

**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 INITIAL POST-HEARING BRIEF

Respectfully Submitted,
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INTRODUCTION

The present rate regards a small, historic utility company that serves Missouri residents in approximately one-half (1/2) of the City of Raytown, and a small portion of the City of Independence.¹ In Missouri, a small utility like The Raytown Water Company (“RWC,” “Raytown Water,” or “Company”) serves 8,000 customer connections or fewer.² In RWC’s case, it serves 6,541 Missourians.³

However, the Office of the Public Counsel (“OPC”) wants to emphasize that this case concerns issues that are not necessarily present in other Small-Utility or Staff⁴-Assisted rate cases. One (1) vital aspect of this case that makes it different from other Staff-Assisted rate cases is the guidance that Staff members who worked for this Public Service Commission (“Commission”) provided over thirty (30) years ago in its 1993 management audit (“Audit”).⁵

In October of 1993, This Commission’s Staff took the time to analyze Raytown Water and create a seventy (70)-page report with a total of forty-eight (“48”) recommendations⁶ to improve the Company’s management practices. In a way that is almost prophetic, many of Staff’s recommendations have a direct relation to the issues RWC is facing today. In fact, Staff at that time addressed checking the City of

¹ Clevenger Direct, pg. 3 lines 2-4.

² Mo. Rev. Stat.

³

⁴ Meaning Public Service Commission Staff

⁵ See ADS-D-4.

⁶ *Id.* at pgs. 13-18.

Kansas City’s (“KC’s”) meters on a monthly basis.⁷ Staff recommended the Company engage in competitive bidding⁸ and a needs analysis⁹ before making a big software, hardware, or equipment purchase. Staff even recommended that Raytown Water automate, or digitize, its general ledger.¹⁰ Several of the issues in today’s case appear in the Audit conducted thirty (30) years ago.

What does place this case on familiar ground for the Commission is that the OPC is requesting that the increase it grants is less than the one Staff and the Company agreed to in the *Non-Unanimous Disposition Agreement* (“Agreement”). However, the OPC does still believe that Raytown Water is entitled to receive a rate increase.

Finally, before the OPC addresses the pertinent issues in this case, one thing should be clear:

The OPC is *not* interested in ruining, or even harming, the Company’s financial future. The OPC has two (2) goals in this case:

- 1) The OPC is seeking to guide Raytown Water to be a better utility for its captive Missouri customers; and
- 2) The OPC is seeking to ensure that the rates ordered by this Commission are both just and reasonable.

⁷ *Id.* at pg. 15, recommendation # 24.

⁸ *Id.* at pg. 14, recommendation #6.

⁹ *Id.*, recommendation #7.

¹⁰ *Id.* at pg. 15, recommendation 24.

A. THE ENGINEERING SIDE

The first indicator that something strange was going on in Raytown Water's case was the recorded amount of water loss. When looking at the numerical data, Mr. Robinett noticed that Raytown Water's recorded amount of water loss was 1.56% in 2021 and 0.60% in 2022.¹¹ In fact, when Mr. Robinett collected RWC's data from 2009 to 2020, the numbers showed what could almost be described as a yo-yo pattern for the Company's annual water loss.¹² The strange pattern in the water loss data, combined with the steep increase in operation and maintenance ("O&M) expense led to one of the OPC's first recommendations around the data in this case. Specifically, the OPC requested an investigation around the Company's distribution system and the strange number pattern around its water loss.¹³ However, when looking deeper into the water loss issue, the OPC became much more concerned.

a. **The Lack of Reliable Water Loss Data from November 2020 to March 2023 Undercuts the Agreement's O&M Argument.**

The OPC noted fourteen (14) separate months where the Company sold more water than it purchased from the City of Kansas City ("KC") between November 2020 and March 2023.¹⁴ However, despite the strange data and unusually low water loss, Staff and the Company's Income Statement in the *Non-Unanimous Disposition Agreement* ("Agreement") supported a \$490,641 amount in Account 673.000, Maint.

¹¹ Robinett Direct, pg. 7 line 12.

¹² *Ibid.*

¹³ Robinett Direct, pg. 9 lines 9-11.

¹⁴ *Id.* at pg. 6 lines 10-12.

of Transmission & Distribution Mains.¹⁵ ¹⁶ This amount, is significantly higher than the \$211,279 amount agreed to in WR-2020-0264.¹⁷

Central to the O&M issue in this case is the burden of proof. RSMo § 393.150.2 states, “the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the . . . water corporation[.]” Further, both the statute regarding the acquisition of a small water corporation by a capable public utility¹⁸ and the regulation about a Staff Assisted Rate Case Procedure¹⁹ specifically establish the small utility’s burden to establish that rates are just and reasonable.

While redirecting Staff Witness Daronn Williams, to explain Staff’s unsupported water-loss number, Staff’s attorney, highlighted the degree to which Staff allied itself with RWC:

MS. ASLIN: And is it your understanding that once OPC filed the request for hearing in this case, *the nonunanimous agreement between Staff and Raytown [Water] became a joint position*. Correct?

MR. WILLIAMS: Yes.

MS. ASLIN: So, therefore, it would make sense that [Staff’s] testimony would align with the Company[‘s] testimony. Correct?

MR. WILLIAMS: Yes.²⁰

¹⁵ *Non-Unanimous Agreement Regarding Disposition of Small Utility Company Revenue Increase Request*, Attachment A, Case No. WR-2023-0344, Item. No. 10.

¹⁶ OPC reviewed Staff’s Position Statement to verify the number listed in this paragraph. However, the position statement listed the amount of O&M suggested for this account as \$410,770 and cited Accounting Schedule 9, pg. 1 as the source for this number. Yet, when reviewing Column M for “Mo. Adj. Juris. Non Labor” of Accounting Schedule 09 from Mr. Foster’s Direct Testimony the number was \$411,370. The amount of O&M in Column E for “Test Year Non Labor” was \$410,770, though, so Staff appears to be using that number rather than the number on its income statement.

¹⁷ Robinett Direct, pg. 8 lines 7 & 8.

¹⁸ Mo. Rev. Stat. § 393.146.7.

¹⁹ 20 CSR 4240-10.075(4).

²⁰ *Tr.* pg. 199 lines 14-22. (emphasis added)

By asserting that Staff and RWC's positions "align" Staff's *legal counsel* is telling the Commission that Staff is advocating and justifying the Company's numbers, in this case. Further, this "alignment" creates the permission structure for Staff to inappropriately assume Raytown Water's burden of proof related to any issue the Company could not otherwise defend on its own. This assertion violates 20 CSR 4240-10.075(4) on its face.

i The Agreement does Not Provide Adequate Support for Staff and RWC's Suggested Increase. Therefore, Due to the Lack of Clarity around This Data, RWC's O&M Amount Should Remain at its 2020 Levels. Recommended Rate Adjustment: Between -\$199,491 and -\$279,362.

The OPC is aware that a major consideration for any Staff-assisted rate case must be the ability for a small utility, to meet its burden of proof around engineering, financial, or economic concepts, the result is that Staff presents its arguments, in support of the Agreement, using RWC's numbers. However, the water loss data that Staff's Water, Sewer, & Steam Department would look at as part of its review of RWC's distribution system's functionality is unreliable.²¹

Staff's Water, Sewer, & Steam Department's on-site investigation of Raytown Water consisted of a review of the Company's infrastructure, inspection of the Company's water towers, and observation of the Company's meter replacement.²² Water, Sewer, & Steam did not look into RWC's water loss data due to the Auditing Department's realization that Raytown Water's data was insufficient to complete any

²¹ Robinett Direct, pg. 9 line 10.

²² *Tr.* at pg. 192 lines 1-6.

proper analysis.²³ Therefore, the amount of water loss RWC actually had from 2020 to 2023 remains unclear. What Staff did make clear throughout its testimony is that the data that Raytown Water provided for Staff to calculate the Company's water loss was inaccurate.²⁴ Staff admitted that O&M expense *can* relate to non-revenue water, based on the Company's response to the water loss its system has suffered.²⁵ While Staff believes low water loss with high O&M is possible, Staff's consideration of what counts as O&M is too broad.

As Mr. Robinett testified at the hearing, if RWC patched or clamped a pipe, that cost would be recorded as an O&M expense.²⁶ If the Company replaced a much larger portion of a pipe, it would be capitalized.²⁷ However, RWC is lacking any objective data that the Company could rely on to prove the Agreement's increase in O&M expense is reasonable. Further, the OPC is deeply concerned that Staff's treatment of RWC's lack of water loss data is seeking to assume RWC's burden of proof and show the O&M increase is just and reasonable against 20 CSR 4240-10.075(4).²⁸ There are two (2) aspects of the case leading the OPC to believe that Staff is overstepping its bounds here. The first indication is Staff's use of the 12.04% water loss number from WR-2020-0264 in this case. The second indication is the way the Company and Staff handled the O&M issue during the hearing.

²³ Williams Rebuttal, pg. 3 lines 24-27.

²⁴ Williams Rebuttal, pg. 4 lines 6 & 7; pg. 6 lines 11 & 12; pg. 7 line 9; pg. 8 lines 3 & 4.

²⁵ Williams Rebuttal, pg. 7 lines 9-11.

²⁶ *Tr.* pg. 316 lines 19 & 20.

²⁷ *Id.* at lines 20-22.

²⁸ Which states, in relevant part, "Staff may not represent the small utility and may not assume the small utility's statutory burden of proof to show that an increased rate is just and reasonable."

In the Agreement, Staff arbitrarily used the water loss number from WR-2020-0264 to support a nearly \$280,000 increase in the Company's O&M expense.²⁹ Moreover, the OPC questions the accuracy of the 2020 water loss percentage due to the amount of data that Staff either removed or adjusted in that case to create that "conservative" 12.04% number.³⁰ Then, during the hearing, the only parties who asked any questions around the O&M issue were Staff and the OPC. The Company did not take part.

The OPC both empathizes and understands Staff's interest in ensuring that a small water utility is getting the rates necessary to stay afloat. In fact, the OPC believes that Raytown Water's ability to run effectively and efficiently without concerns about running out of money helps the Company and the public. However, it helps neither RWC nor its captive ratepayers for Staff to smooth over the cracks in the Company's rate case. It is not Staff's job to resolve issues that RWC should have seen and resolved on its own. In fact, Staff engaging in such a role on the Company's behalf is prohibited by the regulation.

ii If the Commission Does Increase the Company's O&M Expense, the Commission should Normalize that Increase Over a Three-Year Period. Amount Between -\$65,276 and -\$149,187.

The OPC firmly believes that such a large increase in O&M expense requires objective data, be it via water loss or some other measurement, for support. However, if the Commission disagrees and believes that the only evidentiary requirement for

²⁹ *Tr.* pg. 194 lines 23-25.

³⁰ Robinett Surrebuttal pg. 6 lines 14-21.

this increase is the monetary values that the Company provided, the OPC requests that the Commission determine O&M expense through a three(3)-year normalization. RWC spent \$217,196 on O&M in 2020, \$344,678 on O&M in 2021, and \$474,606 on O&M in 2022.³¹ If the Commission normalizes RWC's O&M expense over the three (3) years that occurred between rate cases, the resulting amount would be \$345,494. The normalized amount would still be significantly more than the \$211,279 amount of O&M that the Company received in the 2020 Disposition Agreement, but this amount is anywhere from \$65,276 to \$149,187 lower than the amount Staff recommended.³²

b. The Appropriate Treatment of RWC's Depreciation Reserve is to Transfer the Reserve Amount into the Account Covering Plastic Meters, and—Once that Account is Fully Depreciated—Transfer the Rest of the Depreciation Reserve into the Account Covering “Hot Rod” Meters. Adjustment -\$4,297 in Reserve and -\$35,624 in Depreciation

Staff and the OPC both agree that proper treatment of RWC's depreciation reserves from its over-accrued accounts should transfer into accounts that are not-yet-accrued.³³ However, Staff and the OPC differ on which accounts should receive the depreciation reserve.³⁴ In this case, the OPC believes the proper treatment of Raytown Water's depreciation reserve would be to fully depreciate the account for RWC's plastic meters, account 346.000.³⁵ The meters in that account are currently

³¹ Robinett Direct, pg. 5 lines 12 & 13.

³² Depending on the amount that Staff ultimately supports as their final number; *See supra* FN 11.

³³ Robinett Direct, pg. 10 lines 21 & 22; Niemeier Surrebuttal, pg. 2 lines 9 & 10.

³⁴ Robinett Surrebuttal, pg. 2 line 35 to pg. 3 line 4; Niemeier Surrebuttal, pg. 2 lines 13-17.

³⁵ Robinett Surrebuttal, pg. 2 lines 34 & 35.

being replaced with AMI meters.³⁶ Then, the depreciation reserve that is remaining should go into the account for hot rod meters, account 346.200.³⁷ Like the plastic meters, hot rod meters are in the process of being replaced with AMI, which further supports placing the depreciation reserve in this account.

The important aspect of first reallocating depreciation reserve into account 346.000 is that this treatment of depreciation reserve would make the Company whole when it comes to plastic meters.³⁸ As the Company would be made whole, the Commission would not have to keep depreciating that account, which would decrease Raytown Water's revenue requirement by a further \$35,624.³⁹

For the sake of transparency, the OPC would like to inform the Commission that Staff Witness Angela Niemeier did work with, Amanda Coffey, from the Engineering Analysis Department to add the depreciation reserve to other Company accounts.⁴⁰ However, Ms. Coffey provided no written testimony for this case. Ms. Niemeier, a Lead Senior Utility Regulatory Auditor,⁴¹ is an inappropriate vehicle to address this issue, as it is not in her expertise to assess such transfers. Therefore, the OPC's witness, Mr. Robinett, is the only depreciation expert to directly express his opinion regarding the treatment of Raytown Water's depreciation reserves in this case.⁴²

³⁶ *Id.*

³⁷ *Id.* at pg. 2 line 35 to pg. 3 line 2.

