q. Is the use of short-term debt for utility construction projects a very common and**
18 **accepted practice in the utility industry?**

19 **A.** Yes. In fact, short term debt interest rate is the first cost applied to utility construction
20 projects. This is a practice required by regulatory bodies such as the FERC and this
21 Commission in this Allowance for Funds Used During Construction ("AFUDC") formula.

22 **Q. How does the NARUC USOA define AFUDC?**

1 A. NARUC USOA defines AFUDC in Utility Plant Instruction No. 3(17) and states AFUDC
2 “includes the net cost for the period of construction of borrowed funds used for construction
3 purposes and a reasonable rate on other funds when so used.”

4 The formula used by utilities to calculate AFUDC requires first the application of the
5 borrowing rate of short-term debt cost. If the balance of short-term debt is not sufficient to
6 finance the project, the cost of long-term debt is then applied. Any equity rate applied to the
7 AFUDC rate is only applied as a last resort.

8 **Q. How does MAWC describe its AFUDC?**

9 A. At page 94 of American Water’s (MAWC’s parent company) 2016 Annual Report it
10 described AFUDC as follows:

11 Allowance for Funds Used During Construction
12 AFUDC is a non-cash credit to income with a corresponding charge
13 to utility plant that represents the cost of borrowed funds or a return
14 on equity funds devoted to plant under construction. The regulated
15 utility subsidiaries record AFUDC to the extent permitted by the
16 PUCs. The portion of AFUDC attributable to borrowed funds is
17 shown as a reduction of interest, net in the accompanying
18 Consolidated Statements of Operations. Any portion of AFUDC
19 attributable to equity funds would be included in other income
20 (expenses) in the accompanying Consolidated Statements of
21 Operations.

22
23 **Q. At page 5 line 21 through page 6 line 7 of his rebuttal testimony Mr. LaGrand feigns
24 offense at your suggestion that OPC’s proposed pilot project is a unique safety project
25 much different from its normal and recurring pipeline replacement program. Please
26 comment.**

27 A. There is no basis for Mr. LaGrand’s suggestion that OPC is proposing a policy that
28 “discourages” a focus on safety or that the company “should never” be afforded the
29 opportunity to earn a return on investments related to safety. I never stated in my direct

1 testimony, nor do I believe, that a utility should not be afforded the opportunity to earn its
2 capital cost on utility plant projects, including safety projects. OPC's proposal in this case
3 allows MAWC to recover its cost rate for short-term debt as the financing source for these
4 projects.

5 Importantly, MAWC has repeatedly asserted it is providing safe and adequate service to
6 customers. OPC's proposed pilot program is meant to address those very issues while
7 providing the company reasonable treatment and recovery of the costs associated with a two
8 year pilot project.

9 **Response to the Rebuttal Testimony of Staff witness Amanda McMellen**

10 **Q. Ms. McMellen states that "Staff recommends the costs associated with the AAO for the**
11 **LSLR Program be accumulated in NARUC account 186. The ratemaking treatment**
12 **for the deferred costs should be determined in MAWC's current general rate case**
13 **proceeding, Case No. WR-2017-0285." Does OPC agree with this recommendation?**

14 **A. Yes. OPC recommends that this issue be addressed in MAWC's current rate case and not in**
15 **an AAO case.**

16 **Q. Ms. McMellen states "Staff proposes to calculate monthly carrying costs based on**
17 **American Water Works Company's ("AWWC"), MAWC's parent company, ongoing**
18 **short-term debt rate. Does OPC agree with this recommendation?**

19 **A. Yes. This Staff recommendation is consistent with OPC's recommendation that the use of a**
20 **short- term debt rate for this purpose is appropriate and that it is consistent with the AFUDC**
21 **financing costs that are added to plant in service costs during construction periods.**

22 **Q. At page 5 of her rebuttal testimony Staff witness McMellen states "OPC witness**
23 **Hyneman's proposal is inappropriate in several respects." Please address Ms**
24 **McMellen's concerns with OPC's recommendations.**

1 A. Ms. McMellen's first opposition to OPC's proposal is simply that Staff is not
2 recommending a pilot program. She does not address any of the specifics why she disagrees
3 with OPC's recommendation other than it is "inappropriate" because Staff is not
4 recommending this approach.

