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Payne
Surrebuttal
File No. WR-2023-0344

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Issue(s): Rate Case Expense/Payroll Expense
Witness/Type of Exhibit: Payne/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: WR-2023-0344

SURREBUTTAL TESTIMONY
OF
MANZELL PAYNE

Submitted on Behalf of the Office of the Public Counsel

RAYTOWN WATER COMPANY

CASE NO. WR-2023-0344

November 8, 2023

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SURREBUTTAL TESTIMONY

OF

MANZELL M PAYNE

RAYTOWN WATER COMPANY

CASE NO. WR-2023-0344

1 **Q. Please state your name, title, and business address.**

2 A. Manzell Payne, Utility Regulatory Auditor, Office of the Public Counsel (“OPC” or “Public
3 Counsel”), P.O. Box 2230, Jefferson City, Missouri 65102.

4 **Q. Are you the same Manzell Payne who filed rebuttal testimony for the Office of the Public
5 Counsel (“OPC”) in this case?**

6 A. Yes.

7 **Q. What is the purpose of your surrebuttal testimony?**

8 A. My surrebuttal testimony is intended to respond to various Public Service Commission staff
9 (“Staff”) witnesses regarding their treatment of rate case expense and the additions,
10 corrections, and updates that they endorse in rebuttal testimony. I will also respond to Staff
11 witness, Angela Niemeier’s, rebuttal testimony concerning payroll expense and hourly versus
12 salary in response to direct testimony of OPC witnesses, Angela Schaben and John Riley.

13 **RATE CASE EXPENSE**

14 **Q. How has Staff replied in rebuttal to rate case expense?**

15 A. Various Staff witnesses provided rebuttal testimony related to rate case expense for this case.
16 These witnesses—Keith Foster, Angela Niemeier, David Spratt, and Sherrye Lesmes—have
17 all stated that rate case expense should be updated to include costs that happened outside of
18 both the test year and true-up period. Staff witness, Sherrye Lesmes, had additional rebuttal
19 testimony that sponsored Raytown President, Neal S Clevenger’s, direct testimony that rate
20 case expense include attorney fees that happened outside of the test year and true-up period.

21 **Q. Do you agree with Staff’s proposed treatment of rate case expense in this case?**

22 A. No. Staff has failed to acknowledge that the additional rate case expense is outside of the test
23 year and outside of the true-up period. Staff has also ignored the \$5,146 of extra rate case

1 expense that is currently being collected by the company. The \$5,146 approved in WR-2020-
2 0264 is money in the Company's pocket, as the rate case expenses for that case have already
3 been paid by rate payers.

4 **Q. What is the additional cost that Staff and the Company want to be included in rate case**
5 **expense?**

6 A. Staff testified that this rate case should include the cost of retaining an attorney for the rate
7 case hearing.

8 **Q. Has Staff or the Company specifically detailed the amount they are proposing to be**
9 **added to rate case expense for the Company attorney?**

10 A. No.

11 **Q. If the Commission were to allow the additional rate case expense outside of the test year**
12 **and true-up period, should the rate payer be responsible for 100% of the additional**
13 **expenses?**

14 A. No.

15 **Q. Please explain further.**

16 A. If the Commission were to allow the additional rate case expense outside of the test year and
17 true-up period, the Company should bare half the burden of the additional expenses through
18 a 50/50 sharing mechanism.

19 **Q. What is the reason for your recommendation of a 50/50 sharing of rate case expense?**

20 A. I believe including a 50/50 sharing mechanism for rate case expense follows Commission
21 precedent and recognizes that shareholders benefit greatly from rate cases.

22 **Q. What is the Commission's position regarding a share of rate case expenses?**

23 A. The Commission's most recent decision on rate case expenses was in the Spire Missouri
24 Rate Case Nos. GR-2017-0215 and GR-2017-0216, where the Commission held Spire

1 Missouri to a 50/50 sharing mechanism with customers.¹ In its Amended Report and Order,
2 the Commission found:

3 Therefore, it is just and reasonable that the shareholders and the ratepayers
4 who both benefited from the rate case, share in the rate case expense. The
5 Commission finds that in order to set just and reasonable rates under the
6 specific facts in this case, the Commission will require Spire Missouri
7 shareholders to cover half of the rate case expense and the ratepayers to
8 cover half with the exception of the cost of customer notices and the
9 depreciation study.