³⁸ *Id.* at pg. 3 lines 9 & 10.

³⁹ *Id.* at pg. 3 lines 10-13.

⁴⁰ Niemeier Surrebuttal, pg. 2 lines 13 & 14.

⁴¹ *Id.* at pg. 1 line 9.

⁴² *Id.* at pg. 3 lines 11-13.

Thus, the OPC recommends that RWC's depreciation reserve should first go into account 346.000, plastic meters, which would fully depreciate an account where related meters are either not in use currently, or will stop being used soon. Then, the OPC recommends the remaining depreciation reserve be transferred into account 346.200, meters—hot rod. Finally, as account 346.000 will be fully depreciated, the Commission should stop depreciating the plastic meters account, thereby decreasing Raytown Water's revenue requirement by \$35,624.

c. The Commission should adjust RWC's depreciation reserve to reflect the salvage values from the vehicles that the Company sold in 2022 and 2023. Adjustment -\$3,436

If Staff treated RWC's old fleet of vehicles as it had in WR-2015-2046, then the trade-in values of the Company's old fleet would be added to depreciation reserve as "salvage".⁴³ Therefore, the OPC recommends that the Commission order value of the Company's fleet of vehicles that was either sold or traded in in 2022 and 2023 be added to depreciation reserves for account 392.000, transportation equipment. The OPC encourages that the amount placed in depreciation reserve on behalf of the vehicles RWC sold in 2023 be calculated to the vehicles' estimated value, rather than the low prices the Company sold them for.

B. THE ADVANCED METERING INFRASTRUCTURE ("AMI") THAT RWC'S CHOSE WAS NOT REASONABLE FOR SEVERAL REASONS. THEREFORE, THE COMPANY

⁴³ Schaben Surrebuttal, pg. 7 lines 23 & 24.

SHOULD NOT EARN A RETURN ON IT'S AMI INVESTMENT. ADJUSTMENT - \$258,400

In this case, the OPC is asking the Commission to provide RWC a return *of* its AMI investment, but not a return *on* that investment.⁴⁴ AMI has two parts—the smart meter piece, that connects to the homes, and the AMI network and data management piece.⁴⁵ For customers, the possible benefits of AMI consist of Operation and maintenance (“O&M”) savings, remote connection and disconnection capabilities, dynamic pricing capabilities, and possible leak detection.⁴⁶ The Company benefits from possible employee safety, fewer estimated bills, user-friendly software, and employees that can focus on other projects.⁴⁷ That was the sales pitch. However, the benefits do not tell the whole story of this AMI. Thus, the benefits, alone, do not determine if the AMI investment was prudent.

The central question around the prudence of a company investment surrounds the question of whether that company’s conduct was reasonable at the time, *under all the circumstances*.⁴⁸ Of course, foundational to that question is the fact that it is prospective.⁴⁹ The issue and question of hindsight is foundational. However, the Company’s decision at that time still needs review in light of the circumstances when it was made. The OPC’s qualms surround the questions of when, where, what, who,

⁴⁴ Marke Direct, pg. 15 lines 7-10.

⁴⁵ *Id.* at pg. 5 lines 19-21.

⁴⁶ *Id.* at lines

⁴⁷ Williams Surrebuttal, pg. 2 line 5 to pg. 3 line 1.

⁴⁸ See *State ex rel. Associated Natural Gas Co. v. Public Service Com’n of State of Mo* (emphasis added).

⁴⁹ *Ibid.*

and why the Company implemented this AMI. Moreover, the OPC is concerned about some of the responses to those questions that Staff and RWC gave.

a. It was not Reasonable for Raytown Water to Seek AMI Financing Given the Concerns the Company Asserted Regarding its Distribution System.

The Company began considering AMI installation in 2018 and 2019.⁵⁰ When Raytown Water found there were a few problems that it needed to solve around the Company's operations and employees there.⁵¹ At the end of 2019 and beginning of 2020, the COVID 19 pandemic had begun in full force and the Company was dealing with the effects from that outbreak.⁵²

One major effect was around the supply chain. Due to the rise in demand outpacing the rise in supply, the price of materials was going up. As Staff points out, O&M expense nearly doubled in this case, in part, due to "the increasing costs of goods and services that *everyone* has experienced *since 2020*."⁵³ RWC has also been experiencing water main breaks to higher degree in recent years.⁵⁴ Ms. Thompson points to the significance of these numbers as sixty-four (64) main breaks in 2021; one hundred and one (101) main breaks in 2022; and eighty-eight main breaks from January through October 16, 2023.⁵⁵

⁵⁰ Transcript ("Tr"), pg. 57 lines 7-8.

⁵¹ *Id.* at pg. 57 line 8 to pg. 58 line 6.

⁵² *Ibid.*

⁵³ Williams Rebuttal, pg. 7 lines 15-18 (emphasis added).

⁵⁴ Thompson Rebuttal, pg. 12 lines 14 & 15.

⁵⁵ *Id.* at lines 19-22.

Ms. Thompson acknowledges the steep O&M increase in her testimony. She even states, “it does not surprise me that O&M expense for mains has increased significantly.”⁵⁶ Nevertheless, Raytown Water applied for Commission authority to apply for a five (5) million-dollar loan on November 23, 2021.⁵⁷

On top of the increase in O&M expense that the Company acknowledged in testimony, RWC was facing a strange phenomenon with the amount of water it was purchasing every month. In fact, From November 2020 to March 2023, Raytown Water sold more water than it purchased from the City of Kansas City in fourteen (14) separate months.⁵⁸ Hopefully, RWC still followed the Audit’s recommendation to check KC’s water meters on a monthly basis,⁵⁹ and would be aware of this data issue. If RWC timely checked KC’s meters, it would discover the data discrepancy in November 2020, which would increase the cost of the water it purchased from KC once these meters were replaced. The Company was also dealing with circumstances where distribution mains were regularly breaking during this time. Therefore, once RWC noted the issue with KC’s meters, it knew that the price of water was going to increase once KC replaced their meters.⁶⁰

Mr. Clevenger, RWC’s President and General Manager, has admitted that the Company is “somewhat unsophisticated in regulated rate making.”⁶¹ While the OPC

⁵⁶ *Id.* at 16 & 17.

⁵⁷ *Application*, Case No. WF-2021-0427, item 4.

⁵⁸ Robinett Direct, pg. 6 lines 10-12.

⁵⁹ ADS-D-4.

⁶⁰ Clevenger Direct, pg. 5 lines 9 & 10.

⁶¹ Clevenger Direct, pg. 5 line 5.

hesitates to ascribe such a term to Raytown Water, it is a small water utility⁶². However, RWC is a monopoly. RWC has covered the same general area since January 22, 1925. Utility companies with captive customers need to be held to a “reasonable person” standard. The cost of materials was increasing, the number of main breaks was increasing, and the Company realized it bought more water than KC’s meters measured. The circumstances the Company was facing when it opted to invest in AMI were colored by the three (3) large costs that were already coming down the pike. No reasonable person would request the authority for a loan that is more than the Company’s entire revenue requirement at that time.⁶³ AMI does not prevent distribution main breaks, it does not fix supply-chain issues or decrease material cost, and it does not inform RWC of the actual amount of water purchased from KC. The Company’s decision to get AMI, especially this AMI, at this time equates to a restaurant choosing to refurbish its front-of-house while also needing to replace the equipment that is used to cook the food. To be successful, the restaurant would need to recoup both the cost of the necessary upgrades, the kitchen equipment, and the superfluous upgrades, the front-of-house remodel. If, in order to recoup those costs, the restaurant found itself increasing the price of food by forty percent (40%) in three (3) years, without increasing the quality of that food, it would likely go out of business.

⁶² Rev. Mo. Stat. § 393.320(2).

⁶³ According to the Unanimous Disposition Agreement that Staff, RWC, and the OPC agreed to in 2020, Raytown Water’s revenue requirement would be 4,400,274, <https://efis.psc.mo.gov/Document/Display/340598>; According to the Agreement in this case, the Company’s current revenues are \$4,309,019 <https://efis.psc.mo.gov/Document/Display/754695>.

In this case, the Company is claiming an increased expense related to the foundational piece of its ability to act as an effective utility—its distribution system. At the same time, RWC has chosen to invest in metering technology that will end up costing more than Raytown Water’s current rate base. No reasonable actor would put themselves in the same position, unless he or she (or they) knew that the utility’s regulated status meant that the government would ensure that company’s financial protection. That situation is the one that RWC finds itself in today.

b. The Way that the Company Chose its AMI Provider did Not Follow the Appropriate Management Principles and Was Not Reasonable.

After the OPC got a full understanding of RWC’s system when they requested authority to finance the AMI, focus turned towards who the provider was and how the Company chose that provider. The Company clearly used its experience to determine that Neptune meters were better for Raytown than Zenner, Master Meter, ABB, Octave, Sensus, and Badger system.⁶⁴ However, no such experience existed for AMI, which Raytown Water did not have. Despite this lack of experience, RWC used its experience in the water industry to make the determination that Utility Services Group (“USG”) provided the proper price for the AMI.⁶⁵

What raised more concern was Raytown Water’s lack of research into such a large purchase. Ms. Thompson went to a symposium with multiple presentations⁶⁶

⁶⁴ Thompson Direct, pg. 7 lines 3 & 4.

⁶⁵ *Id.* at lines 15 & 16.

⁶⁶ *Tr.* at pg. 59 lines 4 & 5.

on AMI.⁶⁷ At this symposium, she spoke to other water companies to see who those utilities use and if the utility liked the AMI provider.⁶⁸

After conversations with only five (5) other water companies, Ms. Thompson decided that USG, the company that serviced Raytown Water's water tanks, would be the best choice for AMI.⁶⁹ Notably, Ms. Thompson did not appear to know any details about the water companies she communicated with about AMI when deciding whether the AMI provider that those companies preferred would be best for Raytown.⁷⁰

The Company has said that it has been studying AMI installation for several years.⁷¹ It appears that RWC believes "speaking with other water utilities"⁷² means the same thing. Raytown Water did not take part in any needs analysis to understand exactly what the AMI the Company chose must have in order to be a prudent investment for this small company.⁷³ RWC did not take part in any competitive bidding or request for proposal ("RFP") for this project.⁷⁴ The only AMI provider that Raytown Water requested a bid from was USG for the AMI's hardware and USG's contractor, Aclara, for the AMI's software.⁷⁵ Further, RWC relied on its contractors without ensuring the contractor was guiding them towards these AMI providers due

⁶⁷ After reading through the Company's testimony and the hearing transcript, the OPC believes that Ms. Thompson attended a single symposium on AMI that had several presentations from different AMI companies throughout the day.

⁶⁸ *Tr.* at pg. 59 lines 11-14.

⁶⁹ *Tr.* at pg. 60 lines 19-24.

⁷⁰ *See Tr.* at pg. 60 line 25 to pg. 61 line 22.

⁷¹ Clevenger Rebuttal, pg. 8 lines 1-4.

⁷² Thompson Direct, pg. 3 lines 16 & 17.

⁷³ Marke Direct, pg. 9 lines 7 & 8.

⁷⁴ Clevenger Rebuttal, pg. 7 lines 16-19.

⁷⁵ *Tr.* at pg. 62 lines 4-11.

to the contractor receiving some benefit.⁷⁶ The reason why RWC went with USG is because they trust that provider.⁷⁷

However, there is an aspect of empowerment that companies and consumers receive through RFPs and competitive bidding. RFPs are not merely a tool that companies can use to learn more about the products different providers have. The main purpose of competitive bidding is to “increase the competitiveness of the bids [providers submit] to ensure that the business can get the best possible offer.”⁷⁸ The Company did not go through a competitive bidding process. Therefore, there is no way to know whether the agreement they entered, an agreement for an investment that is more than the Company’s current annual revenue requirement, could have been better.

The OPC knows that USG is respected in the utility industry.⁷⁹ The OPC knows that RWC believes it did what it needed to do to find the appropriate AMI for its system, despite its failure to follow the management audit.⁸⁰ However, the reasonable person standard is not subjective. The question is not whether Ms. Thompson and Mr. Clevenger believed it necessary to complete a detailed analysis of the requirements that a more than \$4.2 million investment must have for investment purposes. The question is not whether Ms. Thompson and Mr. Clevenger believed that one (1) bid to one (1) AMI provider is sufficient for an investment that is more

⁷⁶ *Tr.* at pg. 96 lines 14-25.

⁷⁷ *Tr.* at pg. 63 line 21.

⁷⁸ <https://gеп.com/knowledge-bank/glossary/what-is-competitive-bidding#:~:text=The%20process%20is%20designed%20to,outcomes%20represent%20the%20best%20value.>

⁷⁹ Noel Surrebutal, pg. 1 line 20 to pg. 2 line 4.

⁸⁰ *Tr.* at pg. 63 lines 13 & 14.

than the Company's annual revenue requirement. The question is not whether Ms. Thompson and Mr. Clevenger believed that informal conversations with "about five [(5)] different [companies]⁸¹" offered enough insight to choose the AMI provider. The question is whether a *reasonable person* would choose not to

complete a needs analysis; or

engage in competitive bidding; or

speak to more than about five (5) customers,

before investing in a purchase that will ultimately cost customers \$5,731,257.26, after including the maintenance fee. In fact, if the Commission permits the Company to receive a return on this investment, then the total cost to customers would be \$5,989,757.26.

c. The AMI Infrastructure that the Company Chose was Not Reasonable Considering Where Raytown is Located.

The Company in this case, Raytown Water, serves 6,541 connection accounts.⁸² The prudence of the investment's size compared to Raytown Water's number of connections and territorial area is yet another question the OPC faces.⁸³ The AMI investment in this case differs significantly from both Missouri American Water Company's ("MAWC's") and Central States Water Resources ("Confluence Rivers"), due to the size and density of Raytown's service area.⁸⁴

⁸¹ *Tr.* at pg 60 lines 23 & 24.

⁸² Marke Surrebuttal, pg. 13 line 14.