5 Ms McMellen's second reason for opposing OPC's recommendation is "in Staff's opinion,
6 it is not *inappropriate* for the Commission to approve the AAO request to defer LSLR costs,
7 even if it has a general rate case on file."

8 **Q. Does Ms McMellen attempt to explain to this Commission and to the other parties to**
9 **this case why Staff believes it is appropriate to defer these costs under an AAO outside**
10 **of MAWC's current rate case?**

11 A. No. I have over 20 years experience working on Commission AAO cases as a member of
12 the Commission Staff. Yet, I have never seen a request for an AAO made concurrent with a
13 utility filing a general rate case. I believe the reason why no utility has filed concurrent
14 AAO and rate cases is clear. It just makes no sense.

15 Staff is not able to provide one reason to support its testimony why it believes it is
16 appropriate to process an AAO case concurrent with a general rate case. Ms. McMellen's
17 testimony is significantly deficient in this regard.

18 **Q. What is Ms. McMellen's third and final objection to OPC's proposal in this case?**

19 A. She states that an "AAO case is not the appropriate forum to determine any aspect of the
20 future rate recovery of these costs."

21 **Q. Do you agree with this statement that AAO case is not an appropriate case to**
22 **determine any aspect of the future rate recovery of these costs?**

23 A. Yes. That is OPC's position.

1 **Q. Does OPC propose the Commission make any determination of any aspect of future**
2 **rate recovery in this AAO case?**

3 A. No. OPC recommends this issue be addressed in MAWC's rate case. It is Staff, by
4 recommending the Commission grant an AAO, that is addressing issues of rate recovery in
5 this AAO case.

6 **Q. Finally, Ms McMellen states all ratemaking issues should be left to MAWC's current**
7 **rate case. Do you agree?**

8 A. Yes, but apparently Staff does not. Staff is proposing that the Commission grant MAWC's
9 request to defer these costs in this AAO case. Staff is recommending the Commission order
10 specific financing costs for these costs in this AAO case. To the extent the Commission,
11 taking these actions, is allowing for the creation of a regulatory asset, the Staff is – perhaps
12 unintentionally - recommending rate treatment by addressing these ratemaking issues in this
13 AAO case.

14 **Q. In your direct testimony did you state specific reasons why a utility should not file an**
15 **AAO case concurrent with a general rate case?**

16 A. Yes. In my direct testimony I explained that the only possible actions the Commission can
17 take in an AAO case is to either deny the request or grant the utility the requested AAO. The
18 AAO can only allow for the deferral of certain expenses incurred outside of a rate case test
19 year. Importantly, there is no assurance of future rate recovery. In a rate case, however, the
20 Commission can grant accounting authority, and it can also order specific ratemaking
21 treatment. If the company's ultimate goal is to recover costs the request should be made in a
22 rate case as OPC proposes.

23 **Q. Does this conclude your surrebuttal testimony?**

24 A. Yes, it does.

APB 30: Reporting the Results of Operations—Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions

APB 30 STATUS

Issued: June 1973

Effective Date: For events and transactions after September 30, 1973

Affects: Amends APB 9, paragraph 17
Deletes APB 9, paragraphs 20 through 22 and 29, footnote 2, and Exhibits A through D
Amends APB 15, paragraph 13 and footnote 8
Amends APB 17, paragraph 31
Amends APB 18, paragraph 19(d)
Amends APB 19, paragraph 10
Amends APB 26, paragraph 20
Amends AIN-APB 9, Interpretation No. 1
Amends APS 4, paragraph 198 and footnotes 53 and 54

