

# Exhibit No. 4

Exhibit No.:  
Issues: Eureka Acquisition  
Witness: Joseph E. Batis  
Exhibit Type: Surrebuttal  
Sponsoring Party: Missouri-American Water Company  
Case No.: WA-2021-0376  
Date: December 17, 2021

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO. WA-2021-0376**

**SURREBUTTAL TESTIMONY**

**OF**

**JOSEPH E. BATIS**

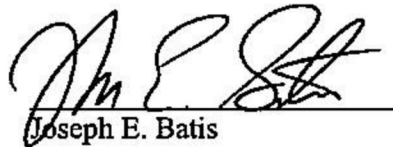
**ON BEHALF OF**

**MISSOURI-AMERICAN WATER COMPANY**

Exhibit No. 4  
Date 1/20/22 Reporter Bjt  
File No. \_\_\_\_\_

**AFFIDAVIT**

I, Joseph E. Batis, under penalty of perjury, and pursuant to Section 509.030, RSMo, state that I am President of Edward J. Batis & Associates, Inc., that the accompanying testimony has been prepared by me or under my direction and supervision; that if inquiries were made as to the facts in said testimony, I would respond as therein set forth; and that the aforesaid testimony is true and correct to the best of my knowledge and belief.

  
Joseph E. Batis

December 17, 2021

Dated

**SURREBUTTAL TESTIMONY  
JOSEPH E. BATIS  
MISSOURI AMERICAN WATER COMPANY  
CASE NO.: WA-2021-0376**

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**SURREBUTTAL TESTIMONY**

**JOSEPH E. BATIS**

**I. INTRODUCTION**

1

2 **Q. Please state your name and business address.**

3 A. Joseph E. Batis, and my business address is 313 N. Chicago Street, Joliet, IL 60432.

4 **Q. Are you the same Joseph E. Batis who previously submitted direct testimony in this**  
5 **proceeding?**

6 A. Yes.

7 **Q. What is the purpose of your Surrebuttal Testimony?**

8 A. I have read the rebuttal testimony filed in this case and will respond to certain testimony  
9 provided by the Staff witnesses in regard to the appraisal process.

**II. RESPONSE TO STAFF TESTIMONY**

10

11 **Q. On p. 2 of his Rebuttal Testimony, Staff witness Curt Gateley states, in part, as**  
12 **follows:**

13 . . . it is Staff's opinion that the procedure used in this application to  
14 arrive at the proposed purchase price and appraised value relies on  
15 flawed methodology and poor judgement, and does not take into  
16 consideration the intended use of the assets.

17 **Do you believe the appraisal of the Eureka water and sewer assets utilized "flawed**  
18 **methodology and poor judgement"?**

19 A. No. The Eureka appraisal, as stated in my Direct Testimony, meets or exceeds the  
20 professional standards established by the Uniform Standards of Professional Appraisal  
21 Practice (USPAP). The assertion by Mr. Gateley is wrong, without foundation or basis,  
22 and inappropriate. The appraisal utilized no flawed methodology and the appraisers did

1 not exercise poor judgement. Based upon my training, education, and experience, I find  
2 no data or market evidence to support the claims asserted by Mr. Gateley.

3 **Q. To your knowledge, does Missouri law require licensure or certification of real estate**  
4 **appraisers?**

5 A. Yes. Section 339.501, RSMo, prohibits any person from acting as a real estate appraiser  
6 or engaging in the business of real estate appraisal without first obtaining a license or  
7 certification issued by the Missouri real estate appraisers' commission.

8 **Q. To your knowledge, does Missouri law require state certified or licensed appraisers**  
9 **to comply with uniform standards?**

10 A. Yes. Section 339.535, RSMo, requires state certified or licensed appraisers to comply with  
11 the Uniform Standards of Professional Appraisal Practice (USPAP).

12 **Q. How would the USPAP apply to the appraisal of the Eureka Water and Sewer**  
13 **systems?**

14 A. As noted above, the Eureka appraisal was completed in accordance with all USPAP  
15 standards. Those same standards would also apply to an appraisal review.

16 **Q. What is an appraisal review?**

17 A. According to the 2020-2021 edition of the Uniform Standards of Professional Appraisal  
18 Practice, an Appraisal Review is defined as follows: "(noun) the act or process of  
19 developing an opinion about the quality of another appraiser's work (i.e., a report, part of  
20 a report, a workfile, or some combination of these), that was performed as part of an  
21 appraisal or appraisal review assignment; (adjective) of or pertaining to an opinion about  
22 the quality of another appraiser's work that was performed as part of an appraisal or  
23 appraisal review assignment."