⁸³ Marke Direct, pg. 6 lines 6 & 7.

⁸⁴ Marke Surrebuttal, pg 8 lines 8-12.

The OPC supported AMI in MAWC's case due to the company's size and due to the fact that MAWC's customers reside throughout the state.⁸⁵ The OPC did not support the AMI investment for Confluence Rivers. However, the Commission determined the investment was prudent, leaning heavily on the fact that Confluence's systems are "scattered" throughout Missouri.⁸⁶ Confluence River's scattered systems, in the OPC's view, provide the strongest argument for that company to invest in AMI,⁸⁷ as it costs more money to manage the O&M for geographically distant water systems.⁸⁸

Following the Commission's logic in the Confluence Rivers case, RWC's system is located in a small, densely populated area.⁸⁹ RWC, while having some "inconvenient" meter placement,⁹⁰ does not have the cost burden of servicing customers in remote locations.⁹¹ Further, Raytown Water's service area is not growing.⁹² The small number of connections that RWC services highlights the impact that captive customers will face due to the Company's decision to invest nearly six (6) million dollars in technology that does not result in equal customer benefit.⁹³

When the Company was studying AMI options, it did not look into the service area size of other utilities that were using USG.⁹⁴ Raytown Water did not focus on

⁸⁵ Marke Direct, pg. 6 line 25 through pg.7 line 1.

⁸⁶ *Report and Order, Case No. WR-2023-0006*, pg. 63 § 204; pg. 66 § 215; pg. 71 § 243, item no. 291.

⁸⁷ Marke Direct, pg. 7 lines 12 & 14.

⁸⁸ Marke Direct, pg. 7 lines 16 & 17.

⁸⁹ Marke Surrebuttal, pg. 8 line 9.

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⁹¹ Marke Surrebuttal, pg. 8 line 10.

⁹² See ADS-D-4, pg. 8 § Company Overview (showing that approximately RWC serviced about 6,700 connections in October of 1993).

⁹³ Marke Surrebuttal, pg 8 lines 8-12.

⁹⁴ *Tr.* at pg. 61 lines 15-17.

the number of connections that companies using USG as an AMI provider had.⁹⁵ While Staff sees the benefit to RWC's area being denser is good for AMI investment,⁹⁶ the Commission has recently come to a different conclusion.⁹⁷

The focus, in this case, has been on the fact that Raytown Water is a small utility company. Legally, in the state of Missouri, a "small utility" is a company with fewer than 8,001 connections.⁹⁸ Realistically, a "small utility" needs to focus more on making prudent investments because imprudence will cause its small customer base more harm.⁹⁹ Further, the Company does not benefit from economies of scale driving costs down due to its ability to spread fixed costs over a larger number of connections.¹⁰⁰

An investment that is almost six (6) million dollars must provide a significant benefit to customers of a company with a small service area and small number of connections. The question then becomes, what does this AMI do?

d. The Company and Staff are Overrepresenting this AMI's Benefits and Underrepresenting its Faults.

The Company decided to install AMI with the goal of improving customer service, improving both employee and public safety, and freeing up personnel meter readers for other work.¹⁰¹ Staff believes that automatic readers will also permit more timely

⁹⁵ *Id.* at lines 9-14.

⁹⁶ Williams Rebuttal, pg. 2 lines 1-4

⁹⁷ *Report and Order*, Case No. WR-2023-0006, pg. 63 § 204; pg. 66 § 215; pg. 71 § 243, item no. 291. (Arguing that the scattered nature of Confluence Rivers system provides substantial support for that utility to invest in AMI).

⁹⁸ Rev. Mo. Stat. § 393.320(2).

⁹⁹ Marke Surrebuttal, pg. 3 lines 10-12.

¹⁰⁰ Marke Surrebuttal, pg. 11 lines 12-14.

¹⁰¹ Thompson Direct, pg. 4 lines 19-21.

readings, eliminate bill transcription errors, and reduce the amount of estimated billing the Company will have to do.¹⁰² Originally, RWC and USG stated that the cost of this AMI was \$3,870,050.¹⁰³ However, due to inflation, and issues around the supplies, that number increased by \$190,000.00, which would total \$4,060,050.¹⁰⁴ Yet, there is more. Raytown Water did not take into account the cost of meter expansion connectors that are \$171,207.06, this makes the cost \$4,231,257.06.¹⁰⁵ On top of this cost is an annual maintenance fee of approximately \$100,000.00 for fifteen (15) years, or \$1,500,000.00. Therefore, the true cost of Raytown Water's AMI investment is \$5,731,257.26 itself. Further, if the Commission permits RWC to receive a return on this AMI investment, customers would be obligated to pay the Company \$5,989,757.26 over fifteen (15) years.

i What does the AMI that RWC chose do?

RWC believes that the AMI investment that the Company chose to implement will provide a plethora of benefits to its customers and will ensure that the Company runs more efficiently. The benefits of the AMI that Raytown Water implemented, are as follows:

- Customers will be able to review their daily usage online, and will have the ability to request hourly usage from RWC's customer service department;

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¹⁰² *see* Williams Surrebuttal, pg. 2.

¹⁰³ Noel Surrebuttal, pg. 8 line 14.

¹⁰⁴ *Id.* at lines 14 & 15.

¹⁰⁵ *Id.* at lines 17 & 18.

¹⁰⁶ Thompson Direct, pg. 5 lines 7-9.

- The AMI that Raytown Water chose will be able to increase the accuracy of customer bills due to human error;¹⁰⁷
- Customers may be alerted if the AMI detects unusual water activity in their home;¹⁰⁸ and
- Raytown Water’s meter readers will be able to complete other tasks now that they are no longer assigned to reading meters.

To be clear, Staff and RWC will assert that these meters will greatly improve customers’ ability to detect leaks, ¹⁰⁹ help RWC detect leaks sooner,¹¹⁰ or improve employee and public safety.¹¹¹ However, the reality is that the myriad of benefits that Raytown Water and Staff tout for this AMI can really be boiled down to the four (4) benefits listed above.

ii What does the AMI that RWC chose fail to do?

What the Commission may have assumed, due to past cases that have dealt with AMI, is that RWC’s investment will also include the following benefits:

- Reduced employment cost due to a reduction in the Company’s workforce;
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- An increase in RWC employee safety due to AMI deployment;¹¹³

¹⁰⁷ *Id.* at pg. 5 line 1.

¹⁰⁸ Noel Surrebuttal, pg. 6 lines 15-18; pg. 7 lines 1-2.

¹⁰⁹ Spratt Rebuttal, pg. 2 lines 10-12.

¹¹⁰ Thompson Direct, pg. 6 lines 1 & 2.

¹¹¹ *Id.* at lines 6-10.

¹¹² Riley Direct, pg. 3 lines 12-14.

¹¹³ *Tr.* at pg. 112 lines 22-25.

- The ability for the AMI to detect the existence of a leak inside customers' homes without human assistance;¹¹⁴
- The ability for the AMI to determine where the detected leak is inside of a customer's house without human assistance;¹¹⁵ or
- The ability for the Company to remotely connect or disconnect the water service for its connections. ¹¹⁶

The reality of the situation is that AMI does not automatically result in the listed benefits. Further, Raytown Water's customers will not likely see these benefits in relation to RWC's AMI for several different reasons.

The first listed unrealized benefit for customers regards the Company's decision to continue employing meter readers as "meter service techs."¹¹⁷ If the meter reader positions continued to assist with meter service positions, but also took part in completing field technician work, customers may derive a benefit, as RWC would run more efficiently, if nothing else. However, Raytown Water's stated plan, instead, is to shift these meter readers to a position to assist customers with their meters¹¹⁸ and collect water samples for Missouri's Department of Natural Resources ("DNR") and the United States Environmental Protection Agency ("EPA").¹¹⁹ Notably, DNR and EPA sampling generally takes one employee approximately four (4) hours per

¹¹⁴ *Id.* at pg. 55 line 19 to pg. 56 line 5.

¹¹⁵ *Id.* at pg. 55 lines 18 & 19.

¹¹⁶ Spratt Rebuttal, pg. 4 lines 18-21.

¹¹⁷ *Tr.* at pg. 111 line 24.

¹¹⁸ *Tr.* at pg. 111 line 24 to pg. 112 line 21.

¹¹⁹ *Id.* at pg. 117 line 1.

month to complete.¹²⁰ Because the Company intends to keep its meter readers, and use those employees as “meter service techs” rather than shifting them to a field tech position, where Raytown Water has expressed need,¹² AMI savings, that USG overstated by about seventy percent (70%) in the Company’s financing case, ¹²² diminish by another 60%.¹²³

The two (2) largest benefits AMI should have provided to improve RWC’s service for its customers are leak detection valves and the ability for Raytown Water do perform remote shutoff. However, the AMI that the Company invested in considers these benefits “upgrades” that cost enough that Raytown Water believed neither benefit amounted to a prudent investment at this time.¹²⁴

Regarding the AMI’s expected leak detection benefit, Staff and the Company have said that the increased amount of data¹²⁵ that is available with the AMI RWC chose will actually detect leaks for customers, even without the leak detection valve.¹²⁶ However, the Company has admitted that the AMI technology that Raytown Water is currently implementing cannot detect if a customer has a leak, or where that leak may be in the customer’s building or domicile, without the customer’s assistance.¹²⁷

¹²⁰ *Id.* at lines 22-24.

¹²² Marke Direct, pg. 11 line 2.

¹²³ Marke Direct, pg. 22 lines 17 & 18.

¹²⁴ *Tr.* pg. 117 lines 19-22.

¹²⁵ Daily, or hourly if the customer so requests.

¹²⁶ Spratt Rebuttal, pg. 2 lines 15-17; Thompson Direct, pg. 5 line 17. ¹²⁷ *Tr.* pg. 55 line 18 to pg. 56 line 5.

Moreover, in order for customers to effectively utilize the Company's option to notify the account if RWC sees unusual water usage in the meter's location, the customer will have to "opt-in" to the customer portal service that would permit the Company to alert this customer.¹²⁸ However, in the OPC's *very recent* experience, customers do not actively engage with their utility suppliers, even if that engagement has the possibility to give the customer more control of their utility service.¹²⁹ Therefore, without the cost-prohibitive leak detection valves, Raytown Water customers do not realistically gain the AMI benefit of leak detection.

Another benefit that is possible with the addition of AMI is the remote disconnect feature. If Raytown Water could disconnect customers' water meters remotely, the Company would be able to address individuals or businesses that are moving in or out of a space they provide service, disconnect delinquent accounts from the safety of RWC's office, or minimize water damage from broken pipes even when the account holders are not present.¹³⁰ However, like the leak detection valves, the Company found the AMI's upgrade that would permit remote disconnect was cost prohibitive, and chose not to include it with this purchase.¹³¹

RWC is seeking to be "cost-effective," after choosing to invest nearly six (6) million dollars in AMI.¹³² However, the Company's attempt to use its customers money effectively results in RWC not purchasing the two (2) features that customers

¹²⁸ Noel Surrebuttal, pg. 7 lines 1-2.

¹²⁹ Marke Rebuttal, pg. 3 lines 23-25.

¹³⁰ <https://muellersystems.com/420-remote-disconnect-meter-rdm/>

¹³¹ Spratt Rebuttal, pg. 4 lines 18-21.

¹³² *Ibid.*

would benefit from the most.¹³³ To be clear, the OPC does not believe that this purchase would provide enough benefit to customers that would justify a nearly six (6) million dollar cost. However, it makes even less sense for the Company to invest so much money into technology that does not even have these capabilities.

iii What benefits did RWC gain that do not relate to AMI?

Adding further confusion to this issue, Staff and the Company ascribe multiple benefits to the Company's chosen AMI that bear no relation to this investment. Notably, the Company has stated or implied that AMI permitted customers to obtain their billing and payment data online¹³⁴ and that AMI provided Raytown Water with locking meter lids.¹³⁵

In testimony, Ms. Thompson lists customers' ability to obtain their billing and payment data online as one of the benefits of Raytown Water switching to AMI.¹³⁶ However, during the hearing, Ms. Thompson states that customers have been able to view and pay their Raytown Water bill online since the Company upgraded its system in 2005.¹³⁷ The benefit that Ms. Thompson claims AMI has added is that customers will be able to see their water usage between billing cycles, but clarifies that customers' ability to view their billing and usage online is not a new benefit.¹³⁸

¹³³ Leak detection and remote disconnect.

¹³⁴ *Id.* at pg. 5 lines 7 & 8.

¹³⁵ Thompson Direct, pg. 6 lines 17-19.

¹³⁶ *Id.* at pg. 5 lines 7 & 8.

¹³⁷ *Tr.* pg. 65 lines 8 & 9.

¹³⁸ *Id.* at pg. 66 line 23 to pg. 67 line 1.

The OPC is confused about Staff¹³⁹ the Company's¹⁴⁰ insistence that its chosen AMI will increase customer and employee safety due to the fact that the Company chose to purchase meter lids that lock. During the hearing, Ms. Thompson's only reason that the AMI was at all related to the locking meter lids was that the AMI requires different meter lids, and the Company chose to install meter lids that lock.

¹⁴¹ While Ms. Thompson insists that RWC invested in locking lids as a direct result of the AMI,¹⁴² she does admit that Company could have invested in locking lids by themselves.¹⁴³ When pressed on this issue, Ms. Thompson first continued to point out that RWC was already changing its meters out,¹⁴⁴ but she later relents, stating, "Just because you have a locking lid does not mean you have to have AMI."¹⁴⁵

The fact that the Company did not have to invest in AMI to purchase and utilize locking lids matters because locking lids, by themselves, would cost \$290,216.¹⁴⁶ The reason that Staff and Raytown Water trying to relate locking lids to AMI is that those parties are trying to treat that correlation like causation adds another purpose for this AMI.

¹³⁹ Williams Direct, pg. 6 lines 20-22.

¹⁴⁰ Thompson Direct, pg. 6 lines 17-22.

¹⁴¹ *Tr.* pg. 97 line 23 to pg. 98 line 2.