Affected by: Paragraph 3 amended by FAS 144, paragraph C5(a)
Paragraph 7 amended by FAS 96, paragraph 205(h); FAS 109, paragraph 288(i); FAS 141, paragraph E5(a); and FAS 141(R), paragraph E40
Paragraph 8 and footnote 2 deleted by FAS 144, paragraph C5(b)
Paragraph 9 amended by FAS 128, paragraph 165(a)
Paragraph 9 deleted by FAS 144, paragraph C5(b)
Paragraph 11 amended by FAS 144, paragraph C5(c)
Paragraph 12 replaced by FAS 128, paragraph 165(b)
Paragraphs 13 through 18 and footnotes 5 through 7 deleted by FAS 144, paragraphs C5(d) and C5(e), respectively
Paragraph 20 amended by FAS 4, paragraph 10; FAS 101, paragraph 10; FAS 141, paragraph E5(b); FAS 141(R), paragraph E10; and FAS 145, paragraph 7(a)
Paragraph 23 amended by FAS 144, paragraph C5(f)
Paragraph 25 amended by FAS 16, paragraph 16(c); FAS 144, paragraph C5(g); and FAS 154, paragraph C6
Paragraph 26 amended by FAS 145, paragraph 9(b)
Footnote 3 deleted by FAS 128, paragraph 165(a)
Footnote 4 amended by FAS 154, paragraph C19(b)
Footnote 8 amended by FAS 60, paragraph 63, and FAS 83, paragraph 3
Footnote 8 deleted by FAS 97, paragraph 31

Other Interpretive Pronouncements: AIN-APB 30, Interpretation No. 1
FIN 27
FTB 82-1
FTB 84-2 (Superseded by FAS 96 and FAS 109)
FTB 84-3 (Superseded by FAS 96 and FAS 109)
FTB 85-1
FTB 85-6

AICPA Accounting Standards Executive Committee (AcSEC)

Related Pronouncement: SOP 90-7

Issues Discussed by FASB Emerging Issues Task Force (EITF)

Affects: No EITF Issues

Interpreted by: Paragraphs 20 and 23 interpreted by EITF Issues No. 89-13 and 01-10
Paragraphs 21, 22, and 24 interpreted by EITF Issue No. 01-10

Related Issues: EITF Issues No. 86-22, 87-4, 96-9, 99-4, 00-9, and 01-13 and Topics No. D-5 and D-104

INTRODUCTION

1. In APB Opinion No. 9, *Reporting the Results of Operations*, issued in 1966, the Board concluded that net income for a period should reflect all items of profit and loss recognized during the period except for certain prior period adjustments. The Opinion further provided that *extraordinary items* should be segregated from the results of ordinary operations and shown separately in the income statement and that their nature and amounts should be disclosed.

2. Financial reporting practices in recent years indicate that interpreting the criteria for extraordinary items in APB Opinion No. 9 has been difficult and significant differences of opinion exist as to certain of its provisions. The Board is also concerned with the varying accounting treatments accorded to certain transactions involving the sale, abandonment, discontinuance, condemnation, or expropriation of a segment of an entity (referred to in this Opinion as disposals of a segment of a business).

3. The purposes of this Opinion are (1) to provide more definitive criteria for extraordinary items by clarifying and, to some extent, modifying the existing definition and criteria, (2) to specify disclosure requirements for extraordinary items, [and] (3) to specify disclosure requirements for other unusual or infrequently occurring events and transactions that are not extraordinary items.

DISCUSSION

4. Some accountants believe that financial statements would be improved by presenting an all-inclusive income statement without separate categories for continuing operations, discontinued operations and extraordinary items. In their view, the use of arbitrary and subjectively defined categories tends to mislead investors and to invite abuse of the intended purposes of the classifications. They believe, therefore, that basically an income statement should reflect only the two broad categories, (a) revenue and gains and (b) expenses and losses. They also believe that investors would be better served by reporting separately the primary types of revenue and expense, including identification of items that are unusual or occur infrequently. Alternatively, sufficient information relating to those items should be otherwise disclosed to permit investors to evaluate their relevance. These accountants believe that such changes should be implemented at the present time.

