

**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

**PUBLIC COUNSEL’S RESPONSE TO STAFF AND RWC’S MOTIONS TO  
STRIKE TESTIMONY**

COMES NOW the Office of the Public Counsel (“OPC”), by and through counsel, and for its *Response to Public Service Commission Staff’s (“Staff’s”) and The Raytown Water Company’s (“RWC’s” or “Company’s”) Motions to Strike Testimony*, pursuant to Judge Hatcher’s Order dated 15 November, 2023, states as follows:

**RWC’s Motion**

***John S. Riley’s Surrebuttal***

The portion of Mr. John S. Riley’s Surrebuttal Testimony that the Company is seeking to strike was written in response to Ms. Angela Niemeier’s assertion on pg. 9 lines 20 & 21 of her Rebuttal Testimony. Here, in her testimony, Ms. Niemeier states “It is not Staff’s place to tell a private business how to pay their employees. Staff reviews wages for prudence to determine ongoing costs.”

Mr. Riley’s Surrebuttal Testimony is specifically addressing the aspects of Ms. Niemeier’s response to his questions around managerial employee income treatment and amount that concerned him. Mr. Riley’s Surrebuttal Testimony was a direct reaction to an issue raised by another party in Rebuttal Testimony. For that reason,

RWC's motion to strike Mr. Riley's testimony as inappropriate Surrebuttal should be denied.

### ***Manzell Payne's Surrebuttal***

In the same Motion to Strike Mr. John S. Riley's testimony, the Company is seeking to strike Mr. Manzell Payne's testimony regarding the treatment of payroll and handling of overtime in this case. Like Mr. Riley's Surrebuttal Testimony, Mr. Payne's Surrebuttal Testimony was written in response to Ms. Niemeier's Rebuttal Testimony, though addressing pg. 9 line 21 to pg. 10 line 8. Mr. Payne merely took the argument that she was addressing in terms of Ms. Thompson's pay and expanding that argument to include Leslie Smart, Erica Baier-Ross, and Toni Stubblefield. Therefore, Mr. Payne's testimony is appropriate surrebuttal, under the rule, and this Motion to Strike, as it relates to Mr. Payne, should also be denied.

### ***The Unstated Argument***

The silent concern shared through RWC's argument is that the Company did not have an adequate opportunity to respond to Mr. Riley and Mr. Payne's assertions. However, the Company had the opportunity to respond to Mr. Riley's assertion that Ms. Thompson's pay is inappropriate when he brought it up in his Direct Testimony. In fact, the portion of Ms. Niemeier's testimony that both Mr. Riley and Mr. Payne are responding to in Surrebuttal is a response to Mr. Riley's argument regarding "Admin & General Salaries." Therefore, the Company has already had the opportunity to respond to the arguments Mr. Riley and Mr. Payne addressed in their

Surrebuttal Testimony, but only Staff witness, Ms. Angela Niemeier, took that opportunity.

### **Staff's Motion**

Much like RWC's Motion to Strike Mr. Payne's Surrebuttal Testimony, Staff's Motion to Strike Mr. Payne's surrebuttal testimony as inappropriate is without merit and should be denied. In this instance, Mr. Payne was directly responding to Staff witness Sherrye Lesmes' testimony on pg. 3 lines 2-9 where Staff addressed and supported additional rate case expense. The specific portion of Mr. Payne's Surrebuttal Testimony that Staff's motion cites to is not introducing a new issue, but merely presenting the OPC's recommendation.

Further, Staff's request to add a new witness, who has not presented any evidence in this case, is unfounded and should also be denied. Again, Ms. Karen Lyon's has not presented any testimony in this case. Introducing a new witness, without any evidence on the record in this case, the afternoon before the Evidentiary Hearing is to take place is inappropriate and does not provide the OPC with enough time or information to prepare an adequate cross.

The OPC believes that Staff and the Company will have plenty of opportunity to address any issues with witness testimony by cross-examining Mr. Riley and/or Mr. Payne on the stand during the Evidentiary Hearing, itself. For these reasons, both the Company and Staff's motions to strike should be denied, as should Staff's request to introduce a new witness to the hearing.

**WHEREFORE**, the OPC respectfully requests the Commission deny both Staff and RWC's *Motion to Strike Testimony* and that the Commission issue such other orders as it should find to be reasonable and just.

Respectfully submitted,

THE OFFICE OF THE PUBLIC COUNSEL

/s/ Anna Martin

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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 16th day of November, 2023.

/s/ Anna Martin