¹⁴² *Id.* at pg. 97 lines 18 & 19.

¹⁴³ *Id.* at lines 21-23.

¹⁴⁴ *Id.* at pg. 90 lines 15-18.

¹⁴⁵ *Id.* at pg. 101 lines 8 & 9.

¹⁴⁶ Thompson Surrebuttal, pg. 2 lines 19-21.

e. Raytown Water Incorrectly Assumed that Case No. WF-2021-0427 Proved that its AMI Investment is Prudent.

When the OPC asked what, if any, cost-benefit analysis the Company took part in to determine the appropriate AMI for Raytown Water, the Company responded “RWC did not undertake its own cost-benefit analysis regarding AMI investment. RWC chose to go with Aclara & USG [otherwise known as “Utility Service Group.”].”¹⁴⁷ RWC seemed to believe that a powerpoint that USG and Aclara provided in Raytown Waters 2021 financing case, WF-2021-0427, was the only cost-benefit analysis required to support its acquisition of this AMI.

For context, Ms. Thompson provides a helpful explanation of WF-2021-0427 in testimony:

In Commission File No. WF-2021-0427, Raytown Water applied for, and was granted, authority to issue Water Facilities Refunding and Improvement Bonds through the Environmental Improvement and Energy Resources Authority (“EIERA”) not to exceed \$5 million at an interest rate not to exceed 4.0% per year. Among other things, it was directed that the loan proceeds be used to update the entire water metering system to AMI by replacing all manually read meters with radio readers; to upgrade metering software and make live metering information available to customers through the Company website.¹⁴⁸

Notably, neither the OPC nor any other party opposed the proposed financing order, and neither the OPC nor any other party issued discovery to further understand cost-benefit assumptions that the Company made or the prudence of the investment into the AMI, itself. Any questions that Staff asked the Company revolved around whether or not RWC’s *financing options* were prudent, rather than the

¹⁴⁷ Marke Direct, pg. 9 lines 7 & 8.

¹⁴⁸ Thompson Direct, pg. 3 lines 3-11.

prudence of the central purchase that the bonds were supporting.¹⁴⁹ At no point did any party to the financing case conduct its own, objective cost-benefit analysis. Rather, the Company, the Commission, and Staff took the AMI provider's numbers and figures, and adopted them as though they were empirical evidence to support this AMI. The parties took this stance despite the fact that the USG and Aclara asserted at least one feature that the Company's chosen AMI package did not have.¹⁵⁰

It is also important to note that, financing cases such as WF-2021-0427 do not provide the appropriate venue to challenge the utility's prudence in making the investment.¹⁵¹ Rather, the Commission determines how prudent the utility's investment is during either rate cases or during cases that involve statutorily-approved, single-issue ratemaking adjustments.¹⁵² In fact, the Commission's Order Approving RWC's financing authority makes the following statement:

Nothing in this Order shall be considered a finding by the Commission of the prudence 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 the cost of capital, in any later rate proceeding.¹⁵³

Despite these clear warnings, Raytown Water, and later Staff, took the Commission decision in this financing case and used it to support the Company's unreasonably high rate increase proposal.¹⁵⁴

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¹⁵² Marke Direct, pg. 8 lines 16-18.

¹⁵³ Order Approving Financing Authority, Case No. WF-2021-0427, February 23, 2022, p. 4.

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f. If The Commission Follows the OPC’s Recommendation to Grant the Company a Return Of its Investment, but Not a Return On its Investment, the Commission should Include 100% of the AMI Meters in Rate Base.

Staff believes the Commission should include less than half of the AMI in the current case, then have the Company return to include the rest in the next rate case.¹⁵⁵ Staff’s logic is that NARUC’s Uniform System of Accounts (“USOA”) does not support the inclusion of meters that are not used and useful in rate base.¹⁵⁶ Staff supports its stance that the meters must be used and useful to be in rate base by pointing to the fact that Missouri law requires *electric* utilities omit the cost of assets that are not used and useful in rate base.¹⁵⁷

However, the OPC disagrees with Staff’s assertion that the USOA does not permit the AMI meters that the Company did not install by June 30, 2023 to be included in rate base. The specific portion of the USOA that Staff cites states as follows:

- a. This account shall include the cost of meters, devices and appurtenances attached thereto, used for measuring the quantity of water delivered to users, *whether actually in service or held in reserve.*¹⁵⁸

Therefore, the USOA clearly and specifically permits the utility to add meters that are not yet used and useful in rates. The Commission’s preference for *all* utilities to follow the statutory requirement that Missouri’s legislature has specified for *electric* utilities, also does not control how the Commission chooses to treat these meters.

¹⁵⁵ Niemeier

¹⁵⁶ Niemeier

¹⁵⁷ Niemeier Rebuttal, pg. 8 lines 21 & 22 (emphasis added).

¹⁵⁸ NARUC’s 1976 Revisions of USOA for Class A and B Water Utilities 1973, page 88 (emphasis added).

Including all of the Company's AMI meters in rates lets the meters begin depreciating when about ninety-five percent (95%) of them are currently in use,¹⁵⁹ and prevents the Company from immediately initiating another double-digit rate increase after rates have already increased by double digits.

However, the OPC also agrees with Dr. Marke's recommendation below:

"That being said, I would not support including all of the known and measurable meters and annual maintenance fee if the Commission also elect 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 would occur as a result and is already in a position to receive approximately a 60% increase from what the Company filed if the Commission adopts the Staff and the Company's position in it[s] entirety."¹⁶⁰

g. Office of the Public Counsel's Recommendation.

Both economic theory and the theory of utility regulation do support a finding that the Commission should disallow all of the Company's AMI investment.¹⁶¹ However, the OPC also recognizes that not permitting Raytown Water to recoup the return of this investment would likely be destructive towards RWC's ability to operate.¹⁶²

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¹⁶⁰ Marke Surrebuttal, pg. 20 lines 9-14.

¹⁶¹ Marke Direct, pg. 14 line 22 to pg. 15 line 1.

¹⁶² *Id.* at pg. 15 lines 15-17.

After some discussion, the OPC's recommendation is as follows: the Commission should include the entire four point two (4.2) million dollar AMI investment into rate base.¹⁶³ However, due to the myriad of foreseeable issues around this AMI investment, the Commission should not grant Raytown Water the opportunity to receive a return on this investment.¹⁶⁴ This treatment allows the Commission to send a message to the Company about the proper handling of large investments, without undue punishment. Moreover, if all of Raytown Water's AMI investment is included in rate base, RWC will not have a reason to turn around and request another rate increase after this case ends. If the additional AMI investment is not included in rate base, then Raytown Water's need to file an additional rate case almost immediately after this one is almost inevitable.¹⁶⁵

C. AUDITING ISSUES

a. **Due to the Company's Investment in AMI, The Commission Should Adjust Meter Reading Expense by -\$72,661.**

As discussed in §B.d.ii. of this brief, the way that RWC has opted to utilize the employees that used to fall under the position of "meter reader" in an incredibly inefficient manner. The Company has opted to utilize these two (2) employees as customer service technicians,¹⁶⁶ one (1) of whom completes four (4) hours of water sampling every month.¹⁶⁷ While the Company argues that Account 902, which is

¹⁶³ *Id.* at lines 7-10.

¹⁶⁴ *Id.* at lines 7, 8, & 11.

¹⁶⁵ *Id.* at pg. 14 lines 22 & 23.

¹⁶⁶ *Tr.* pg. 111 line 25 to pg. 112 line 21.

¹⁶⁷ *Id.* at pg. 117 line 1.

listed as “Meter Reading” accounts for more than just reading meters, vaguely stating that “other matters” are addressed with that account.¹⁶⁸

One notable increase in the Agreement is \$72,661 in the account for the Company’s Meter Reading Expenses. The amount of meter reading expense recorded during the test year is \$98,094, but Staff has included \$170,755 in its rate proposal without explanation.¹⁶⁹ The only logical explanation that the OPC has is that Staff and RWC added another meter reader to Raytown’s cost of service after the test year was over.¹⁷⁰ If, indeed, a third meter reader was included in the Agreement, especially an employee who was not employed during the test year, it is inappropriate to add his salary to account 902.

However, once again, the OPC is aiming to ensure that this Company is not so focused on it’s ability to run, and can concentrate on improving RWC’s inefficient practices and get Raytown Water back on track. Therefore, rather than insisting on a complete omission of RWC’s meter reading expense, the OPC merely seeks to decrease the amount in this account by \$72,661. That way, two (2) of the Company’s meter reader salaries are in rates and Staff does not have to bend the rules around Raytown Water’s operations.¹⁷¹

¹⁶⁸ Thompson Rebuttal, pg. 14 lines 5 & 6.

¹⁶⁹ Riley Surrebuttal, pg. 2 line 24 to pg. 3 line 2.

¹⁷⁰ *Id.* at pg. 3 lines 1 & 2.

¹⁷¹ Riley Surrebuttal, pg. 4 lines 1-6.

b. Payroll Expense

The OPC is concerned that Staff's appropriate repulsion to micromanaging these regulated companies has caused it to overcorrect in a way that hurts both the utilities, and the public. The Commission has the statutory authority to "[e]xamine all persons and corporations under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business."¹⁷² Moreover, this authority grants the Commission, when it finds rates of such corporations "unjust, unreasonable, unjustly discriminatory, or unduly preferential," the ability to ascribe "the just and reasonable rates and charges . . . notwithstanding that a higher rate or charge has heretofore been authorized by statute[.]"¹⁷³

When an otherwise private business is a public utility, it cannot be treated as any other private entity.¹⁷⁴ Not only does Raytown Water exist as a natural monopoly, but it serves water, an essential service to the community of Raytown.¹⁷⁵ The foundation of the Commission's role is to ensure that the utilities it regulates are properly managed, because the Company's ratepayers are captive. The Company has near complete control over a vital resource, so regulators must ensure that the fundamental aspect of proper management includes the treatment of the utility's employees, and their pay.¹⁷⁶

¹⁷² Mo. Rev. Stat. § 393.140(5).

¹⁷³ *Ibid.*

¹⁷⁴ Payne Surrebuttal, pg. 5 line 2.

¹⁷⁵ *Id.* at lines 2 & 3.

¹⁷⁶ *Id.* at lines 4 & 5.

i The Company's employee overtime should be normalized.

One area where Staff appears to be overcorrecting itself in the area of employee pay is the treatment of Raytown Water's overtime. The amount of overtime that RWC's employees work changes from year to year. Therefore, annualizing the amount of overtime the Company has in rate base puts captive ratepayers in a position where they may pay for overtime wages that no Raytown employee actually works that year.¹⁷⁷ If the Company is properly managing its employees, without burdening them with excessive overtime, then there still may be a year or two where the ratepayers are overpaying the amount of overtime. However, if the Company normalizes employee overtime pay, the customer's overpayments for employee overtime will be present to cover years where the employees work more than expected. As it is now, the Company has an incentive to overwork its employees to increase overtime during a test year, so that the extra money from rates can essentially form a company slush fund.

ii Overtime for Senior Management Positions should not be included in rate base Adjustment -\$63,676.

The issue the OPC is focused on here is how much pay ratepayers should be required to cover for RWC's senior management positions. The OPC only asserts that ratepayers should not have to pay the collective \$63,676 in overtime pay that pushed some senior management above the income range for their position.¹⁷⁸¹⁷⁹ If, in fact, Ms. Thompson is working an extra 500 hours per year and believes that it is more

¹⁷⁷ *Id.* at pg. 5 lines 18-20.

¹⁷⁸ *Id.* at pg. 6 line 25 to pg. 7 line 7.

¹⁷⁹ Please note: The salary ranges that the OPC considered for this issue were the ranges provided for DR 0019.

appropriate for her to remain hourly, the OPC has no qualms with that belief.¹⁸⁰ The OPC is merely recommending that the Commission only include Erica Baier-Ross, Leslie Smart, and Chikako Thompson's¹⁸¹ annualized income with COLA.¹⁸²

However, the Commission's role is to act as a proxy for the market. Therefore, any consideration of employee pay the Commission believes ratepayers should cover equals the amount that these employees would receive in a private, or public, corporation. However, RWC has a perverse incentive to spend money inefficiently for the benefit of its shareholders, the only protection that captive customers can rely on comes from this Commission.

c. Staff Should have Conducted a Lead/Lag Study for RWC, which would Show that the Company has \$9,888 in Cash Working Capital ("CWC"). Adjustment -\$9,888

The OPC recognizes that small utility companies, such as RWC, cannot determine the appropriate CWC on its own.¹⁸³ The OPC also recognizes that Staff, while assisting Raytown Water in this case, did not determine CWC due to a myriad of reasons.¹⁸⁴ However, the OPC also believes that Commission regulation requires Staff to complete CWC calculations in Staff-assisted rate cases.¹⁸⁵

¹⁸⁰ In fact, the OPC encourages to Ms. Thompson, Ms. Smart, and Ms. Baier-Ross to continue at an hourly rate, if RWC believes that it can cover those wages and that's how these employees choose to be paid.

¹⁸¹ The OPC would also like to highlight that the salary this office is advocating for Ms. Thompson is, in fact, also outside of the vice president salary range. However, the OPC is aware of the exorbitant amount of time and effort that Ms. Thompson spends on ensuring RWC is successful, so this office does believe that a higher salary be incorporated into rate base for this employee.

¹⁸² Payne Surrebuttal, pg. 8 lines 9-12.

¹⁸³ Thompson Rebuttal, pg. 16 lines 1-7.

¹⁸⁴ Niemeier Rebuttal, pg. 3 line 20 to pg. 4 line 6.

¹⁸⁵ Riley Surrebuttal, pg. 5 lines 20 & 21.