10 On February 9, 2021, the Missouri Supreme Court affirmed the Commission's decision.²

11
12
13 **Q. Has Staff recommended such a sharing mechanism for Rate Case Expense in other**
14 **Missouri IOU rate cases?**

15 A. Yes. A few instances of their recommendations of a 50/50 sharing of rate case expense can
16 be found in The Empire District Gas Company rate case, No. GR-2021-0320 (Foster direct),
17 the Missouri-American Water Company rate case, No. WR-2022-0303 (Sarver direct), and
18 the Spire rate case, NO. GR-2022-0179 (Dhority direct).

19 **Q. The last sentence of the Amended Report and Order for Spire Missouri Rate Case Nos.**
20 **GR-2017-0215 and GR-2017-0216, states that there is an exception for the 50/50 sharing**
21 **mechanism for cost of customer notices and the depreciation study. How does this effect**
22 **rate case expense for this case?**

23 A. Rate case expenses included in this case through the true-up are from postage for customer
24 notices. There would be no 50/50 sharing for this expense.³ However, if the Commission were
25 to include a normalization of rate case expenses based on residual rate case expense from WR-
26 2020-0264, current rates expense, and the additional expenses past the true-up of this rate
27 case, the expenses included in rate case expense would be accounting fees, attorney fees, and
28 customer notice fees.

¹ Report and Order, Case Nos. GR-2017-0215 and GR-2017-0216, page 52.

² Spire Missouri, Inc. v. Pub. Serv. Comm'n, 618 S.W.3d 225, 233 (Mo. banc 2021).

³ The current balance of this case is \$3,119.00

1 **Q. Other than for the fees related to customer notice, has Staff recommended any sharing**
2 **mechanism for rate case expense in this case for accounting fees and attorney fees?**

3 A. No. Staff's case is that captive ratepayers should pay for 100% of the accounting and attorney
4 expenses through rates. With the normalization of these expenses, customers are paying more
5 than their fair share of rate case expense.

6 **Q. Should the Commission permit the inclusion of rate case expense past the true-up**
7 **period, how much rate case expense should be included?**

8 A. I would like to reiterate the recommendation I made in my rebuttal testimony, only the cost
9 of rate case expense from this case be included in rate case expense.

10 However, should the Commission allow the inclusion of rate case expense beyond the true-
11 up period for additional expenses, the Commission should follow its case precedent and order
12 a 50/50 sharing mechanism of this rate case expense between rate payers and the Company.

13 **Q. Any further recommendations for rate case expense that you would like to share?**

14 A. I recommend that rate case expense be amortized over two years, instead of being normalized.
15 Amortizing the rate case expense over two years will guarantee that the customer is not paying
16 Raytown more than what is necessary for this case. Raytown has benefited more than enough
17 through the normalization of rate case expense due to over receiving in previous rate cases.

18 **Payroll Expense**

19 **Q. In rebuttal testimony, Ms. Angela Niemeier, page 9, beginning line 20, addresses both**
20 **payroll expense and methodology (i.e., hourly versus salary) in response to the direct**
21 **testimony of OPC witnesses, Angela Schaben and John Riley. How does Ms. Niemeier**
22 **respond to the OPC's concerns?**

23 A. Ms. Niemeier, states that "it is not Staff's place to tell a private business how to pay their
24 employees. Staff reviews wages for prudence to determine ongoing costs."

25 **Q. Do you agree with Ms. Niemeier's findings?**

26 A. I strongly disagree with Ms. Niemeier's assessment of the situation.

1 **Q. Can you explain why you do not agree with this statement made by Ms. Niemeier?**

2 A. Yes I can. First, the business in question is not truly a private business, it is a water utility and
3 is serving an essential service to the community of Raytown. Second, investor-owned utilities
4 (“IOUs”) like Raytown are regulated monopolies, and ensuring public utilities are properly
5 managed, including employee pay, is central to Commission and Staff duties.

