

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

In the Matter of the Joint Application of Rogue )  
Creek Utilities, Inc. and Missouri-American )  
Water Company, for MAWC to Acquire ) Files Nos. WM-2019-0018  
Certain Water and Sewer Assets of Rogue ) SM-2019-0019  
Creek Utilities, Inc. )

**MAWC REPLY TO OPC RESPONSE**

**COMES NOW** Missouri-American Water Company (MAWC) and, as in reply to the *OPC's Response to Staff's Recommendation*, states as follows to the Missouri Public Service Commission (Commission):

1. MAWC filed a Joint Application in this matter on July 24, 2018. Permission is sought for MAWC to own and operate the water and sewer assets of Rogue Creek Utilities Inc., ("Rogue Creek"). The Rogue Creek water and sewer systems serve approximately 82 residential homes or lots. Among other things, the Joint Application proposed that the Rogue Creek water customers be charged those rates currently applicable to the service area described in MAWC's tariff as "All Missouri Service Areas Outside of St. Louis County and Outside of Mexico" and that the Rogue Creek sewer customers be charged those rates currently applicable to MAWC's "Cedar Hill" customers.

2. Rogue Creek was administratively dissolved by the Corporation Division of the Missouri Secretary of State on December 30, 2004. The Cole County Circuit Court first appointed a Receiver for Rogue Creek in November of 2007, in the matter of *Public Service Commission of the State of Missouri v Rogue Creek Utilities Inc.*, Cole County Circuit Court Case No. 07AC-CC00682. The Court determined therein that it was not in the best interests of customers that control and responsibility for the utilities developed and owned by Rogue Creek

be returned to the owners of Rogue Creek and therefore directed the Receiver to ultimately transfer by sale or liquidate the assets of the utility as provided by law.

3. As further described by the Joint Application, MAWC has been working closely with the Rogue Creek Homeowners Association (“HOA”) for over two years. This included communication of the intent to utilize MAWC’s rates. In December 2017, the HOA conducted an election where its members voted 122-12 (2 abstaining) in favor of selling the water and wastewater systems to MAWC.

4. MAWC has operated the systems, made improvements to the systems, and agreed to purchase the systems after being encouraged to do so by representatives of the Office of the Public Counsel, the Department of Natural Resources, Missouri Attorney General, U.S. Environmental Protection Agency, and the Staff of the Commission.

5. Since it began operating the system, MAWC has worked closely with the Department of Natural Resources and for the first time in years, lead levels in the Rogue Creek drinking water system reached acceptable levels for consumption. MAWC has invested time and resources since March 2017, in order to bring about improvements to the system. However, there is quite a bit more work to do with both the water and wastewater systems.

6. On August 24, 2018, Staff filed its recommendation to grant the Joint Application. MAWC has no objection to the Staff Recommendation or the conditions found therein. On September 4, 2018, the Office of the Public Counsel (“Public Counsel”) filed a response to Staff’s Recommendation. Public Counsel argued for different rate treatment for Rogue Creek’s customers than that proposed by MAWC and recommended by Staff.

7. Public Counsel asks that the Commission “approve the acquisition maintaining Rogue Creek’s existing rates until the general rate proceeding, or in the alternative, apply the City of Lawson rates for water and sewer . . . .” Public Counsel does not ask for a hearing.

8. Public Counsel represents that the basis for its rates proposal is found in the arguments and Commission decision concerning MAWC’s acquisition of the City of Lawson water and sewer systems in File No. WA-2018-0222.<sup>1</sup>

9. Public Counsel represents that it seeks a “just outcome” and that “justice requires equitable treatment for similar actors.” (OPC Resp., para. 7, 15) Setting aside Public Counsel’s basic premise that it is possible for any two acquisitions to be similarly situated, an examination of the City of Lawson and Rogue Creek systems reveals that these two situations are anything but similar:

<b>SUBJECT</b>	<b>CITY OF LAWSON</b>	<b>ROGUE CREEK</b>
Entity in Good Standing?	Yes	No. Dissolved.
Customers	933 water/ 871 sewer	82 water/ 82 sewer
Actively managed by Seller?	Yes	No. In receivership for 11 years, with 3 different receivers.
Investment by MAWC prior to acquisition to address lead levels that exceed allowable levels	No	Yes
Source of water supply	Purchased water from Excelsior Springs	Single well with lead levels that require removal
Wastewater treatment	Lagoons	Activated sludge plant in need of overhaul
Customer profile	Permanent customers with year-round usage	Large number of recreational customers with higher summer time usage

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<sup>1</sup> Public Counsel also makes a variety of speculative allegations regarding MAWC’s actions and motivations in regard to the City of Lawson systems that do not require a response as they are not relevant to this matter.

10. There is no reason to delay the acquisition proposed by the Joint Application and recommended by the Staff, to include the use of MAWC's existing rates for the Rogue Creek water and sewer customers.

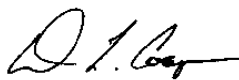
**WHEREFORE**, MAWC respectfully requests that the Commission issue its order:

(A) authorizing Rogue Creek to sell and MAWC to acquire the assets of Rogue Creek identified herein, to include the certificates held by Rogue Creek or, in the alternative, grant MAWC new certificates to provide water and sewer service in the areas now served by Rogue Creek;

(B) authorizing MAWC to enter into, execute and perform in accordance with the terms described in the Agreement attached to this Joint Application and to take any and all other actions which may be reasonably necessary and incidental to the performance of the acquisition; and,

(C) granting such other relief as may be deemed necessary and appropriate to accomplish the purposes of the Agreement and the Joint Application and to consummate related transactions in accordance with the Agreement.

Respectfully submitted,



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**MISSOURI-AMERICAN WATER COMPANY**

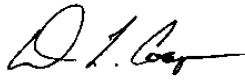
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ATTORNEYS FOR MISSOURI-AMERICAN  
WATER COMPANY

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 11<sup>th</sup> day of September, 2018, to:

Jacob Westen General Counsel's Office <a href="mailto:staffcounsel@psc.mo.gov">staffcounsel@psc.mo.gov</a> <a href="mailto:jacob.westen@psc.mo.gov">jacob.westen@psc.mo.gov</a>	Hampton Williams Office of the Public Counsel <a href="mailto:opcservice@ded.mo.gov">opcservice@ded.mo.gov</a> <a href="mailto:Hampton.Williams@ded.mo.gov">Hampton.Williams@ded.mo.gov</a>
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