As Mr. Riley discusses in his surrebuttal testimony, 20 CSR 4240-10.075(4), requires Staff to assist the small utility with any process of that utility's rate, consistent with Staff's function and Commission responsibilities.¹⁸⁶ Mr. Riley also points out that 20 CSR 4240-10.075(8)(D), requires Staff's investigation to include an update of the utility's rate base,¹⁸⁷ and §(8)(D) specifies that Staff may use available or estimated rate base items to determine the ultimate rate base number.¹⁸⁸

To further assist Staff with its CWC calculation, Mr. Riley used the data available to him in both this case, past Raytown rate cases, recent cases related to other water companies.¹⁸⁹ With the data that Mr. Riley had, he was able to conclude that CWC would reduce RWC's revenue requirement by \$9,888, prior to calculating its effect on taxes.¹⁹⁰

In this particular case, Staff did not provide an alternative calculation to refute the OPC's CWC numbers, stating only that it did not determine CWC in small utility cases.¹⁹¹ While Staff may not see the need to include CWC calculations in Staff-assisted rate cases, the OPC disagrees. The OPC believes, instead, that if the Commission is presented with calculated data that makes that company's revenue requirement more accurate, the Commission should use those calculations to determine the proper amount to increase rates. Therefore, as the only CWC

¹⁸⁶ *Id.* at pg. 5 line 27 to pg. 6 line 6.

¹⁸⁷ *Id.* at lines 7 & 8.

¹⁸⁸ *Id.* at lines 10-19.

¹⁸⁹ Riley Direct, pg. 3 line 22 to pg. 4 line 5.

¹⁹⁰ Riley Surrebuttal, pg. 9 line 16.

¹⁹¹ Niemeier Rebuttal, pg. 4 lines 17-19.

spreadsheet available in this case come from the OPC and Mr. Riley, the Commission should rely on those calculations to assist with its rate determination.¹⁹²

d. RWC's Authorized ROE Should Be Set at 9.12%, Which is Consistent With Its Investment Grade Credit Profile. A 9.12% ROE Compared to the 10.37% ROE Staff and RWC's Used in Their Stipulation and Agreement Reduces RWC's Annual Revenue Requirement by \$70,413.80. Adjustment -\$70,413.80

OPC Witness David Murray's return on common equity ("ROE") recommendation followed the same approach as Staff Witness Randall Jennings, which was to apply a 3.5% generic equity risk premium to an estimated bond yield consistent with Raytown's estimated credit rating. OPC estimated Raytown's credit risk profile is consistent with a 'BBB' rating (an investment grade credit rating), whereas Staff estimated Raytown's credit risk profile is consistent with a 'BB' rating (a junk bond rating).

Staff testified that it utilized the "Small Utility ROR Methodology" to determine an authorized ROE recommendation for RWC.¹⁹³ Staff Witness Randall Jennings testifies that his ROE recommendation is supported by his cost of common equity ("COE") estimate. Mr. Jennings' COE estimate relies on Standard and Poors' ("S&P's") ratings methodology along with the Bond Yield Plus Risk Premium method."¹⁹⁴ After taking into account Staff's judgment that RWC's business risk profile ("BRP") should be classified as "Strong"¹⁹⁵ rather than "Excellent" because of RWC's smaller size and Staff's conclusion that RWC's 2022 credit metrics were

¹⁹² Riley Surrebuttal pg. 9 lines 10-12.

¹⁹³ Jennings Direct, pg. 5, lines 5-6.

¹⁹⁴ Jennings Direct, pg. 2 lines 11-13.

¹⁹⁵ Jennings Direct, pg. 6 lines 13-15.

consistent with a financial risk profile (“FRP”) of “Aggressive,”¹⁹⁶ Mr. Jennings estimated that the Company’s credit risk profile is consistent with a guideline rating of ‘BB.’ Mr. Jennings then calculated an implied average ‘BB’ bond yield of 6.87% for the three month period, March – May 2023.¹⁹⁷ Mr. Jennings then added the generic equity risk premium of 3.5% to this bond yield, which equals 10.37%.¹⁹⁸ Therefore, Staff recommended a 10.37% ROE for RWC’s shareholders.

The only difference driving OPC’s lower 9.12% ROE recommendation is the fact that OPC’s ROR witness, David Murray, estimated RWC’s credit risk profile to be consistent with an investment grade credit rating. Mr. Murray agreed with Staff’s finding that Raytown Water’s BRP should be classified as “Strong,”¹⁹⁹ but for a different reason. While Staff assigned RWC a “Strong” BRP because the Company is a smaller utility,²⁰⁰ the OPC reviewed the Company’s financial capabilities more holistically. In this case, Mr. Murray believed that it was appropriate to assign RWC a “Strong” BRP because the Company does not directly issue debt to its investors.²⁰¹ However, Mr. Murray also recognizes that RWC can access commercial banking facilities and receive debt capital through loans, supporting a “Strong” BRP rating.²⁰² However, Mr. Murray disagrees with Mr. Jennings’ FRP classification of “Aggressive,” because Mr. Jennings relied entirely on his calculation of RWC’s credit

¹⁹⁶ Jennings Direct, pg. 7 lines 1 & 2.

¹⁹⁷ Jennings Direct, pg. 7, line 12 – pg. 8, line 3.

¹⁹⁸ Jennings Direct pg. 8, lines 11 & 12.

¹⁹⁹ Murray Rebuttal, pg. 3, lines 8–11.

²⁰⁰ Jennings Direct, pg. 6, lines 11-15.

²⁰¹ Murray Rebuttal, pg. 3 lines 9-11.

²⁰² *Id.* at lines 11-13.

metrics for 2022 for purposes of his classification. This is not how rating agencies and debt investors assess financial risk.²⁰³ Investors rely on past financial performance to the extent it represents forward looking expectations. This is not the case for RWC. Therefore, Mr. Murray assigned RWC a FRP of “Significant,” which is one category higher (*i.e.* lower financial risk), than Mr. Jennings’ assignment of an “Aggressive” FRP.²⁰⁴

Mr. Murray applied his BRP estimate of “Strong” and FRP estimate of “Significant” to S&P’s benchmark table attached as Schedule DM-R-2 to his rebuttal testimony to determine that RWC’s credit risk profile is consistent with a ‘BBB’ credit rating.²⁰⁵

Mr. Jennings testifies that Mr. Murray’s approach is an estimate of RWC’s future credit ratings because Mr. Murray’s analysis “calculate[s] pro forma credit metrics to predict their effects on RWC’s implied credit rating,”²⁰⁶ However, this argument ignores the fact that current credit ratings rely on projected financial performance, especially when a transformational event is expected to materially impact credit metrics.²⁰⁷ When a transformational event occurs, it makes more sense for investors to look prospectively, as the Company will receive higher cash flows once its new rates go into effect.²⁰⁸ In essence, it does not make sense for RWC’s investors to view the Company’s historical financial data as representative of financial

²⁰³ *Id.* at pg. 4 line 19 – pg. 5 line 2.

²⁰⁴ Murray Rebuttal, pg. 4, line 19 – pg. 5, line 18.

²⁰⁵ *Id.*, pg. 5, lines 3 – 12 and Schedule DM-R-2.

²⁰⁶ Jennings Surrebuttal, pg. 3 lines 9 & 10.

²⁰⁷ *Tr.* pg. 330 lines 8-10.

²⁰⁸ *Id.* at pg. 329 line 24 to pg. 330 line 1.

expectations, especially if that historical one-year period (*i.e.* 2022) reflects the debt incurred for AMI investment, but not the increased cash flows from the rate adjustment reflecting that investment.

Mr. Jennings testifies that Mr. Murray's analysis is circular in nature because it estimates Raytown's risk profile based on projected credit metrics that assume the Commission will grant rate relief based on the revenue requirement in RWC's and Staff's Non-Unanimous Agreement Regarding Disposition of Small Utility Company Revenue Increase file on September 13, 2023. Mr. Murray's *pro forma* credit metric analysis did assume a potential rate case outcome, but this is consistent with how rating agencies and investors approach evaluating a regulated utility company's credit profile. In fact, as Mr. Murray testified, all of Missouri's larger regulated utility companies' credit ratings are a function of rating agencies' assessment of projected financial performance.²⁰⁹ This is how investors and rating agencies determine companies' risk profiles. Mr. Murray did the same.

As Mr. Murray testified during the hearing, applying simple algebra to the State of Missouri's Environmental Improvement and Energy Resource Authority ("EIERA") loan's minimum debt service covenant ratio can provide information regarding the maximum adjustment to RWC's rate increase before this covenant is breached. 1.25 times RWC's \$358,000 annual debt service indicates that RWC must have at least \$447,500 of cash flow available for debt service.²¹⁰ Subtracting \$447,500

²⁰⁹ *Tr.* pg. 331 lines 1-11.

²¹⁰ *Id.*, pg. 338 lines 10-25.

from RWC's pro forma earnings before interest, taxes, depreciation and amortization ("EBITDA") of \$1,311,882 indicates that RWC's rate increase could be reduced by \$864,382 and still comply with this covenant. OPC is not suggesting that the Commission set rates based on minimum financial covenants. OPC simply provides this information so the Commission can evaluate quantifiable estimated impacts of certain rate adjustment scenarios.

As Mr. Murray testifies, setting RWC's ROE at 9.12% supports an investment grade credit profile for RWC. Therefore, this is a fair and reasonable authorized ROE.

i 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?

No. RWC and Staff agreed to a preferred stock cost of 3.25%. This is Staff's and RWC's joint position. Mr. Murray did not dispute the cost of preferred stock in his rebuttal testimony.

e. Rate Case Expense

i The amount of Rate Case Expense included in Rate Base should be amortized. Total Expense \$3,119; Amortized Expense \$1,559.37

In testimony, Staff has fully supported its current stance that small utilities' rate case expense need only be normalized, not amortized, and that Staff does not control whether the Company over- or under-recovers its rate case expense.²¹¹ However, at the same time, Staff normalizes the level of rate case expense the Company owes by the amount of time Staff believes will pass before RWC returns for

²¹¹ Lesmes Surrebuttal, pg. 3 lines 18-21.

another rate case.²¹² Therefore, even if Staff does not track the Company's over- or under-recovery of its rate case expense,²¹³ it does take into account the ability for the Company to adequately recover that cost.

Moreover, even with normalization, Staff has included an excessive amount of rate case expense in the past. In WR-2020-0264, the Unanimous Disposition Agreement allotted \$5,146 in rate case expense. The Company collected the agreed-to \$5,146 annually for three (3) years which adds up to \$15,438 in rate case expense, when the Staff acknowledged that the Company's rate case expenses actually totaled about \$8,593 in that case.²¹⁴ Therefore, the Company was able to over-recover the amount of rate case expense that by \$6,845²¹⁵ to this point.

However, the Commission fails to amortize rate case expense, the Company's opportunity to over-recover increases further. For example, Staff used the "two-case" method to normalize the Company's rate case expense in WR-2015-0246, determining that the appropriate amount of rate case expense was \$5,826.58 to recover \$17,479.73. In that case, Staff had normalized the amount of rate case expense that RWC could recover over three (3) years. However, Raytown Water did not return for another rate case for five (5) years. Since the Company's rate case expense was not amortized *and* normalized in that case, RWC \$11,654.16²¹⁶ above and beyond what the Company owed in rate case expense.

²¹² *Id.* at pg. 3 lines 20 & 21.

²¹³ Lesmes Surrebuttal, pg. 3 lines 6-9.

²¹⁴ Payne Rebuttal, pg. 2 lines 14-16.

²¹⁵ \$15,438 - \$8,593 = \$6,845

²¹⁶ \$5,826 x 2 = \$11,654.16

Over the last eight (8) years, Raytown Waters captive customers paid the Company \$18,499.16²¹⁷ more in rate case expense than RWC ever paid for that expense. Perhaps due to the fact that Staff does not track small utilities' rate case expense, the Company and Staff are seeking to include the cost for Raytown Water to retain an attorney and participate in the evidentiary hearing.²¹⁸

The OPC disagrees. To reiterate, customers have already provided the company with \$5,146 in rates for 2023 for rate case expense where there is no unpaid 2020 rate case expense left to reimburse.. Therefore, the OPC recommends that the Commission order that RWC's current rate case expense, which the OPC believes amounts to \$3,118.73 be amortized over a two (2)-year period moving forward.

ii The Rate Case Expense past the true-up period should follow a 50/50 sharing mechanism.

The OPC also strongly believes that rate case expense, if the Commission chooses to include it, should follow a 50/50 sharing mechanism, to follow Commission precedent.²¹⁹ In past cases, the Commission has ordered utilities to follow a 50/50 sharing mechanism when the utility's rate case goes to hearing due to its recognition that consumers and companies both benefit from rate cases.²²⁰ This office does recognize that the 50/50 sharing mechanism would not and should not apply to the

²¹⁷ \$6,845 + \$11,654.16 = \$18,499.16

²¹⁸ Lesmes Rebuttal, pg. 3 lines 5-9.

²¹⁹ Payne Surrebuttal, pg. 2 lines 20 & 21.

²²⁰ *Report and Order*, Case Nos GR-2017-0215 and GR-2017-0216 pg. 52.

expenses that Raytown Water incurred through the true-up period, as those costs pertain to the Company's customer notices."²²¹

Staff stated that the utility taking part in a Staff-assisted rate case generally recovers 100% of the resulting rate case expense because of the minimal cost.²²² That assertion is inaccurate. Realistically, small utilities usually recover 100% of rate case expense is because those cases do not go to hearing so the utilities incur no additional costs after the true up period.²²³ Utilities, no matter the size, benefit from rate cases.²²⁴ Customers benefit from rate cases.²²⁵ Small utilities recovering 100% all incurred rate case expense does not recognize the shared benefit that the Commission has asserted in the past.

iii Staff's Characterization of the OPC's request for an Evidentiary Hearing

Related to rate case expense, the OPC is troubled by Staff's characterization of this offices request for an evidentiary hearing. In testimony, it appears that Staff is placing RWC's increased rate case expense request purely at OPC's feet.²²⁶ However, the OPC's only reason for requesting the hearing is that it noted several concerns regarding, among other things:

- The drastic difference between RWC's initial rate-increase request

²²¹ Payne Surrebuttal, pg. 3 lines 23 & 24..

