

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

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

**MOTION TO STRIKE TESTIMONY
AND FOR EXPEDITED TREATMENT**

COMES NOW The Raytown Water Company (“RWC” or “Company”), by and through counsel, and, as its *Motion to Strike Testimony and for Expedited Treatment*, and pursuant to Commission Rule 20 CSR 4240-2.080(14), states as follows to the Missouri Public Service Commission (“Commission”):

1. Pursuant to the procedural schedule ordered by the Commission, the parties filed their surrebuttal testimony on November 8, 2023. Included in that testimony was the Surrebuttal Testimony of Office of the Public Counsel witnesses John Riley and Manzell Payne. Subsequently, a list of issues was filed on November 9, 2023 (which indicated in footnote 1 that “Opinions differ among the parties regarding the proper characterization for one or more issues.”) and Statements of Position were filed on November 13, 2023.

2. This case has been pending since April 4, 2023 and RWC and the Staff of the Commission filed a *Non-Unanimous Agreement Regarding Disposition of Small Utility Company Revenue Increase Request* on September 13, 2023. After the OPC’s objection to that document on September 19, 2023, a procedural schedule was established and direct and rebuttal testimonies were filed by the parties on October 10, 2023, and October 24, 2023, respectively.

3. Commission Rule 20 CSR 4240-2.130(7) states as follows:

(7) For the purpose of filing prepared testimony, direct, rebuttal, and surrebuttal testimony are defined as follows:

(A) Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief;

(B) Where all parties file direct testimony, rebuttal testimony shall include all testimony which is responsive to the testimony and exhibits contained in any other party's direct case. A party need not file direct testimony to be able to file rebuttal testimony;

(C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party's direct case; and

(D) Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony.

(emphasis added)

4. Issues 8.a. and 8.b. of the *List of Issues, List and Order of Witnesses, Order of Opening, and Order of Cross-Examination* state as follows:

8. Payroll Expense

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

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?

5. Issue 8.a. was first raised in the Surrebuttal Testimony of John Riley as follows:

Q. How did Staff witness, Angela Niemeier, view Ms. Thompson's wage and overtime?

A. Ms. Niemeier question neither Ms. Thompson's wage increase, nor Ms. Thompson's amount of overtime, which demonstrates a lack of professional skepticism. Total Company overtime has fluctuated over the years but seems to spike in the test year periods of 2014 and 2019. This should have led Staff to approach this issue more critically and perform a more robust analysis. It is odd that Staff chose instead to accept this overtime pay as a salary expense without applying any testing, three-year average, or other normalization method.

(Riley Sur., p. 12 (lines 11-17)) (emphasis added).

6. Additionally, this testimony appears in a testimony Section titled "Thompson Overtime" and the only proposed disallowance identified in this section concerns Ms. Thompson's overtime. (Riley Sur., p. 12 (line 18) through p. 13 (line 4)).

7. Issue 8.b. was first raised in the Surrebuttal Testimony of Manzell Payne on page 7, lines 8-17. That testimony for the first time recommends “that overtime for all office employees with a managerial or senior role be disallowed from annualized payroll.”

8. The issues and adjustments described above first appeared in surrebuttal testimony and are not responsive to matters raised in another party’s rebuttal testimony. Because of that timing, Raytown Water has not been provided with an opportunity to respond to those adjustments. Accordingly, these adjustments violate Commission Rule 20 CSR 4240-2.130(7)(D) (“Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party’s rebuttal testimony.”).

9. Based on Commission Rule 20 CSR 4240-2.130(7)(D), RWC moves the Commission to strike the following testimony:

- Surrebuttal Testimony of John Riley, p. 12 (lines 11-17)); and,
- Surrebuttal Testimony of Manzell Payne, p. 7 (lines 8-17).

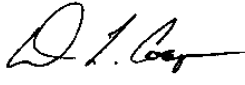
10. Pursuant to Commission Rule 20 CSR 4240-2.080(14), RWC submits that good cause for expedited treatment exists in that the hearing in this matter is scheduled for November 16-17, 2023, and resolution of this matter in an expedited fashion will allow the parties to prepare for that hearing with knowledge of what testimony may be available for admission. .

WHEREFORE, RWC respectfully requests the Commission grant this *Motion to Strike Testimony and for Expedited Treatment* and that the Commission issue such other orders as it

should find to be reasonable and just.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:  _____

Dean L. Cooper #36592
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102
Telephone: (573) 635-7166
E-mail: dcooper@brydonlaw.com

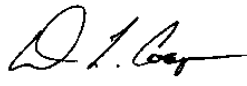
ATTORNEYS FOR
THE RAYTOWN WATER COMPANY

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 14th day of November, 2023, to:

General Counsel's Office
staffcounsel@psc.mo.gov
casi.aslin@psc.mo.gov

Office of the Public Counsel
opcservice@opc.mo.gov
Anna.Martin@psc.mo.gov

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