1 **Q. Did Mr. Gateley and Staff members appear to perform an “appraisal review”, as**  
2 **defined by USPAP, on the work developed by three state-licensed, qualified,**  
3 **competent, professional appraisers?**

4 A. Yes.

5 **Q. Does Mr. Gateley appear to be testifying as an expert in professional appraisals?**

6 A. It does not appear so. According to Mr. Gateley’s Rebuttal Testimony, Mr. Gateley does  
7 not appear to have any formal training, education, practicing experience, or professional  
8 instructor experience relating to real estate appraisal valuation, consulting, or review  
9 services.

10 **Q. Does Mr. Gately, or other Staff members who participated in the Eureka appraisal**  
11 **review hold an appraisal license or certification from the State of Missouri?**

12 A. According to a review of the data provided by the Missouri Division of Professional  
13 Registration, they do not.

14 **Q. How does that contrast with the appraisers that prepared the Eureka appraisal**  
15 **report?**

16 A. Appraisers Dinan, and Goodman-Schneider, and I are state-licensed in Missouri and hold  
17 the Real Estate Appraiser – General Certification. Additionally, Mr. Dinan and I hold the  
18 MAI designation from the Appraisal Institute and Ms. Goodman-Schneider holds the ASA  
19 certification (Machinery and Technical Specialties – Public Utilities. Mr. Dinan holds the  
20 designation of Counselor of Real Estate of the National Association of Realtors – which is  
21 available by invitation only.

22 I also hold the AI-GRS designation from the Appraisal Institute. The AI-GRS designation  
23 is conferred upon members of the Appraisal Institute that have demonstrated, through

1 experience and education, a proficiency in the area of developing appraisal reviews.

2 **Q. Have you had the opportunity to instruct in this field?**

3 A. Yes. I have developed and presented a seminar for professional real estate appraisers on  
4 the fundamentals and methodology for appraising water and wastewater utility systems.  
5 The methodology employed for the Eureka appraisal is consistent with the Missouri-  
6 approved seminar material I developed and presented for continuing education credits for  
7 professional appraisers in the State of Missouri.

8 **Q. Did the State of Missouri approve the seminar you developed, *The Valuation of Water*  
9 *and Wastewater Utility Systems*, for continuing education hours for professional,  
10 state-certified real estate appraisers?**

11 A. Yes.

12 **Q. How would you summarize the qualifications of the appraisers?**

13 A. The three appraisers that participated in the Eureka appraisal are individually and  
14 collectively well-qualified, experienced in all types of valuation assignments, and have  
15 extensive training in USPAP (mandatory participation in USPAP and USPAP update  
16 educational offerings).

17 Moreover, it should be noted that the Missouri Appraisal Licensing Act requires all real  
18 estate appraisers complete a minimum seven (7) hour course on USPAP and all appraisers  
19 must complete a USPAP update course during each two-year license renewal period.  
20 (Batis, Dinan, and Goodman-Schneider have satisfied this USPAP requirement.)

21 **Q. Did the appraisal take into account the “intended use of the assets” as suggested by**  
22 **Mr. Gateley?**



1 A. Only to a certain extent. Certainly, they were viewed as assets that were part of water  
2 distribution and sewer collection systems. However, as explained in my Direct Testimony,  
3 the Eureka appraisal was prepared based upon the property “as is”. It is a direct violation  
4 of USPAP to appraise a property “as is” and to include future/hypothetical conditions.

5 **Q. On pages 2-3 of her Rebuttal Testimony, Staff witness McMellen discusses the “sales  
6 comparison approach.” What is the sales comparison approach?**

7 A. The sales comparison approach is one of the three traditional valuation approaches utilized  
8 by competent, professional, state-certified, real estate appraisers. It is an approach to value  
9 that relies on the principle of substitution as stated and defined on Page 46 of the Eureka  
10 appraisal report.

11 **Q. How is it utilized in this appraisal?**

12 A. As explained in the Eureka appraisal report, the sales comparison approach was applied  
13 and resulted in the reliance on several market transactions involving the acquisition of  
14 water and wastewater utility systems. In each case, the respective sale property was  
15 analyzed, researched, confirmed, and compared to the subject property system.

16 **Q. Ms. McMellen states (Reb., p. 3) that “Staff determined that the result in this case of  
17 the sales comparison approach, particularly for the water assets, was far outside the  
18 range of values included in Mr. Batis’ Schedule JEB-2, page 75 showing the purchase  
19 price per customer for other properties.” Would you provide some context for how  
20 the appraised prices of the Eureka water and sewer systems related to the sales  
21 comparisons?**

22 A. First, to state that an appraisal opinion is incorrect or flawed because it exceeds the prices  
23 of the comparable is not only inappropriate, but inconsistent with the fundamental rules of

1 our profession, namely USPAP that requires the opinion of value be developed objectively  
2 and without bias or based on pre-determined conclusions – such as a limitation or  
3 restriction on the value conclusion.