²²² *Tr.* at pg. 308 lines 23 & 24.

²²³ Payne Surrebuttal, pg. 3 lines 23 & 24..

²²⁴ *Report and Order, Case Nos GR-2017-0215 and GR-2017-0216* pg. 52.

²²⁵ *Ibid.*

²²⁶ Lesmes Surrebuttal, pg. 5 lines 11 & 12.

- The Company's choice of AMI;
- Raytown Water's use of late fees to increase company revenues;
- RWC's salary increases;
- The Agreement's unsubstantiated increase in O&M costs;
- The Agreement's silence regarding depreciation reserve;
- The Company's management practices; and
- A proposed increase that was 243% higher²²⁷ than the increase agreed-to in WR-2020-0264.²²⁸

The OPC understands and empathizes with the increased pressure and expense that a rate case can bring on a small utility, even if the OPC is not intending to cause such stress. The OPC also understands Staff's view that this office is purely to blame for this evidentiary hearing taking place. However, the Office of the *Public* Counsel finds itself in a situation where various aspects of Staff's Agreement with RWC cause the OPC to question the justness and reasonableness of the proposed rates.

Asserting that this office, alone, caused the Company to require an increase in rate case expense ignores the concerns the OPC expressed to Staff and the Company from as early as August 9, 2023.²²⁹ This office is tasked with representing the public on matters regarding utilities. That responsibility sometimes means that the OPC

²²⁷ $(\$1,174,782 / \$482,575)100 = 243.44$

²²⁸ See generally *Office of the Public Counsel Pleading and Request for an Evidentiary Hearing*, Case No. WR-2023-0344, Item No. 13.

²²⁹ *Tr.* pg. 232 lines 21-25.

has to make decisions that Staff and the Company may dislike or disagree with. However, the OPC does not believe that the solution in such instances is to permit the public to be silenced. The interests of those captive ratepayers that RWC serves deserve to be heard, whether Staff and Raytown Water like it or not.

D. OFFICE OF THE PUBLIC COUNSEL’S OTHER CONCERNS

a. In Limited Circumstances, Utility Companies Should Provide a Second Notice and Opportunity for its Customers to Comment on the Drastically Higher Rate.

The OPC is aware that, for the present case, any order that the Commission included regarding an additional notice would be moot. The OPC is also aware, and is not implying, that Staff and the Company failed to follow the letter of Commission regulation 20 CSR 4240-10.975(14).²³⁰ The reason this office is highlighting the need for a second notice, or a change to the Commission’s staff-assisted rate case regulation, is due to the particularly concerning example of the Commission regulation’s failure to adequately protect Missouri ratepayers, and to give a proper opportunity to provide notice and comment.

On April 4, 2023, the Commission received RWC’s rate-increase request that Mr. Clevenger sent on March 30, 2023. The Company, which is admittedly “somewhat unsophisticated in regulated rate making,”²³¹ requested that the Commission grant

²³⁰ Which states “The commission must set just and reasonable rates, which may result in a revenue increase more or less than the increase originally sought by the utility, or which may result in a revenue decrease.”

²³¹ Clevenger Direct, pg. 5 lines 9 & 10.

a rate increase of \$735,102.73, or seventeen percent (17%).²³² After reviewing the Company's finances, operations, and systems, Staff and the Company signed the Agreement, on September 13, 2023.²³³ This Agreement included a rate increase of \$1,174,782, or 27.26%.²³⁴ The OPC became alarmed with the sharp upsurge of the Company and Staff's rate increase. Distressingly, the OPC noted that the difference between the Company's original rate increase request, and the increase included in the Agreement almost was almost one and a half times (1.5x) the request that Raytown Water agreed to a mere three (3) years earlier.²³⁵ Moreover, the OPC noted that *the difference* between RWC's original increase request and the increase in the Agreement was ninety-one percent (91%) of the *entire* rate increase amount from 2020.²³⁶

When the OPC expressed alarm about the steep increase from the Company's original request, neither Staff²³⁷ nor RWC²³⁸ agreed that customers were owed an additional notice due to the starkly different rate. Staff stated that ratepayers will get a final customer notice after this rate case,²³⁹ that an additional notice would "just cause more confusion",²⁴⁰ that no customers attended the virtual public hearing that

²³² <https://efis.psc.mo.gov/Document/Display/277580>; Please note, the cited letter does indicate that the amount RWC was requesting amounted to a 14% increase. However, Staff later discovered that the increase the Company sought actually amounted to 17%.

²³³ <https://efis.psc.mo.gov/Document/Display/754695>

²³⁴ *Id.* at pg. 2 § (1).

²³⁵ <https://efis.psc.mo.gov/Document/Display/754695>

²³⁶ $(\$439,679.27 / \$482,575)100 = 91.11\%$

²³⁷ Spratt Rebuttal, pg. 10 line 13.

²³⁸ Clevenger Direct, pg. 5 lines 18-21.

²³⁹ Spratt Rebuttal, pg. 8 lines 6-8.

²⁴⁰ *Id.* at line 17.

Staff held on May 23 of this year,²⁴¹ and that “[t]here is nothing prohibiting Public Counsel from having community meetings with the public.”^{242 243}

Staff also provided a table of eleven (11) different cases where the increase that a small utility requested was lower than the increase the Commission granted.²⁴⁴ However, to the OPC, Staff’s table only provides evidence supporting the belief that the Commission granting small utilities a higher increase than they requested is exceedingly rare.²⁴⁵ The table also showed that difference between the Company’s original ask and the Agreement’s ultimate increase is rather unheard of. In this table that Staff provided in testimony, the largest difference between the amount a company requested and the amount the Commission provided was \$90,429. Moreover, there are only eleven (11) examples of the increased in the past thirteen (13) years. Further, in six (6) of the eleven (11) examples, the increased rate that the Commission granted differed from the company’s original ask by less than \$5,000.

The OPC would like to reiterate its belief that neither RWC or Staff appears to have maliciously misled the public with the original customer notice. The OPC understands that both of the other parties believe that they adequately followed 20 CSR 4240-10.075(14) and, if the Commission is only concerned with the words present in the rule, there is no notice issue here. However, the OPC believes that the actions taken do violate the *spirit* of the Commission’s regulation. The Public Service

²⁴¹ *Id.* at pg. 9 lines 8-10.

²⁴² The OPC may take Staff up on this suggestion. However, this office does wonder whether other utility companies would be as enthusiastic about the OPC taking a more active role in their activities before the Commission.

²⁴³ Spratt Rebuttal, pg. 8 lines 20 & 21.

²⁴⁴ Spratt Rebuttal, pg. 10 line 11.

²⁴⁵ To get the 11 examples, Staff had to go back as far as 2010.

Commission’s “Vision Statement, as provided on its government website, is “Informed Consumers, Quality Utility Services, and a Dedicated Organization for Missourians in the 21st Century”.²⁴⁶ Missouri’s consumers were not adequately informed before they were given the forum to speak their minds in this case.

For these reasons, the OPC believes that this Commission rule should be amended to require utilities to provide a second notice and opportunity for comment when the Company’s revenue increase rises so drastically.

b. Any Payment for Personal Use of Company Truck 206 Should be at Competitive Levels and the Truck itself should Not be included in the Revenue Requirement.

While reviewing the Company’s documentation of Company Truck 206, the OPC became concerned with how RWC was treating Mr. Clevenger’s use of this company vehicle. Notably, the truck at issue in this case is a 2022²⁴⁷ Dodge 2500 Ram Tradesmen that RWC purchased with recent EI ERA proceeds.²⁴⁸ Further, Mr. Clevenger does not own his own vehicle²⁴⁹ and uses Truck 206 to transport himself both to and from work on a daily basis.²⁵⁰ While Mr. Clevenger and Staff believe that Mr. Clevenger’s use of Company Truck 206 is appropriate because Raytown Water’s

²⁴⁶

https://psc.mo.gov/General/About_The_PSC#:~:text=provide%20an%20efficient%20regulatory%20process,our%20duties%20ethically%20and%20professionally.

²⁴⁷ Raytown Water originally told the OPC that the Dodge Ram was a model from 2023, later realizing its mistake and informing the OPC that, in fact, the truck was a 2022 model. The direct testimony referenced here was filed prior to the Company informing this office of this mistake, hence the discrepancy in the OPC’s testimony.

²⁴⁸ Schaben Direct. pg. 10 line 15.

²⁴⁹ *Id.* at lines 17 & 18.

²⁵⁰ *Tr.* pg. 283 line 25 to 284 line 1.

cars were otherwise vandalized, broken into, or stolen,²⁵¹ this reasoning leads to more questions.

If the only reason Mr. Clevenger took the vehicle to and from work was to protect the vehicle, the OPC is curious as to whether other employees also took company cars home for safe keeping. If those employees did take other Company vehicles home, the Company never provided the OPC with the vehicle logs that those employees manually filled out to reimburse the Company at the IRS standard mileage rate.²⁵² The OPC wonders why the only vehicles that RWC's Board of Directors relates to a single employee is Truck 105, who the Board refers to as "Todd" in a reference to the now-retired Todd Cramer, and Truck 206, that the Board refers to as "Neal."²⁵³ Finally, the document showing the OPC that Mr. Clevenger was utilizing RWC vehicles as far back as 1998, "as a benefit."²⁵⁴

In the end, how far Mr. Clevenger drove Truck 206 should not govern the Commission's treatment of this equipment. Other RWC employees utilizing Truck 206 for, at most, twenty-two percent (22%) of the first half of 2023²⁵⁵ is also not the central factor that the Commission should consider. Central to the Commission's treatment of Truck 206 should be the Company's clear and continuous intent to do two (2) things:

²⁵¹ *Id.* at lines 1-4.

²⁵² *Id.* at pg. 277 lines 16-19.

²⁵³ Schaben Surrebuttal, pg. 6 lines 5-7.

²⁵⁴ Schaben Direct, pg. 10 line 9-11.

²⁵⁵ Clevenger Rebuttal, pg. 11 lines 11-13.

- 1) Provide Mr. Clevenger a car that he has almost total control of as a benefit for being a high-ranking member of Raytown Water's managerial team; and
- 2) Require the least amount of reimbursement for Mr. Clevenger's use of the Company's equipment, that captive ratepayers paid for.

If the Company permitted Mr. Clevenger use of Truck 206, while also giving the president a slightly smaller salary that captive customers would pay, that would be one thing. However, Mr. Clevenger also makes an annual salary that is anywhere from \$24,311 to \$58,311 more than an employee in the same, or a comparable, position.²⁵⁶

In this case, Staff has pointed out that the OPC failed to address Mr. Clevenger's use and reimbursement of the Company's vehicle.²⁵⁷ The OPC agrees. However, failing to address an issue with RWC's operations in the past in no way discounts Staff and the OPC's duty to address that issue in the future.²⁵⁸ In a circumstance where the Company is seeking to increase its captive customers' water rates by thirty nine point three percent (39.3%) in three (3) years, it is on the OPC to ensure that the Company has strong evidence supporting the addition of every dollar to that company's revenue requirement. If there is a source of revenue that the Company is not properly utilizing, it is important that RWC seeks to take advantage of those opportunities.

²⁵⁶ Payne Surrebuttal, pg. 7 line 7.

²⁵⁷ Horton Rebuttal, pg. 4 lines 7-9.

²⁵⁸ *Tr.* pg 279 lines 15-20.

Therefore, due to the Company's clear intent to treat Truck 206 as Mr. Clevenger's personal vehicle, the OPC recommends that customers not be held responsible for the truck, itself, or any related expense.

However, if the Commission still believes that it is appropriate for ratepayers to pay for the vehicle of the Company's president, the OPC's secondary recommendation is that the Commission order Mr. Clevenger to pay RWC a competitive daily rental rate to use Truck 206.

***iv* Late Fees**

Yet, despite the Company's failure to adequately charge Mr. Clevenger for his use of Truck 206, RWC appears to depend on customer late fees.²⁵⁹ What's more, the five-dollar (\$5.00) late fee that the Company charges does not comport with the \$2.28 cost associated with sending notice to customers that they need to pay their water bill.²⁶⁰ Especially as that amount will likely go down. One aspect of the late-fee debate is the Company's plan to implement a phone application that customers will have access to.²⁶¹ If this application is ever implemented, that will provide a cheap and easy way for the Company to contact customers via their cell phones to remind them to pay their water bill.

The Company²⁶² and Staff²⁶³ have both argued that late fees incentivize customers to pay their water bills timely. However, neither party has provided

²⁵⁹ Melanie Clark Rebuttal, pg. 3 lines 5-8.

²⁶⁰ Marke Surrebuttal, pg. 11 lines 3-5.

²⁶¹ *Tr.* pg. 53 lines 12-23.

²⁶² Thompson Rebuttal, pg. 9 lines 17-20

²⁶³ Clark Rebuttal, pg. 3 lines 7 & 8.

evidence to support this claim. While Ms. Thompson used her experience with the Company to support her position, any of her assertions of the effect discontinuing RWC's late fees is speculation. Raytown Water has had a late fee charge in its tariff as early as January 15 1959,²⁶⁴ prior to Ms. Thompson's birth. Further, even Ms. Thompson's speculation regarding the effect of removing late fees from the Company's tariff, does not discuss any resulting financial burden on RWC.²⁶⁵ Ms. Thompson does not state that delayed payments have or will cause the Company to struggle to pay its bills. In reality, customers are regularly late in repaying RWC, and the Company has not asserted any additional costs that are a direct result.

Another aspect of Raytown Water's bills that the OPC did not dispute in this case was the substantial increase in RWC's customer charge, as part of its rate design. Staff and the Company's Agreement increased the customer charge from twelve dollars and eighty-six cents (\$12.86) to *twenty dollars and fifty-three cents* (\$20.53).²⁶⁶ That increase, alone, means that customers will pay a customer charge that is 160% of the customer charge that customers pay now.²⁶⁷ Staff's rate design increased the customer charge by sixty percent (60%). However, that design only increases the commodity charge by eighteen percent (18%).²⁶⁸ By designing rates in this way, Staff both ensures the Company's financial stability and negates this argument for the imposition of late fees.