5. Other accountants believe that the income statement is more useful if the effects of events or transactions that occur infrequently and are of an unusual nature are segregated from the results of the continuing, ordinary, and typical operations of an entity. They also believe that the criteria for income statement classification should relate to the environment in which an entity operates. In their view the criteria in APB Opinion No. 9, paragraph 21, for determining whether an event or transaction should be reported as extraordinary lack precision. Accordingly, they conclude that the criteria should be clarified and modified to provide that to be classified as an extraordinary item an event or transaction should be both unusual in nature and infrequent in occurrence when considered in relation to the environment in which the entity operates. They also believe that to enhance the usefulness of the income statement (a) the results of continuing operations of an entity should be reported separately from the operations of a segment of the business which has been or will be discontinued and (b) the gain or loss from disposal of a segment should be reported in conjunction with the operations of the segment and not as an extraordinary item. They

further believe that material events and transactions that are either unusual or occur infrequently, but not both, should be adequately disclosed.

6. Still other accountants agree in part with the views described in paragraph 5 but believe that a combination of infrequency of occurrence and abnormality of financial effect should also result in classifying an event or transaction as extraordinary.

APPLICABILITY

7. This Opinion supersedes paragraphs 20 through 23, paragraph 29 insofar as it refers to examples of financial statements, and Exhibits A through D of APB Opinion No. 9. It also amends paragraph 13 and footnote 8 of APB Opinion No. 15, *Earnings per Share*, insofar as this Opinion prescribes the presentation and computation of earnings per share of continuing and discontinued operations. This Opinion does not modify or amend the conclusions of FASB Statement No. 109, *Accounting for Income Taxes*, paragraph 37, with respect to the classification of the effects of certain events and transactions as extraordinary items. Prior APB Opinions that refer to the superseded paragraphs noted above are modified to insert a cross reference to this Opinion.¹

OPINION

Income Statement Presentation and Disclosure

8-9. [These paragraphs have been deleted. See Status page.]

2-3 [These footnotes have been deleted. See Status page.]

10. *Extraordinary Items.* The Board has also reconsidered the presentation of extraordinary items in an income statement as prescribed in APB Opinion No. 9, and reaffirms the need to segregate extraordinary items for the reasons given in paragraph 5 of this Opinion and paragraph 19 of APB Opinion No. 9.

11. In the absence of discontinued operations¹¹ 3a and changes in accounting principles, the following main captions should appear in an income statement if extraordinary items are reported (paragraphs 17-19 of APB Opinion No. 9):

Income before extraordinary items
Extraordinary items (less applicable income taxes of \$____)
(Note____)
Net income

\$XXX
XXX
\$XXX

⁴ [This footnote has been deleted because the effective date of FASB Statement No. 154, *Accounting Changes and Error Corrections*, has passed.]

The caption *extraordinary items* should be used to identify separately the effects of events and transactions, other than the disposal of a component of an entity, that meet the criteria for classification as extraordinary as discussed in paragraphs 19-24. Descriptive captions and the amounts for *individual* extraordinary events or transactions should be presented, preferably on the face of the income statement, if practicable; otherwise disclosure in related notes is acceptable. The nature of an extraordinary event or transaction and the principal items entering into the determination of an extraordinary gain or loss should be described. The income taxes applicable to extraordinary items should be disclosed on the face of the income statement; alternatively, disclosure in the related notes is acceptable. The caption *net income* should replace the three captions shown above if the income statement includes no extraordinary items.

12. Earnings per share data for extraordinary items shall be presented either on the face of the income statement or in the related notes, as prescribed by Statement 128.

13-18. [These paragraphs have been deleted. See Status page.]

5-7 [These footnotes have been deleted. See Status page.]

Criteria for Extraordinary Items

19. Judgment is required to segregate in the income statement the effects of events or transactions that are extraordinary items (as required by paragraph 11). The Board concludes that an event or transaction should be presumed to be an ordinary and usual activity of the reporting entity, the effects of which should be included in income from operations, unless the evidence clearly supports its classification as an extraordinary item as defined in this Opinion.

