BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of the Application of a Rate Increase of Raytown Water Company	)))	 Case No. WR-2023-0344

THE OFFICE OF THE PUBLIC COUNSEL'S POSITION STATEMENTS

1. Advanced Metering Infrastructure ("AMI")

a. *How should this AMI investment be treated for rate making purposes?*

At the very least, the Office of the Public Counsel ("OPC") believes that the Public Service Commission ("PSC" or "Commission") should bar The Raytown Water Company ("RWC," "Raytown," or "Company") from receiving a "return on" this investment. RWC's service area is relatively small, with a condensed population. Due to RWC's relatively compact service area any AMI should be either inexpensive, or highly beneficial. In this case, the AMI that Raytown opted for has neither of those traits.

In Case No. WF-2021-0427, RWC came to this Commission and requested a $5 million bond to obtain a new fleet of nine (9) new fleet vehicles and to assist the Company with obtaining AMI for the service area. The Company's application had an attachment that listed "Meter Reading Cost Savings" and "Reduc[tion of] Non-Revenue Water."[1] This attachment also claimed that this AMI option had "[r]emote shutoff valve control."[2] Under the belief that Raytown and its customers would be able to take advantage of these benefits, the Commission approved the order, while

[1] *Application*, Attachment A, Slide 10, WF-2021-0427, EFIS Item No. 4.
[2] *Id.* at slide 15.

stating:

> Nothing in this Order shall be considered a finding by the Commission of this transaction for rate making purposes, and the Commission reserves the right to consider the rate making treatment to be afforded the financing transaction, and its impact on cost of capital, in any later rate proceeding[.][3]

After the Commission approved Raytown's bond, the Company chose AMI that would cost the Company a total of $3,870,050[4] in the first year with an additional operational maintenance fee of over $100,000 annually. Moreover, RWC's AMI choice does not have currently remote shutoff capabilities, leak detection valves for customers' benefit, or improved leak detection in the Company's distribution system. In effect, the bill of goods the Company sold did not match the bill of goods the Commission bought.

Further, the OPC believes the Commission does have the ability to prohibit the entire investment in AMI, if it so chose. A cost/benefit analysis shows that the cost fully and completely outweighs the benefits. While the OPC is requesting the Commission prohibit a "return on" this Company's AMI investment, our office is also supporting that the remaining AMI investment be placed into rate base so it may start its depreciation schedule and minimize or avoid an immediate future rate case. The net result of disallowing the return on and including the remaining AMI investment is roughly equal.

b. *Should the Commission grant a return on the AMI investment?*

No. The OPC is specifically requesting that the Commission grant the

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[3] *Order Approving Finance Authority*, pg. 4 §2A, WF-2021-0427, EFIS Item No. 14.
[4] *Application*, Attachment A, Slide 19, WF-2021-042, EFIS Item No 4.

Company a return *of*, but not return *on*, the AMI meter investment. Part of the OPC's logic behind the Company not receiving a return on the purchased AMI is because of the lack of customer benefits for this considerable investment. Another part of the OPC's logic behind RWC not receiving a return on its AMI investment comes from the fact that the Company requested financing for technology with benefits that its customers will not receive. However, while these issues, alone, support this Commission's denial of Raytown's return on its AMI investment, there is still one more aspect of this case that has not come up.

The final reason that RWC should not receive a return on its AMI investment is that the Company did not follow the best practices this Commission has spelled out for such purchases nearly thirty (30) years ago. In the Management Audit that came out in 1994, this Commission ordered Raytown to develop and implement formal competitive bidding procedures and perform a documented needs analysis for all major equipment purchases.[5] Despite the Commission audit informing Raytown of these expectations in the 1990's, the Company chose this AMI technology without any competitive bidding and, arguably, without implementing any effective needs analysis beforehand.

In 2020, Staff, the OPC, and RWC compromised to increase the Company's revenue requirement by approximately 12.3%. Today, Staff and the Company are seeking to raise the revenue requirement by an additional 27.26%. A large portion of this new increase derives from the Company's decision to purchase AMI meters that

[5] *Management Audit Report*, pg. 14, WO-93-194, EFIS Item No. 4.

do not result in the benefits RWC sold to this Commission. If the Company implemented competitive bidding as it should have, there would be more options, more price points, and more leverage to get a better deal on the AMI. If Raytown utilized a proper needs analysis before making these choices, customers would not be facing such a sizeable rate increase—approximately 40% in three (3) years.

