



3. In response to the Application/Petition the Staff of the Commission (Staff) filed Staff's Recommendation on December 29, 2015; and the OPC filed its Motion to Dismiss on December 28, 2015.

### **RESPONSE TO STAFF'S RECOMMENDATION**

4. MAWC's proposed reconciliation schedule reflected an under-collection of \$5,870,309, for the period September 25, 2012, through September 30, 2015, while the Staff's calculation reflects a cumulative ISRS reconciliation of \$4,272,324, for the same period. MAWC has reviewed the Staff's approach and disagrees with Staff's method of calculation.

5. Staff's calculation is not accurate because it calculates the daily authorized amounts by assuming that the daily authorized amount of ISRS revenues in January is the same as the authorized amount of ISRS revenues in September. Simply by looking at how water sales actually occur during the year (11% in Sept vs. 6.7% in January), it is apparent that Staff's approach may overstate or understate the calculation of the authorized ISRS amounts. In this case, it understates those amounts.

6. Staff further notes that Commission Rule 4 CSR 240-3.650(16), in addition to requiring the filing of the reconciliation, also states that the Company should submit a "proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, *as appropriate.*" (emphasis added) Staff recommends a waiver from this rule provision be granted.

7. MAWC does not object to such a waiver if the Commission believes it to be necessary. However, the rule only requires a rate schedule to be filed "as appropriate." In this case, filing a tariff schedule to change the rate is not appropriate.

8. MAWC asserted in its Application/Petition that the current ISRS rates were approved by a Commission order issued June 17, 2015, with an effective date of June 27, 2015, in Case No. WO-2015-0211. ISRS revenue is capped at 10% of base revenues as approved by the Commission in the utilities most recent general rate case. *See* Section 393.1003.1, RSMo. MAWC's total authorized ISRS revenue is \$25,892,662, which equals the 10% revenue cap. Therefore, MAWC may not file to increase ISRS rates until ISRS eligible costs are reflected in base rates and current the ISRS rates are reset to zero.

9. If the reconciliation would have shown an over recovery of ISRS revenues, MAWC agrees that the filing of a rate schedule to reduce the ISRS rate would have been appropriate. In this case, however, no such over recovery exists. Both Staff and MAWC's methodology show that MAWC has under recovered ISRS revenues.

10. Moreover, Staff correctly points out that the Commission's Report and Order in ISRS Case No. WO-2015-0211, requires MAWC to file a new tariff designed to discontinue any ISRS charges no later than 60 days before MAWC expects to reach the maximum ISRS revenue of \$25,892,662, and suggests that the Commission's order in this case include that requirement. MAWC does not object to such a restatement of that requirement.

11. As stated above, MAWC believes that a tariff filing is not "appropriate" in this case. However, MAWC does not object to the grant of the waiver or the related order recommended by Staff.

### **RESPONSE TO OPC'S MOTION TO DISMISS**

12. The OPC's Motion to Dismiss alleges that the Application/Petition should be dismissed for three reasons: 1) OPC alleges that an over/under collection for the prior 12 month

period is not set forth; 2) no new rate schedule is proposed and, thus, there is nothing for the Commission to approve; and, 3) MAWC does not qualify for an ISRS because of the alleged size of St. Louis County.

**Prior 12 Month Period**

13. As stated in Staff’s Recommendation, the twelve month under collection may be determined from the information provided in Appendix A to the Application/Petition.

**No New Rate Schedule Proposed**

14. As stated above, due to the circumstances (the ISRS cap and under recovery), no new rate schedule was appropriate. Having said this, the Application/Petition is not merely an “informational filing,” as suggested by OPC. The Commission rules require such a filing and MAWC has complied with those rules. A dismissal in this situation is not called for. At a minimum, the Commission should acknowledge compliance with its rule.

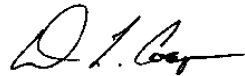
**MAWC Qualifies to Utilize the ISRS**

15. OPC alleges that the Commission “lacks jurisdiction” to approve any recovery in this matter because of the alleged size of St. Louis County. First, this is not a jurisdictional issue. The only body authorized to address claims applications/petitions for an ISRS is the Commission. No other body has that authority. Jurisdiction is with the Commission. What OPC raises is a factual issue in regard to a specific application/petition. Second, the issue raised by the OPC has been thoroughly briefed in Court of Appeals Case No. WD78792. Regardless of the outcome of that case, as long as the ISRS is in effect (which it is today), MAWC must comply with the Commission rules, to include the filing of the reconciliation.

16. For the above reasons, OPC’s Motion to Dismiss should be denied.

**WHEREFORE**, MAWC respectfully requests that the Commission consider this response and then issue an Order: 1) Approving the Company's reconciliation; and, 2) Granting such other relief as may be necessary and appropriate to accomplish the purposes of Sections 393.1000, et seq., RSMo.

Respectfully submitted,



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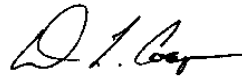
**ATTORNEYS FOR MISSOURI-AMERICAN  
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## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail or by U.S. Mail, postage prepaid, on January 7, 2016, to the following:

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