20. Extraordinary items are events and transactions that are distinguished by their unusual nature *and* by the infrequency of their occurrence. Thus, *both* of the following criteria should be met to classify an event or transaction as an extraordinary item:

- a. *Unusual nature*—the underlying event or transaction should possess a high degree of abnormality and be of a type clearly unrelated to, or only incidentally related to, the ordinary and typical activities of the entity, taking into account the environment in which the entity operates. (See discussion in paragraph 21.)
- b. *Infrequency of occurrence*—the underlying event or transaction should be of a type that would not reasonably be expected to recur in the foreseeable future, taking into account the environment in which the entity operates. (See discussion in paragraph 22.)

[Note: Prior to the adoption of FASB Statement No. 141 (revised 2007), *Business Combinations* (effective for business combinations with an acquisition date on or after the beginning of the first annual reporting period beginning on or after 12/15/08), the remainder of this paragraph should read as follows:]

However, the following items shall be recognized as extraordinary items regardless of whether those criteria are met:

- (1) [This subparagraph has been deleted. See Status page.]
- (2) The net effect of discontinuing the application of FASB Statement No. 71, *Accounting for the Effects of Certain Types of Regulation*, pursuant to paragraph 6 of FASB Statement No. 101, *Regulated Enterprises—Accounting for the Discontinuation of Application of FASB Statement No. 71*
- (3) The remaining excess of fair value of acquired net assets over cost pursuant to paragraphs 45 and 46 of FASB Statement No. 141, *Business Combinations*.

[Note: After the adoption of Statement 141(R), the remainder of this paragraph should read as follows:]

However, the following item shall be recognized as an extraordinary item regardless of whether those criteria are met:

- (1) [This subparagraph has been deleted. See Status page.]
- (2) The net effect of discontinuing the application of FASB Statement No. 71, *Accounting for the Effects of Certain Types of Regulation*, pursuant to paragraph 6 of FASB Statement No. 101, *Regulated Enterprises—Accounting for the Discontinuation of Application of FASB Statement No. 71*.

21. *Unusual Nature*. The specific characteristics of the entity, such as type and scope of operations, lines of business, and operating policies should be considered in determining ordinary and typical activities of an entity. The environment in which an entity operates is a primary consideration in determining whether an underlying event or transaction is abnormal and significantly different from the ordinary and typical activities of the entity. The environment of an entity includes such factors as the characteristics of the industry or industries in which it operates, the geographical location of its operations, and the nature and

extent of governmental regulation. Thus, an event or transaction may be unusual in nature for one entity but not for another because of differences in their respective environments. Unusual nature is not established by the fact that an event or transaction is beyond the control of management.

22. *Infrequency of Occurrence.* For purposes of this Opinion, an event or transaction of a type not reasonably expected to recur in the foreseeable future is considered to occur infrequently. Determining the probability of recurrence of a particular event or transaction in the foreseeable future should take into account the environment in which an entity operates. Accordingly, a specific transaction of one entity might meet that criterion and a similar transaction of another entity might not because of different probabilities of recurrence. The past occurrence of an event or transaction for a particular entity provides evidence to assess the probability of recurrence of that type of event or transaction in the foreseeable future. By definition, extraordinary items occur infrequently. However, mere infrequency of occurrence of a particular event or transaction does not alone imply that its effects should be classified as extraordinary. An event or transaction of a type that occurs frequently in the environment in which the entity operates cannot, by definition, be considered as extraordinary, regardless of its financial effect.

23. Certain gains and losses should not be reported as extraordinary items because they are usual in nature or may be expected to recur as a consequence of customary and continuing business activities. Examples include:

- a. Write-down or write-off of receivables, inventories, equipment leased to others, deferred research and development costs, or other intangible assets.
- b. Gains or losses from exchange or translation of foreign currencies, including those relating to major devaluations and revaluations.
- c. Gains or losses on disposal of a component of an entity.
- d. Other gains or losses from sale or abandonment of property, plant, or equipment used in the business.
- e. Effects of a strike, including those against competitors and major suppliers.
- f. Adjustment of accruals on long-term contracts.