The OPC's view is that it would be improper for Raytown to benefit from its failure to follow best practices. If the role of the regulator is to guide the utility to success, prohibiting a return on—while permitting a return of—this investment would provide that guidance without causing RWC undue hardship. Therefore, because of the Company's situation, the chosen investment, and the halfhearted attempt to scrutinize that investment, Raytown should not receive a return on its AMI.

c. *Should the Commission include all known and measurable AMI investments that the Company has, either in service or in inventory, in rate base?*

Yes. The OPC believes that the Commission should include all known and measureable AMI meters and investments that the Company has, either in service or in inventory, in rate base. Adding these meters to rates now is good for the Company because it would prevent them from needing to return to the Commission for another rate case almost immediately in order to add these meters. Further, adding the meters to rates all at once would prevent customers from being forced to handle a third double-digit rate increase within the span of five (5) years. Adding all of the meters to rates now is better for the Company and better for customers, but only if the return on is disallowed.

The OPC would not support including all of the known and measurable meters and the annual maintenance fee if the Commission also elects to reward RWC for its gold-plated investment with a return on that investment. The public has not been made adequately aware of the rate increase that it is currently posed to absorb. The addition of the rest of the AMI investment without the elimination of a return on cost component would likely elicit rate shock across many households.

2. Late Fees: Should the Commission eliminate or reduce late fees?

The rationale behind late fees has been called into question in many industries and has, at best, questionable empirical support to substantiate their existence. Context matters as well. Late fees may be more acceptable in a competitive market or tied to an obligation that does not result in immediate health and safety concerns. That is not the case here. RWC customers are captive and cannot choose their provider as water is an essential service whose absence would quickly have a detrimental impact on one's health. Adding late fees is needlessly punitive, regressive in nature, and do not reflect actual cost causation.

The reality of the situation is that many of RWC's customers are economically unstable, on fixed incomes, and will struggle at greater levels if any sort of rate increase is granted. Customers have every incentive to pay their bills or run the risk that their service be disconnected. The OPC believes that the threat of disconnection is a greater motivator for timely payments than a punitive late fee. Moreover, the $5.00 charge has no cost causative basis in reality. The actual all-in cost for a disconnection notice is $1.15. The OPC recommends that RWC eliminate late fees, which would align RWC with other investor-owned water utilities in Missouri.

3. Depreciation

a. *Reserve Transfer*

1 *Should depreciation reserves be transferred from over-accrued accounts to not-fully-accrued accounts?*

Yes. The OPC believes that depreciation reserves should be transferred from over-accrued accounts to not-fully-accrued accounts.[6] Further, Staff eventually agreed that it had "inadvertently omitted" the second step to the depreciation reserve adjustment, to shift the over-accrued reserve to other accounts.[7]

2 *If so, to which accounts should the depreciation reserves be transferred?*

The OPC believes that the depreciation reserves should go first to account 346.000, which covers Raytown's plastic meters that are currently in the process of being replaced. After these meters have fully been depreciated, the OPC again agrees with Staff that the remaining depreciation reserve should be transferred into account 346.200, which covers Raytown's hot rod meters. [8]

Placing the remaining depreciation reserves in 346.200 will not zero out this account, like it would with the plastic meters account, but the account does have enough plant to fully transfer the remaining reserve. Customers would then obtain a benefit from the Commission's transfer of these reserve by getting a revenue requirement decrease of $35,624 with the ending of the depreciation on the existing

[6] *Direct Testimony of John A. Robinett*, pg. 10 lines 9-11, WR-2023-0344, EFIS Item No. 26.
[7] *Rebuttal Testimony of Angela Niemeier*, pg. 3 lines 6-10, WR-2023-0344, EFIS Item No. 36.
[8] *Surrebuttal Testimony of John A. Robinett*, pg. 2 line 34 to pg. 3 line 4, WR-2023-0344, EFIS Item No. 51.

meters.

b. Should depreciation expense be removed for the existing plastic meters?