4 As shown on pages 69 and 70 of the Eureka appraisal report, our water system analysis  
5 took into account 15 transactions involving the acquisition of water system assets.  
6 Including the sales that involved systems of more than 550 customers, the average unit  
7 price was \$3,416 per customer and the highest unit value was \$4,157. Our conclusion of  
8 value for the subject property water system was \$4,500 per customer.

9 As shown in the exhibits on pages 71 and 72 of the Eureka appraisal report, our analysis  
10 of the sewer system found average unit prices from the comparable sales were \$2,920 for  
11 all of the sales and \$2,782 for the group of sales after elimination of sales under 500  
12 customers and over 9,000 customers. The unit value for the subject property concluded by  
13 the three appraisers was \$2,500 per customer, which is below the averages illustrated in  
14 the two exhibits.

15 For the conclusion of value for both the water and sewer systems, the analysis of the market  
16 data takes into account the locations of the properties, the market conditions which  
17 prevailed when the comparable properties were sold, and the physical components of the  
18 properties.

19 With respect to the physical components, attributes are weighed based upon the degree of  
20 similarity observed between a comparable sale and the subject property. The analysis takes  
21 into account the number of connections, the length of mains, and the type of treatment  
22 facilities. Also given weight is the condition of the improvements, the age of the  
23 improvements, and the level of capital improvements that were made in the years prior to

1 the acquisition. For purposes of analyzing the physical condition of system components,  
2 emphasis is placed on condition/assessment reports (as available by the system operators  
3 or communities in which they are located and by whom they are owned), engineering  
4 reports and inventory lists, and other reports and documents as available. Bracketing of  
5 market data by size of the system (and the number of connections) also is also considered  
6 in determining the appropriate unit values applicable to the subject property systems.

7 **Q. How do the combined water and sewer system valuations compare to the data?**

8 A. A view of the combined water and sewer systems is found on page 73 of the Eureka  
9 appraisal report. This section provides additional analysis and explanation regarding the  
10 valuation of the water and wastewater systems combined. The average unit price is found  
11 to be \$2,890 per customer and the mean unit price \$3,100 per customer. The conclusion  
12 of value for the Eureka system, based on the systems combined, is \$3,500 per customer.  
13 Based upon the research, confirmation, and analysis of the data, I believe the conclusion is  
14 reasonable and supported.

15 **Q. Why was there a difference between the water and sewer systems?**

16 A. The different unit values applicable to the subject water and wastewater systems result  
17 from the individual assets as compared to the relevant market data. For instance, the  
18 valuation of the subject water system assets is developed based upon market data for water  
19 systems, and is developed independent of the wastewater system valuation. Likewise, the  
20 unit value concluded for the subject property wastewater system as an independent entity  
21 is developed based upon an analysis of wastewater system sales data. There is no  
22 correlation between the unit values of the two respective subject property systems because:  
23 (1) they are different types of assets; and, (2) the value opinions are based upon different

1 sets of relevant market data.

2 **Q. Staff witness McMellen further states (Reb., p. 3) that “Using a number higher than**  
3 **any of the other comparable per water customer numbers for other properties is not**  
4 **justified, especially since MAWC only intends to use the source of water assets as a**  
5 **backup and will construct a new source of supply.” How do you respond to this**  
6 **statement?**

7 **A. First, it should again be remembered that there is both a water system and a sewer system**  
8 **that are the subject of the appraisal. Ms. McMellen’s statement only purports to address**  
9 **the water system. However, beyond that, it is important to be mindful of the appraisal**  
10 **perspective. Appraisals can be prepared “as is” or based upon a number of extraordinary**  
11 **assumptions and hypothetical conditions. The subject appraisal was developed based upon**  
12 **the system “as is” as of the effective date of value. To use the analogy of Mr. Gateley and**  
13 **the purchasing of a used vehicle, consider the following: If the vehicle has a certain value**  
14 **(say, \$10,000), but the buyer intends on using the vehicle for parts and scrapping the**  
15 **vehicle, should the seller accept less money? Of course not. The value of the car is \$10,000**  
16 **– regardless of what the buyer will do after the acquisition. The same principle holds for**  
17 **the valuation of the subject property. Ms. McMellen’s theory contradicts the most basic**  
18 **and fundamental valuation principles – whether it be a wastewater utility system or the car**  
19 **Mr. Gateley was assuming.**

20 **Q. Does this conclude your Surrebuttal Testimony.**

21 **A. Yes, it does.**