In rare situations, an event or transaction may occur that clearly meets both criteria specified in paragraph 20 of this section and thus gives rise to an extraordinary gain or loss that includes one or more of the gains or losses enumerated above. In these circumstances, gains or losses such as (a) and (d) above should be included in the extraordinary item if they are a direct result of a major casualty (such as an earthquake), an expropriation, or a prohibition under a newly enacted law or regulation that clearly meets both criteria specified in paragraph 20. However, any portion of such losses which would have resulted from a valuation of assets on a going concern basis should not be included in the extraordinary items. Disposals of a component of an entity shall be accounted for and presented in the income statement in accordance with Statement 144 even though the circumstances of the disposal meet the criteria specified in paragraph 20.

24. *Materiality.* The effect of an extraordinary event or transaction should be classified separately in the income statement in the manner described in paragraph 11 if it is material in relation to income before extraordinary items or to the trend of annual earnings before extraordinary items, or is material by other appropriate criteria. Items should be considered individually and not in the aggregate in determining whether an extraordinary event or transaction is material. However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action that otherwise meets the two criteria in paragraph 20 should be aggregated to determine materiality.

Adjustment of Amounts Reported in Prior Periods

25. Circumstances attendant to extraordinary items frequently require estimates, for example, of associated costs and occasionally of associated revenue, based on judgment and evaluation of the facts known at the time of first accounting for the event. Each adjustment in the current period of an element of an extraordinary item that was reported in a prior period should be separately disclosed as to year of origin, nature, and amount and classified separately in the current period in the same manner as the original item. If the adjustment is the correction of an error, the provisions of FASB Statement No. 154, *Accounting Changes and Error Corrections*, paragraphs 25 and 26 should be applied.

Disclosure of Unusual or Infrequently Occurring Items

26. A material event or transaction that is unusual in nature or occurs infrequently but not both, and therefore does not meet both criteria for classification as an extraordinary item, should be reported as a separate component of income from continuing operations. The nature and financial effects of each event or transaction should be disclosed on the face of the income statement or, alternatively, in notes to the financial statements. Gains or losses of a similar nature that are not individually material should be aggregated. Such items should not be reported on the face of the income statement net of income taxes or in any other manner that may imply that they are extraordinary items. Similarly, the earnings per share effects of those items should not be disclosed on the face of the income statement.

⁸[This footnote has been deleted. See Status page.]

EFFECTIVE DATE

27. This Opinion shall be effective for events and transactions occurring after September 30, 1973. Events and transactions that were reported as extraordinary items in statements of income for fiscal years ending before October 1, 1973 should not be restated, except that a statement of income including operations of discontinued segments of a business may be reclassified in comparative statements to conform with the provisions of paragraphs 8 and 9 of this Opinion and the Board encourages such reclassification. In addition, the accounting for events and transactions that have been reported previously for the fiscal year in which September 30, 1973 occurs may be restated retroactively to comply with the provisions of this Opinion, and the Board encourages such restatement. Differences in classification of the effects of events and transactions in the financial statements of the current and any prior periods presented should be disclosed in notes to the financial statements.

The Opinion entitled "Reporting the Results of Operations" was adopted by the assenting votes of fifteen members of the Board, of whom three, Messrs. Horngren, Norr, and Welsch, assented with qualification. Messrs. Bows and Watt dissented.

Mr. Horngren assents to this Opinion because it provides somewhat more definitive criteria for pinpointing extraordinary items than have existed to date. However, he agrees with the substance of paragraph 4. Separate identification of abnormal, unusual, or infrequent items is the primary need. Whether these items are classified as extraordinary or ordinary is a secondary issue. Furthermore, he is unconvinced that any criteria can be formulated which provide a workable distinction between extraordinary and ordinary items.

Mr. Norr assents because he believes the Opinion will reduce the frequency of use of the extraordinary item category. In order to provide stewardship he believes all items should go through the income statement with supplemental disclosure of results of discontinued operations, paragraph 8. He believes that the criteria created in this Opinion for extraordinary items, unusual and infrequent (paragraphs 20-22), are subjective and unworkable. He does not believe earthquakes, expropriations or prohibitions under new laws (paragraph 23) are extraordinary. He believes that the extraordinary category has resulted in a proliferation of abuses, particularly debits, comparable to direct entries to surplus. He believes the investor is best served by single line identification of unusual items. In that way there is stewardship for past events and the reader may predict which items may not recur. Thus, the subject of forecasting is a companion piece and is a vital adjunct to an all-inclusive income statement.