Yes. If the depreciation reserve is placed into account 346.000, this account will be effectively zeroed out. If depreciation reserves first go into paying off the plastic-meter account, for equipment that is no longer used and useful now that the Company has switched to AMI, it would make sense to remove the depreciation expense that comes with this account.[9]

c. Should depreciation reserve be adjusted to reflect the salvage values from the Company's vehicle sales in 2022 and 2023?

Yes. Depreciation reserve should be adjusted by $50,526.96 to reflect the salvage values from the Company's vehicle sales in 2022 and 2023. And revenue requirement should also be reduced by $3,436.

4. <u>Customer Notice:</u> In what instance should the Company send additional notice of a proposed rate increase that differs from the original, noticed rate increase?

The OPC believes that consumers of a small to medium utility should receive notice that the rate request has significantly changed from the number the Company informed customers of initially. In this instance, RWC originally requested a $735,102.73 increase on March 30, 2023. When the OPC and Staff worked on a notice for Local Public Hearing, the assumption was that the number Raytown's revenue requirement would increase by was that $735K number, which was about a 17%

[9] *Id*. at pg. 3, lines 8-10.

increase.[10] After the 90 day mark, Staff increased the requested-number, which increased again by the day 120 and day 150 marks.

As the OPC noted in direct testimony,[11] the "27% rate increase proposed and agreed to by Staff and Raytown is nowhere close to the 1[7]% increase customers were informed of and asked to comment on."[12] To be more exact, the OPC is concerned that Raytown's customers will be more susceptible to rate shock when Staff and the Company's current agreement is approximately 59.95% higher than the original ask.[13]

The clearest demonstration of the difference between the Company's requested number and the number Staff agreed on is the proposed monthly minimum charge. This notice informed ratepayers that the monthly minimum customer charge would go from $12.86 per month to $15.05 per month, a $2.19 or a 17.02% increase.[14] However, Staff is now arguing that the minimum monthly charge should be $20.53 per month,[15] an increase of $7.67 or a 59.64% increase.

On top of the increased percentage from the Company's original request, the monetary amount is far more than any examples that Mr. Spratt gave in his rebuttal testimony.[16] When looking at the difference between the amounts that different

[10] *Customer Notice*, pg. 1, WR-2023-0344, EFIS Item No. 6.
[11] Please note, the OPC used 14.2% in this testimony due to the inconsistency between the original request Mr. Clevenger sent in on March 30, 2023, which identified an increase of 14.2%, and the percent increase of about 17% that Staff used in the notice, itself. *See Notice of Rate Increase*, WR-2023-0344, EFIS Item No. 1.
[12] *Direct Testimony of John A. Robinett*, pg. 5, lines 17-19.
[13] *Id.* at lines 9 & 10.
[14] *Customer Notice*, pg. 2.
[15] *Direct Testimony of Melanie Clark*, Direct Schedule MC-d2, pg. 8, WR-2023-0344, EFIS Item No. 19.
[16] *Rebuttal Testimony of David A. Spratt*, pg. 10, line 11 WR-2023-0344, EFIS Item No. 37.

companies requested from the Commission the most notable example was $90,429.[17] Conversely, the difference between the amount Raytown requested and the amount Raytown and Staff stipulated to is $439,679.27.[18]

It is difficult to create any hard and fast rule to require a second customer notice with an opportunity to comment. However, when the agreed-to revenue requirement has a two-digit percentage increase, and a six-figure monetary value added, fairness and due process dictate that customers deserve to know the proposed change. Further, fairness and due process dictate that customers deserve a chance to speak to the proposed change.

5. Distribution Mains Operations and Maintenance ("O&M"): What value of non-labor operations and maintenance expense should be included for distribution mains?