6 **Q. Ms. Niemeier continues to justify the wage assigned to Ms. Thompson and how a salary
7 of \$150,184 is prudent. How do you respond?**

8 A. Staff has not assigned a salary to Ms. Thompson, but an hourly rate. These are two different
9 designations for pay, as one has the ability to receive overtime pay (one and one-half times
10 the hourly rate excess 40 hours in a payroll week), the other does not. If Ms. Thompson were
11 salaried at the amount Ms. Niemeier suggested, she would make \$108,759 per year. However,
12 as Ms. Thompson is designated as an hourly worker, she received \$41,425 in overtime pay
13 for the test period. Therefore, for Ms. Niemeier to say that staff has assigned a salary to Ms.
14 Thomson is false.

15 **Q. Staff assigned an hourly wage equal to \$108,759 plus overtime of \$41,425 to equal
16 \$150,184 for an annualized wage to be paid to Ms. Thompson. Do you agree with this
17 treatment?**

18 A. No. First, overtime is biased to the year and the amount of work being performed, so to
19 annualize overtime this way would make the rate payers of Raytown pay for overtime wages
20 that may or may not be worked each year. Second, as a vice president, Ms. Thompson should
21 be paid a salary and not an hourly wage.

22 **Q. Do you take issue with Staff Witness, Ms. Niemeier, on the use of the Missouri Economic
23 Research and Information Center (“MERIC”) to justify wages for the employees of
24 Raytown Water Company?**

25 A. Yes and no. Staff basing the prudence of Raytown’s pay when compared to the Missouri
26 Economic Research and Information Center (“MERIC”) report, follows Staff’s general
27 practice to justify wages. However, Ms. Niemeier justifies the amount Ms. Thompson is
28 compensated by saying, “For 2022, the Missouri Economic Research and Information Center

1 (“MERIC”) reported \$166,570 for median pay for chief executive positions in the KC region.”

2 I take issue with this due to Ms. Thompson’s position being that of the vice president of
3 Raytown Water Company, not the chief executive. Currently, Mr. Clevenger is the chief
4 executive.

5 **Q. What is the MERIC level of salary for the vice president in the Kansas City Region?**

6 A. According to the MERIC level of salary for the vice president, which is under the “manager,
7 all others” job title, the annual wage in the KC region was \$123,097 in 2022.

8 **Q. How does the MERIC level of wages for vice presidents compare to Ms. Niemeier’s
9 rebuttal testimony on wages for chief executives?**

10 A. The difference in wage from \$166,570 for the chief executive and \$123,097 for the vice
11 president is \$43,473.

12 **Q. Is it prudent for Ms. Thompson to be paid an hourly rate plus overtime, that when
13 combined, her pay is almost that of a chief executive?**

14 A. No. Ms. Thompson should be paid a wage that more closely relates to the position of a vice
15 president. Typically, vice presidents are paid a salary and are not paid an hourly rate and
16 overtime. Mr. Clevenger is both the president and chief executive and is being compensated
17 as such through his salary.

18 **Q. In response to Staff DR. 0019, Ms. Thompson provides a salaries and position
19 comparisons to justify the compensation of Raytown Water’s employees. What
20 information was presented in the Company’s response?**

21 A. The information presented included Raytown Water’s wages for each full time position, a
22 salary range and job description for each position, employee benefits, and screenshots of
23 similar job postings on Indeed.com and Salary.com for each position. See SR--S-1.