Mr. Welsch assents to the issuance of this Opinion because he believes it will reduce the differences in the classification of certain events and transactions as extraordinary. He also believes that it will reduce the varying accounting treatments accorded certain transactions involving the disposal of a segment of an entity. Mr. Welsch does not agree that the addition of another subjectively defined category and the attendant earnings per share complications will further serve the investor. He believes that the all-inclusive income statement, coupled with comprehensive disclosure requirements, would better serve the investor for the reasons given in paragraph 4 of this Opinion. He believes this change should be implemented at the present time.

Mr. Bows dissents to this Opinion because in his view it will cause serious erosion and confusion in efforts to achieve an informative and proper presentation of results of operations. This deterioration will occur because ordinary operating results will be blurred by inclusion of nonoperating, unusual and

nonrecurring items that affect net income for a given period. For example, material gains or losses from retirement of debt, from major devaluations, from sales of nonoperating capital assets, from major storms or floods, and from litigation unrelated to current operations are to be included in the determination of "income from continuing operations" rather than being set out separately on a net-of-tax basis below such operating results. The statement of income will present a distorted picture of ordinary operating results and thus will be less useful to readers than if ordinary operating results were clearly distinguished from truly extraordinary items on a net-of-tax basis and with a separate indication of their earnings per share effect.

Mr. Watt dissents to this Opinion because it virtually eliminates extraordinary items yet perpetuates the format which implies that only ordinary events and transactions are included in income before extraordinary items. To him the inclusion in "ordinary" income, for example, of expenses, net of tax, directly associated with the disposal of a business (and in the format required by paragraph 8), and gains and losses from sale or abandonment of a plant without adjustment for related income taxes (paragraph 23d), obscures current operating performance and will result in readers of financial statements questioning the usefulness of the complex format described in paragraph 8. He also believes that, in addition to the criteria for extraordinary items prescribed in paragraph 20, the Board should have recognized that the quality of being extraordinary can be derived from a combination of infrequency of occurrence (paragraph 20b) and abnormality of size, without regard to the nature of the event or transaction (paragraph 20a). This view is described in paragraph 6 of the Opinion.

APB 30 NOTES

Opinions of the Accounting Principles Board present the conclusions of at least two-thirds of the members of the Board.

Board Opinions need not be applied to immaterial items.

Covering all possible conditions and circumstances in an Opinion of the Accounting Principles Board is usually impracticable. The substance of transactions and the principles, guides, rules, and criteria described in Opinions should control the accounting for transactions not expressly covered.

Unless otherwise stated, Opinions of the Board are not intended to be retroactive.

Rule 203 of the Institute's Rules of Conduct prohibits a member from expressing his opinion that financial statements are presented in conformity with generally accepted accounting principles if the statements depart in a material respect from such principles unless he can demonstrate that due to unusual circumstances application of the principles would result in misleading statements—in which case his report must describe the departure, its approximate effects, if practicable, and the reasons why compliance with the established principles would result in misleading statements.

Pursuant to resolution of Council, this Opinion of the APB establishes, until such time as they are expressly superseded by action of FASB, accounting principles which fall within the provisions of Rule 203 of the Rules of Conduct.

Accounting Principles Board (1973)

Philip L. Deffense,

Chairman

Donald J. Bevis

Albert J. Bows

Milton M. Broeker

Leo E. Burger

Joseph P. Cummings

Robert L. Ferst

Oscar S. Gellein

Newman T. Halvorson

Robert Hampton, III

Donald J. Hayes

¹APB30, Footnote 1—This Opinion amends APB Statement No. 4, *Basic Concepts and Accounting Principles Underlying Financial Statements of Business Enterprises*, to the extent that they describe an extraordinary item.

²APB30, Footnote 3a—Paragraphs 41–44 of Statement 144 address the reporting of discontinued operations.