The OPC believes that, at most, the non-labor O&M should be $345,494 for distribution mains, account 673. We have based this number on the three-year average provided by the Company's response to OPC data request 8517 and the corrected response to Staff data request 0022.[19]

6. Rate of Return

a. *What is the appropriate return on common equity?*

The OPC believes the appropriate return on common equity is 9.12%. The OPC followed the same methodology as Staff to estimate a fair and reasonable return on common equity ("ROE") to award Raytown for purposes of setting its awarded rate of

[17] $145,429 - $55,000 = $90,429
[18] $1,174,782 - $735,102.73 = $439,679.27
[19] *Surrebuttal Testimony of John A. Robinett*, pg. 5 lines 19-22.

return ("ROR") in this case. The OPC's lower recommended ROE is based on the OPC witness, Mr. David Murray's, disagreement with Staff witness, Mr. Randall Jennings', estimate of Raytown's creditworthiness. Mr. Murray estimates that Raytown's creditworthiness is consistent with an investment grade credit rating ('BBB' or higher), whereas Mr. Jennings estimates that Raytown's creditworthiness is consistent with a non-investment grade credit rating ('BB').

b. If the Commission agrees to change the return on common equity, should the dividend rate on preferred stock change for the purposes of rate of return ("ROR")?

No. The OPC only took issue with the ROE component of the ROR defined in Staff's and Raytown's in the "Non-Unanimous Agreement Regarding Disposition of Small Utility Company Revenue Increase Request" ("Agreement") filed on September 13, 2023. Because Staff and Raytown filed direct testimony supporting the Agreement, no other ROR issues are contested.

7. <u>Cash Working Capital ("CWC")</u>: Should cash working capital be included in rate base?

Yes. Staff witness Angela Niemeier recites the significance of CWC in rate base in her rebuttal testimony.[20] In 20 CSR 4240-10.075, the Commission requires Staff to update a small utility's rate base in Section (8) subsection (D) "Staff's investigation shall include an update of the utility's rate base"

[20] *Rebuttal Testimony of Angela Niemeier*, pgs. 3 & 4, WR-2023-0344, EFIS Item No. 36.

8. Payroll Expense

a. *Should all of the Company's employee overtime be normalized?*

Yes. Failing to normalize employee overtime pay encourages the utility to increase employee overtime pay during the test year, then decrease the amount of overtime those employees work during non-test years. Normalization is an important procedure for instances where the overtime fluctuates to ensure that the Company is making enough money to cover when overtime is particularly high. However, normalization also ensures customers are not significantly overpaying the utility for overtime that utility employees are not working.

To go along with this method, overtime pay should be disallowed from Senior Management. In this case, the OPC believes Neal Clevenger, Mitsu Clevenger, Chiki Thompson, Toni Stubblefield, Leslie Smart, and Erica Baier-Ross should be considered Senior Management. Thus, the amount included in revenue requirement for these employees' pay should be $158,309, $66,871, $108,759, $77,813 and $53,071 respectively.

b. *What is the just and reasonable amount of pay to include in rates for the Company's Vice President, Sr. Accounting Clerk, Jr. Accounting Clerk, and Sr. Customer Service/Admin Assistant?*

The OPC believes that senior management should have an annualized payroll. Annualized payroll for Chiki Thompson, Leslie Smart, Toni Stubblefield, and Erica Baier-Ross should be about $300,528 combined or $108,759, $77,813, $60,885, and $53,071 respectively. Therefore, the total that customers should be required to pay in rates for these positions is $300,528.

9. <u>Meter Reading Expense</u>: **What is the just and reasonable amount to include in rates for meter reading expense?**

The cost included in Meter Reading expense should be the test year amount indicated in Staff's original workpapers. $98,094. No overtime should be allowed nor a third meter reader in rates due to the installation of AMI meters that negates future manual meter reading. Since the Company claims to be understaffed, the meter reading positions can perform other labor functions.

10. Rate Case Expense

a. What amount of rate case expense should be included in the cost of service?

The Company has already collected $5,146 *annually* in current rates that more than reimburse the Company for the current $3,119 in actual rate case expenses. Therefore, the revenue requirement should not include any rate case expense or customers will severely overcompensate Raytown. At a minimum, if the Commission accepts customers paying twice for rate case expense, customers should be required to pay no more than a 50/50 sharing of current rate case expense.

b. Should rate case expense be amortized or normalized?

The Company's rate case expense should be amortized so that customers are not paying Raytown to cover legal services that have not been rendered.

c. Should the rate case expense follow a 50/50 sharing mechanism?