²⁶⁴ <https://efis.psc.mo.gov/Document/Display/358304>

²⁶⁵ *Tr.* pg. 44 line 21 to pg. 45 line 5.

²⁶⁶ Clark Direct, pg. 3 line 16.

²⁶⁷ $\$20.53 - \$12.86 = \$7.67$; $(\$7.67 / \$12.86 + 1)100 = 159.64$

²⁶⁸ $\$9.56 - \$8.08 = \$1.48$; $(\$1.48 / \$8.08)100 = 18.32$; Clark Direct,

MAWC and Confluence Rivers have both already eliminated late fees from their tariffs.²⁶⁹ While the OPC agrees that both of those companies are large utilities, it is notable that ending late fees has not caused the utility's economic downfall in either case.²⁷⁰ Further, the utility's size is not related to the OPC belief that late fees are superfluous, economic and legal theory is.

The "cost causation principle" is the recognition that costs "being caused by a service if the costs are brought into existence as a direct result of providing the service."²⁷¹ The Company is not incurring a cost that is directly attributable to delinquent payments alone. While RWC insists that removing late fees will cause an increase in postage and employee cost, Commission regulations do not require utilities to provide written notice on customers' doors.²⁷² In fact, the regulations do not require written notice at all.²⁷³ Raytown Water's salaried office staff, could make two (2) phone call attempts to each delinquent customer, which would satisfy Commission Rule 13, without increasing Company cost.

Staff's testimony supports the Company's use of late fees, due to the fact that the extra charge constitutes miscellaneous revenues, decreasing rate base.²⁷⁴ Staff emphasizes that not charging late fees means "every customer would absorb the effects of not charging the late fees to the late customers."²⁷⁵ However, while Staff's

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²⁷¹ <https://www.lawinsider.com/dictionary/cost-causation-principle#:~:text=Cost%20causation%20principle%20means%20costs,the%20service%20is%20not%20provided.>

²⁷² 20 CSR 4240-13.050(8).

²⁷³ *Ibid.*

²⁷⁴ Clark Rebuttal, pg. 3 line 20 to pg. 4 line 1.

²⁷⁵ *Id.* at pg. 4, lines 2 & 3.

implication is that timely customers are negatively affected by late customers, the cost causation principle refutes that argument. The question that demonstrates the issue with Staff's logic is this:

If all of Raytown Water customers paid their water bills on time, what would be the result?

Well, the result would be that the revenues the Company earned from late fees would no longer exist, that loss of revenue would hurt RWC until the next rate case, and all customers would have to pay more. Timely-paying customers are currently benefitting from late-paying customers. That is why the OPC characterized late fee payments as “subsidizing” Raytown Water’s customer cost.

From 2019 to 2022, the company had an average of about 2,201²⁷⁶ delinquent water bills per month.²⁷⁷ Since the Company’s total number of connections is 6,541, that means that approximately thirty-four percent (34%) or one-third (1/3) of Raytown’s customers are being hit with at least an extra five-dollar (\$5.00) charge on a monthly basis.

If Raytown Water is consistently charging thirty-four percent (34%) of its customers a fee due to late service charges, customers who are able to pay, but forget, are not the problem. Any company that relies on the extra charges allocated to one-third (1/3) of its service base is not sustainable. RWC does not need to continue

²⁷⁶ To determine this number, the OPC added the number of delinquent bills RWC had from 2019 through 2022, then divided that number by 48—the number of months in that 4-year time period. The resulting number was approximately 2,200.770.

²⁷⁷ Exhibit No. 214, DR 0007.

charging one-third (1/3) of its service area to be successful. Water is an essential service. The threat of disconnection should incentivize Raytown Water's customers to pay their water bill in a timely manner, without customers, who may be struggling financially, being unnecessarily penalized.²⁷⁸

The OPC stands firm in its belief that late fees unnecessarily penalize a large portion RWC's ratepayers. These late fees, as they currently stand, are not tied to the principle of cost causation; the threat of disconnection does more to ensure timely customer payment; and Raytown Water's proposed rate design already provides the Company with financial stability. Imposing late fees further burdens customers who will already be affected if they do not complete the obligation that is tied to their immediate health and safety concerns.²⁷⁹

For these reasons, the OPC strongly encourages that late fees be eliminated from RWC's tariff. However, if the Commission still believes the Company should impose a late fee, the OPC believes that this fee should, instead, be two dollars and fifty cents (\$2.50) to adequately align with cost-causation principles.²⁸⁰

E. THE MANAGEMENT AUDIT

Before the OPC discusses the individual Audit practices that RWC has stopped following, this office believes it is important to assess the Audit's goals, as well as the standards the Audit analyzed. According to this Audit,

²⁷⁸ Marke Direct, pg. 17 lines 1-4

²⁷⁹ Marke Surrebuttal, pg. 21 lines 6-8.

²⁸⁰ *Id.* at pg. 23 lines 10-12.

[The procedures should be] grounded on the basic principles of management relating to the primary functions of management that are used to plan, organize, direct, and control its operations.²⁸¹

Staff was attempting to help RWC's management work more efficiently. In fact, the Audit's stated goal was:

For management to effectively fulfill its responsibilities, management processes and practices must be designed to require and to effectuate an integrated cycle of management actions that function collectively to provide a sound basis for management's execution of its planning, organizing, directing, and controlling functions to accomplish the planned results of the organization in an efficient and economic manner.²⁸²

a. There are several recommendations from the Management Audit that the Company should still be encouraged, if not ordered, to follow.

The OPC believes that it is important for the Company to follow the relevant management principles that the Commission spelled out in the Audit that it conducted thirty (30) years ago. While Staff²⁸³ and RWC²⁸⁴ have both pushed back on the OPC's use of this audit, the OPC believes that a management audit, even one that is thirty (30) years old,²⁸⁵ matters.

Further, the OPC's position is not that RWC needs to take steps follow every, or even most, of the forty-eight (48) recommendations listed in Audit. RWC is still following some of the Audit's recommendations,²⁸⁶ and other recommendations are no longer relevant.²⁸⁷ However, neither the Audit's age nor the failure of Staff and

²⁸¹ *Id.* at pg. 3.

²⁸² *Ibid.*

²⁸³ Horton Rebuttal, pg. 3 lines 7-10; Spratt Rebuttal pg. 7.

²⁸⁴ Clevenger Rebuttal, pg. 7 lines 7-9.

²⁸⁵ Arguably, especially an audit that is thirty (30) years old in a case such as this one.

²⁸⁶ Some examples that RWC is still following include: recommendation #1, recommendation #3, recommendations #12-16, recommendation #19, recommendation #22; *See* ADS-D-4 pgs. 13-15

²⁸⁷ Some examples that are no longer relevant include: recommendation #11, recommendation #25, recommendation #26, and recommendation #43; *See* ADS-D-4 pgs. 14-18.

the OPC to adequately hold RWC to account in the past negates the importance of the recommendations discussed in this brief. The Commission informed Raytown Water that it expected this company to follow the tenants analyzed in this case thirty (30) years ago.²⁸⁸ The Company has failed to follow the recommendations that the OPC discusses below, and Raytown Water’s customers have were harmed because of it.

The OPC, in conversations with Raytown Water, recognizes the amount of time, labor, and effort both Staff and the Company expended to get RWC to meet the Audit’s goals, and is *not* recommending another management audit.²⁸⁹ Instead, the OPC is merely recommending that the Company adhere to the recommendations it agreed to follow thirty (30) years ago. ²⁹⁰

However, effective management is integral to this Company’s, and the public’s success. RWC has 6,541 customers. Therefore, the Company has “very little room for managerial error” or else it will induce ‘rate shock’ among its customers.²⁹¹ When RWC does not follow basic managerial practices—especially related to large equipment purchases—the Company is “shifting risks onto captive customers.”²⁹² Because managerial imprudence has such an outsized effect on each one of Raytown Water’s 6,541 customers, following the relevant portions of this Audit *matters*.

i Develop and implement formal competitive bidding procedures for all major equipment purchases and contracts and Develop and implement

²⁸⁸ See generally ADS-D-4.

²⁸⁹ Schaben Surrebuttal, pg. 3 lines 8-13.

²⁹⁰ Schaben Direct, pg. 1 lines 22 & 23.

²⁹¹ Marke Surrebuttal, pg. 3 lines 14 & 15.

²⁹² *Id.* pg. 13 line 9.

a formal vehicle replacement policy that includes elements such as vehicle purchasing justification, procedures for competitively bidding vehicles, and vehicle specification.

In Case No. WR-93-194, Staff defined a successful, formal competitive bidding process as having the following requirements:

- 1) RWC must develop detailed specifications for the purchase;
- 2) Raytown Water must send A RFP to **at least three (3) viable competitors.**
- 3) All bid packages should be **thoroughly evaluated** using weighted criteria, with a formal decision-making process being used to document all aspects of the purchase.”²⁹³

During that case, Staff expressed the benefits of competitive bidding as:

- 1) The Company will have a higher likelihood of purchasing a product or service that will provide cost-effective results and be supported by the supplier/manufacturer for several more years;
- 2) The process ensures that RWC thoroughly evaluates all the options available in order to make the most effective long-term decision;
- 3) Raytown Water can evaluate the results of its competitive bidding process in the future and determine whether the purchased items have performed as planned or if the Company’s purchasing procedures require change.²⁹⁴

In the current case, Raytown Water has acknowledged that it did not perform any competitive bidding process in relation to either its newly-purchased fleet of vehicles, or its AMI.²⁹⁵ Rather than submitting any RFP’s, Ms. Thompson attended “a couple different seminars” to listen to different AMI vendors pitch the benefits of their products.²⁹⁶ Instead of acknowledging the importance of the RFP process, Staff Witness David Spratt excuses the Company’s failure to complete a formal competitive

²⁹³ ADS-D-3 pg. 34.

²⁹⁴ ADS-D-3 pg. 34.

²⁹⁵ Clevenger Rebuttal, pg. 7 lines 16-19.

²⁹⁶ Tr. pg. 59, lines 4-14.

bidding process by highlighting the fact that Raytown Water is understaffed.²⁹⁷ Mr. Spratt then states Ms. Thompson's attendance at a single seminar was enough due diligence²⁹⁸ for an investment that would ultimately be more costly than the Company's revenue requirement was at that time.²⁹⁹ When pressed on the prudence of a company entering into a \$5.7 million deal without sending an RFP to even one (1) other competitor, Staff Witness Spratt's response was that it is not Staff's role to decide how the Company conducts business.³⁰⁰

The OPC cannot tell the Commission how much money the Company over or under invested in its AMI project, because RWC did not provide any data. The OPC cannot tell the Commission about other AMI providers' products because, again, Raytown Water did not provide any data.

State ex rel. Associated Natural Gas Co. v. Public Service Com'n of State of Mo requires the Commission to view the prudence of a utility's investment using all of the data available at the time the investment was made, and without the benefit of hindsight.³⁰¹ In this case, Commission Staff had the foresight to encourage³⁰² the Company to complete a competitive bidding process two and a half decades (25 years)³⁰³ before Raytown Water agreed to this multi-million dollar purchase. For a

²⁹⁷ *Id.* at pg. 161 line 18.

²⁹⁸ *Id.* at lines 20-22.

²⁹⁹ *Supra* pg. 15, FN 61.

³⁰⁰ *Tr.* pg. 164 lines 17-25.

³⁰¹ *State ex rel. Associated Natural Gas Co. v. Public Service Com'n of State of Mo.*

³⁰² Though, the Audit reads less like "recommendations" and more like "requirements."

³⁰³ 2018 – 1993 = 25

public utility with fewer than 7,000 customers to enter into such an agreement, under such conditions, cannot and should not be considered reasonable.

A separate, but related recommendation that the Audit proposes is for the Company to implement a vehicle replacement policy that, again, includes a competitive bidding process and a needs analysis component. The Audit clearly states what a beneficial vehicle replacement policy would look like, stating:

- 1) The policy should provide guidelines as to when the company should consider replacing its existing fleet;
- 2) The policy should specify how senior management should go about purchasing new vehicles;³⁰⁴
- 3) The policy should include procedures for competitively bidding vehicles and specify the particular features necessary, such as having an automatic transmission in the vehicle driven by the meter reader; and
- 4) All documentation for vehicle bidding should be maintained by the Company for future reference, and for review and approval by the Board of Director.³⁰⁵

The benefit that Staff believed this would provide is that it “should help the Company negotiate for better prices in the future given the extent of documentation used in the decision-making process.”³⁰⁶

However, like with AMI, RWC did not engage in competitive bidding for its new fleet of vehicles.³⁰⁷ The Company’s reasoning is that Raytown Water would not benefit from such a process and Ms. Thompson “spent a fair amount of time

³⁰⁴ ADS-D-4, pg. 63.

³⁰⁵ *Id.* at pg. 64.

³⁰⁶ *Ibid.*

³⁰⁷ *Clevenger Rebuttal*, pg. 8 lines 12-15.

discussing and negotiating with dealerships” prior to RWC’s purchase.³⁰⁸ The Company’s response to this question concerns the OPC for two (2) different reasons:

- 1) The OPC does not believe that a company’s personal feelings that it got the best price available for a purchase is the same thing as that company doing research and obtaining data that *proves* the Company got the best price on that purchase; and
 - a. Moreover, the OPC sees the act of conflating intuition and fact, especially in the case of natural monopolies, is dangerous.³⁰⁹
- 2) The OPC is bothered that the employee spending “a fair amount of time discussing and negotiating with dealerships” about the Company’s fleet has clocked a total of 528.25 hours of overtime, resulting in \$41,425 in extra pay. Thus, the issue becomes whether that employee haggling the price of RWC’s new fleet with car dealerships the best use of her time.