24 **Q. What conclusions can be made from this Company response to DR. 0019?**

25 A. When reviewing this response, I concluded that wages for the majority of Raytown Water’s
26 employees fall within the Company’s comparison of wages with similar job postings or

1 utilities. However, I also found that neither Mr. Clevenger's nor Ms. Thompson's
 2 compensations fall within these comparisons. The pay for Mr. Clevenger and Ms. Thompson
 3 is above the expected pay relative to the position they hold based on the response to DR. 0019.
 4 Additionally, when overtime is included, two additional employees fall outside the
 5 comparative ranges. The table below shows all fulltime employees that fall out of the
 6 comparative hourly salary ranges:

EMPLOYEE NAME	Position - Full Time Employees	Hourly Pay	Annualized pay with known SS COLA %	Overtime	Annualized payroll to include overtime	Company start salary and ranges - Title	Comparative salary and ranges - Hourly Salary Range	High end annual salary based on salary ranges	Annual pay outside of comparative salary range (excluding overtime)	Annual pay outside of comparative salary range (including overtime)
Neal Clevenger	President/General Manager	Salary	\$158,311	\$0	\$158,311	Manager	Annually \$100,000 - \$134,000	\$134,000	YES	YES
Chikako Thompson	Customer Service Representative/Billing Clerk/HR Tech/Corp Liaison/Vice President	\$52.28	\$108,759	\$41,425	\$150,184	Office Manager	\$42.00 - \$48.00	\$99,840	YES	YES
Leslie Smart	Sr Accounting Clerk	\$37.41	\$77,813	\$8,768*	\$86,581	Accounting Clerk	\$33.00 - \$41.00	\$85,280	NO	YES
Erica Baier-Ross	Sr Customer Service/Admin Assistant	\$25.51	\$53,071	\$5,783	\$58,854	Customer Service	\$21.00 - \$26.00	\$54,080	NO	YES

7
 8 **Q. What are you recommending be done with annualized payroll for this rate case?**

9 A. I recommend that the Commission disallow overtime pay that is being annualized for Ms.
 10 Thompson. I will further state, that overtime for all office employees with a managerial or
 11 senior role be disallowed from annualized payroll. As stated above, overtime is biased to the
 12 year and work being performed in that year. So why make rate payers pay an annualized
 13 amount of overtime that has the possibility to not occur.

14 **Q. What additional employees and their overtime amounts are you recommending
 15 annualized overtime be disallowed from?**

16 A. The additional employees are Leslie Smart and Erica Baier, with overtime amounts of \$8,768
 17 and \$5,783, respectively.

1 **Q. Do you have any further recommendations regarding hourly versus salary for Ms.**
2 **Thompson?**

3 A. Yes. I recommend that Raytown Water's vice president position be a salary position and not
4 paid an hourly wage. Furthermore, I recommend the managerial and senior positions who
5 work in the office at Raytown Water Company be paid a salary wage instead of an hourly
6 wage. To be clear, it is not my recommendation that the Commission order Raytown to pay
7 these employees as salaried employees rather than hourly, rather, it is my recommendation
8 that the revenue requirement ordered by the Commission should only include compensation
9 amounts as if these employees were salaried. In this way, the Commission will not dictate
10 how the Company is to pay its employees, but it will ensure rates are just and reasonable.
11 Raytown is free to continue paying these employees hourly if it so chooses, but that choice
12 will no longer burden ratepayers.

13 **Q. Does this conclude your surrebuttal testimony?**

14 A. Yes it does.

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


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

AFFIDAVIT OF MANZELL PAYNE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

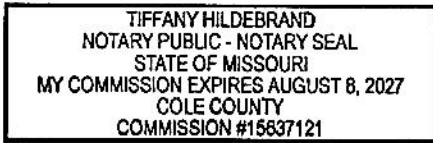
Manzell Payne, of lawful age and being first duly sworn, deposes and states:

1. My name is Manzell Payne. I am a Utility Regulatory Auditor for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

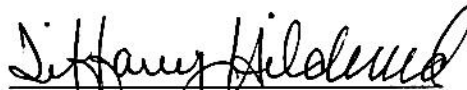


Manzell Payne
Utility Regulatory Auditor

Subscribed and sworn to me this 8th day of November 2023.



My Commission expires August 8, 2027.



Tiffany Hildebrand
Notary Public