Any additional rate case expense that is included in this case should be shared 50/50 between the Company and ratepayers. Generally, shareholders benefit from rate cases and should either pay for or share the expense of that rate case with consumers. If the Commission ordered such a mechanism, it would follow case precedent and ensure that the Company, Staff, and the OPC all have incentive to ensure the amount of rate increase that is appropriate for Raytown's situation.

11. Truck Disallowance

a. What amount of the Company's Truck 206 should be included in revenue requirement?

The Company truck, Truck 206, should not be included in revenue requirement. RWC's Board of Directors minutes shows that Company truck 206 is assigned to RWC's President.[21] As RWC's President does not have a personal vehicle, he utilizes a Company vehicle for personal mileage and has left previously assigned company vehicles, outside of the available RWC fleet, at an unregulated family business while he's on vacation.[22] Additionally, RWC's President reimburses for personal mileage from an unregulated business account for several months at a time rather than monthly, as agreed upon in the Management audit implementation plan, promoting cross-subsidization between regulated and non-regulated businesses.[23] The recommended disallowance to revenue requirement is $8,030.[24]

b. How should the Company be reimbursed for the personal use of its vehicles?

The Company should be reimbursed for the personal use of Company vehicles at a competitive rate, as agreed upon in the 1993 management audit implementation plan signed by Mr. Clevenger. The implementation plan sets monthly

[21] *Surrebuttal Testimony of Angela Schaben*, pg. 6 line 6, WR-2023-0344, EFIS Item No. 50.
[22] *Direct Testimony of Angela Schaben*, pg. 13 lines 12-14, WR-2023-0344, EFIS Item No. 25.
[23] *Id*. at lines 10-12.
[24] *Id*. at line 18.

reimbursement as proper in order to diminish cross- subsidization between regulated and non-regulated family businesses and states that rental fees should be comparable to rental agencies.[25] The IRS reimbursement rate is not a competitive rate that covers the increased and ongoing costs of personal property taxes.[26] At the time of the Management audit implementation plan, RWC management held the opinion that "rental fees should be comparable to those of rental agencies, management feels the Company fees should be somewhat less for employees as a benefit."[27] The IRS reimbursement rate is not comparable to competitive rental agency rates.

12. 1993 Management Audit

a. Should the Company be required to follow any recommendations spelled out and agreed upon in the 1993 management audit?

Yes. Recommendations in Staff's 1993 management audit are still considered best practices in the present day Since the Company agreed to implement Staff's recommendations at the time, little cost is necessary since the frameworks should already exist.[28]

b. If so, which of the 1993 audit recommendations should the Company be required to follow?

RWC should follow the audit recommendations that remain relevant in its present day operations. These beneficial recommendations include, but are not limited to: competitive bidding practices, automated general ledger and accounting financial reports, and personal usage of Company equipment reimbursement.

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[25] *Id*. at page 12 lines 21-24.
[26] *Surrebuttal Testimony of Angela Schaben*, pg. 5, lines 24-26.
[27] *Direct Testimony of Angela Schaben*, pg. 10, lines 10-11.
[28] *Surrebuttal Testimony of Angela Schaben*, pg. 11, lines 13-16.

c. If so, what benchmarking policy should the Company follow to ensure it is following these recommendations?

While specific benchmarking policies can be worked out with cooperative discussions, the Company should submit reports on a quarterly basis showing progress.[29]

<u>Topics and Order of OPC Witnesses</u>

<u>OPC Witnesses</u>

Geoff Marke: AMI, Late Fees

John Robinett: Depreciation Reserve, O&M Expense, Customer Notice

David Murray: ROE, ROR

John Riley: CWC, Payroll Expense, Meter Reading Expense

Manzell Payne: Payroll Expense, Rate Case Expense

Angela Schaben: Truck Disallowance, Depreciation Reserve Adjustment, Management Audit

[29] *Direct Testimony of Angela Schaben*, pg. 1, lines 23 & 24.

WHEREFORE, the OPC submits this statement of its position on the issues and its list of witness topics before the Commission and a list of the topics that each witness will speak to.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 13th day of November, 2023.

/s/ Anna Martin