The OPC believes that the absence of an RFP or any independent cost-benefit analyses related to the Company’s two (2) largest investments³¹⁰ underscores the managerial imprudence that the OPC believes is glaring upon its review.³¹¹ In the case of the eight (8) vehicles that the Company purchased in 2022,³¹² Staff recommended that RWC use competitive bidding and a needs analysis for these purchases twenty-nine (29) years before the sales, themselves, took place.³¹³

The purpose of competitive bidding, especially for major equipment purchases, is to ensure the utility is ensuring the equipment it is investing in meets that company’s needs and expectations.³¹⁴ Further, this process ensures that the investing utility has physical documentation that supports the agreement while also

³⁰⁸

³⁰⁹ Marke Surrebuttal, pg. 12 lines 22-24.

³¹⁰ Discounting Purchased Water

³¹¹ Marke Rebuttal, pg. 5 lines 17 & 18.

³¹² Schaben Surrebuttal pg 8 lines 26 & 27.

³¹³ 2022 – 1993 = 29

³¹⁴ Schaben Rebuttal, pg. 6 lines 2-5.

providing the utility with more support to engage in vendor negotiations.³¹⁵ By failing to take part in a formal competitive bidding process, Raytown Water is effectively turning down the customer and Company protection that such a process would otherwise provide.³¹⁶

ii Develop and implement a formal policy for performing documented needs analysis prior to making major equipment purchases.

The Audit further discusses the benefits the Company could realize if it took part in a needs analysis before making major equipment purchases. According to the Audit, “Effective purchasing policies require that senior management assess the needs of the organization and its workforce prior to implementing a plan of action.”

³¹⁷ The examples that the Audit gives for actions requiring a needs analysis include:

- 1) Major equipment purchases;
- 2) computer software; and
- 3) hardware purchases.

Further, a successful needs analysis requires management to discuss, with employees, the required needs and capabilities that the equipment must have prior to RWC making either purchasing or contracting decisions.³¹⁸

Regarding the AMI, RWC acknowledged that it did not conduct its own cost-benefit analysis, instead relying on the vendor that was selling the AMI technology.

³¹⁵ Schaben Rebuttal, pg. 6 lines 2-5.

³¹⁶ Schaben Rebuttal, pg. 6 lines 2-5.

³¹⁷ ADS-D-4 pg. 34.

³¹⁸ ADS-D-4 pg. 34.

³¹⁹ Moreover, if the Company had conducted the appropriate needs analysis, it could have discovered the ability to purchase \$200,000 locking lids by themselves rather than as part of a \$6 million investment.³²⁰

Also, if the Company conducted this type of analysis before applying for the financing order, the Company would have been able to properly and intentionally address its leaking system, then invest in AMI at a later date. Thus, the Company would not be as concerned about a rate increase that is almost 2.5x the size of the increase that the Company received a mere three (3) years ago.³²¹

iii Automate the general ledger during 1993.

Another recommendation in the Audit is for the Company to “automate,” otherwise called “digitize” its general ledger. With this recommendation, Staff believed the Company would benefit from:

- 1) More timely generation of data;
- 2) Greater accuracy of data;
- 3) Identification of data for trending analysis;
- 4) Reduced costs associated with researching and responding to rate case information requests;

³¹⁹ Marke Direct, pg. 9 lines 7 & 8.

³²⁰ *Tr.* pg. 100 lines 8-10.

³²¹ *Supra* pg. 48, FN 241.

- 5) The ability to assist external auditors with compiling information for their year-end review; and
- 6) A reduction in external auditor fees.³²²

During discovery, the OPC noticed that RWC had stopped following the recommendation to automate their general ledger. When the OPC noted the Company's failure to maintain a digital version of its general ledger, the Company stated the accountant it had long worked with began working for RWC but that the accountant "no longer works for Raytown Water and the Company is again fully using the automated forms and is committed to doing so going forward."³²³

Despite RWC's claim to the contrary, a letter that external auditors wrote to RWC, stated "During our audit, we noted that accounting schedules are prepared manually by accounting staff. We recommend the consideration of transitioning to electronic records to reduce risk of error."³²⁴ Further, in 2021, minutes from a Board of Directors meeting noted the following concern:

"The board has noted several times incorrect financial statements from Company Accountant. Members also questioned Dave's retirement plan and manual accounting records of Company's books and records."³²⁵

³²² ADS-D-4 pg. 43.

³²³ Clevenger Rebuttal, pg. 5 lines 16-22.

³²⁴ Schaben Direct, pg. 6 lines 4-9 (*quoting* Letter from The Raytown Water Company external auditors dated June 1, 2023.).

³²⁵ Schaben Direct, pg. 6 lines 18-22 (*quoting* Raytown Water Company's Board of Directors Minutes June 9, 2021).

Finally, Raytown Water was unable to provide the OPC with a single response to the OPC's data requests regarding the Company's financial information within the five (5)-day time period as required in this case.³²⁶

If the Company actually continued to digitize, or automate, its general ledger, as it promised to do in the 1993 Management Audit, Board Members would not be expressing concern about the accuracy of the Company's financial statements, outside auditors would not feel the need to comment on RWC's manual ledger, and Raytown Water would have been able to respond to the OPC's data requests regarding the Company's financial information in this case.

iv Require reimbursement to the Company on a monthly basis for personal usage of Company business office labor and equipment.

In the 1993 Audit, Staff indicated its concern with RWC's most senior managerial staff not reimbursing Raytown Water for their personal use of "office labor and field equipment."³²⁷

At the time, Staff noted that the frequency and extent of the president's and general manager's use of non-utility labor and equipment required these individuals to reimburse RWC for their use of the Company's supplies each month.³²⁸ Staff's reasoning was that timely reimbursement of Raytown Water's equipment reduces the likelihood that a non-utility business is being subsidized by the utility, and ensures that all non-utility costs are being properly reimbursed to the Company.³²⁹

³²⁶ Tr. pg. 403 lines 16-20.

³²⁷ ADS-D-4 pg. 45.

³²⁸ Id.

³²⁹ Id.

Another vehicle-related concern that Staff discussed in this Audit was the amount that the president and general manager needed to reimburse RWC for their use of the Company's equipment. Specifically, an implementation plan that included in with Case No. WO-93-194 indicated that the vehicles' "rental fees should be comparable to those of rental agencies."³³⁰

In the end, Raytown Water agreed utilize marked rate schedules from car rental companies, institute appropriate billing and tracking procedures, and shorten its reimbursement schedule from six (6) months to one (1) month.³³¹

While this recommendation does not relate to Raytown Water's current rate case as cleanly as some of the other Audit concerns, three (2) aspects of this recommendation stand out to the OPC.

- 1) The timeliness of Mr. Clevenger's reimbursement for driving this vehicle;
and
- 2) Staff's concern around the interaction between RWC Mr. Clevenger's non-regulated businesses.

As the OPC has mentioned, one particular check that Mr. Clevenger provided Staff shows that he reimbursed Raytown Water's vehicle for seven (7) months.³³² What the OPC finds more concerning is that the account that Mr. Clevenger uses to reimburse

³³⁰ Clevenger Rebuttal, pg. 9 lines 10-14.

³³¹ Schaben Direct, pg. 10 lines 3-6 (*quoting* Staff MSD Implementation Review of Raytown Water Company, File No. WO-93-194, page 32; *See also* Schedule ADS-D-5).

³³² Schaben Direct, pg. 10 line 21 & 22.

Raytown for his mileage is actually Mr. Clevenger's business account, Clevenger Enterprise Management, LLC.³³³

Once again, the check provided in ADS-D-7 shows that Mr. Clevenger is not reimbursing RWC on a monthly basis. Further, by using his business account to complete the transaction for that car, Mr. Clevenger is creating the perception of an inappropriate relationship between his unregulated business and RWC.

v Read the City of Kansas City's water meter monthly to verify the accuracy of the bill received.

Another prescient recommendation that Staff offered the Company in 1993 was that RWC read the meter on a monthly basis, which would ensure the Company was being properly charged for the wholesale water it purchased from the KC.³³⁴ Further, Staff remarked on the ease with which the Company would be able to check KC's water meters, mentioning in this Audit that KC's meters "would require approximately 90 minutes to read."³³⁵

In the Audit, Staff notes that checking the meters on a monthly basis "would allow senior management to track unusual reads and ensure that the Company is being billed accurately."³³⁶ As discussed in §A of this brief, a major problem that the OPC has with the Company's argument regarding O&M expense is that the water loss data that RWC had was clearly incorrect for at least fourteen (14) months

³³³ ADS-D-7 pg. 2.

³³⁴ ADS-D-4 pg. 50.

³³⁵ *Id.*

³³⁶ *Id.*

between November 2020 and March 2023.³³⁷ If RWC was checking these meters on a monthly basis as it agreed to do in 1993, the Company would have recognized the water loss issue sooner, and the OPC would need to address that issue in this case.

b. To ensure managerial and company success, the OPC recommends a simple, quarterly report that documents the Company's progress in following the recommendations provided.

If the OPC's review of this case has demonstrated two (2) points about the relationship between RWC and the recommendations Staff provided in the 1993 Management Audit. Those points are as follows:

- 1) Without regulatory oversight of the Company's continuing ability and desire to follow the basic management practices spelled out in the Audit, Raytown Water will fail to follow the recommendations; and
- 2) When RWC does not follow the practices that the Audit spells out, the result is more undue costs on the Company, and its captive customers.

The OPC is deeply concerned about the Company's ability to be successful if it continues to treat these relevant Audit recommendations as optional. Further, the OPC believes that RWC's inability to succeed in this area, I believe it will result in a less efficient, less financially capable company, which will needlessly increase customers' rates.

Therefore, the OPC recommends that the Commission order Raytown Water to provide Staff and OPC with quarterly reports on the management operations at the Company, beginning three (3) months after the new rates go into effect.³³⁸

³³⁷ *Supra* pg.

³³⁸ Schaben Direct, pg. 1 lines 23-25.

c. Staff's View

As discussed, Staff has indicated that it is uninterested in reviewing the Company's managerial practices.³³⁹ Staff has testified that it is satisfied with Raytown Water's managerial practices because the Staff investigated RWC's management and operations for this case and did not have any issues.³⁴⁰ However, during the hearing Staff Witness David Spratt acknowledged that Staff's investigation of RWC lasted only four (4) or five (5) hours³⁴¹ and consisted of reviewing the Company's systems, going over paperwork, asking Raytown Water employees questions, and ensuring the employees knew how to run the business.³⁴² Further, Mr. Spratt acknowledge that Staff's investigation consisted of only speaking to employees of the Company.³⁴³ In written testimony, Staff asserted that it had worked with RWC several times since the Audit and has not had any concerns.³⁴⁴ However, as OPC Witness Angela Schaben refutes this characterization, stating, "Disposition reports and Audit Unit Memorandums from prior cases include Staff recommended remedies or improvements for a variety of issues."³⁴⁵

Perhaps, Staff is concerned that the OPC is seeking to cause small utility companies such as RWC undue hardship. However, that belief could not be further from the truth. The OPC sincerely desires for Raytown Water to succeed. RWC is a

³³⁹ Spratt Rebuttal, pg. 7 lines 20-21; Niemeier Rebuttal, pg. 9 line 20.

³⁴⁰ Spratt Rebuttal, pg. 7, lines 13 & 14.

³⁴¹ *Tr.* pg. 176 lines 14-17.

³⁴² *Id.* at pg. 166 line 20 to pg. 67 line 21.

³⁴³ *Id.* at pg. 167 line 23 to pg. 168 line 10.

³⁴⁴ Spratt Rebuttal, pg. 7 lines 13-15.

³⁴⁵ Schaben Surrebuttal, pg. 3 lines 15-17.

historic company that provides an essential service to its community.³⁴⁶ Therefore, if this company suffers, the public it serves will, too.

Where the OPC and Staff's interests diverge in this case appears to be how each party believes that it can help RWC. As far as the OPC can tell, Staff believes the best way to help the Company succeed was to approach the utility's rate increase request with an open mind. Staff views its role in this case as follows:

Taking Raytown Water at its word when it comes to the Company's facts and figures;

Using the data and information the Company has available to complete the rate case paperwork; and

Doing the best it can to fill in RWC's informational gaps.

While the OPC truly believes that none of the parties are engaging in this case with any malus, the OPC also believes that Staff's current approach to Raytown Water in this case will not guide the Company towards success.

In contrast with Staff's view of this case, the OPC believes the way to ensure Raytown Water continues to be successful is to provide this company both guidance and oversight. Raytown Water is a small utility. Its employees admit its lack of sophistication. However, the Company has shown that it has the ability to follow professional guidance in the past,³⁴⁷ so long as Staff and the OPC give it the opportunity to do so.

³⁴⁶ Payne Surrebuttal, pg. 5 lines 2-5.

³⁴⁷

CONCLUSION: SEEKING A SOLUTION

The OPC is not interested in “going after the little guy.” What this office truly wants is for RWC to be a healthy, thriving utility, without making poor managerial decisions that harm captive customers without recourse. ³⁴⁸ Sure, ratepayers have the opportunity to comment if they attend a local public hearing, but they cannot change the rates that the Commission orders.”³⁴⁹ Moreover, in cases such as this one, the Company’s original rate increase may be far less than the rates that the Commission grants.

At present, Raytown Water has the privilege to be a natural monopoly that controls the water service of 6,541 Missourians. However, with great power comes great responsibility. RWC’s ability to follow the central practices of managerial prudence is central both to the financial health of this utility, and to the physical health of its customers. Because of this undeniable truth, the OPC implores the Commission to provide guidance to this Company. Help RWC improve. Guide this company to be better on behalf on the Missourians it serves.

WHEREFORE, the OPC submits this Initial Post-Hearing Brief to the Commission.

Respectfully submitted,

³⁴⁸ Marke Direct, pg. 3 lines 22-24.

³⁴⁹ Marke Direct, pg. 3 lines 22-24.

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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 6th day of December, 2023.

/s/ Anna Martin