Exhibit No.: Issues: Witness: Exhibit Type: Sponsoring Party: Case No.: Date:

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Property Tax Expense AAO John R. Wilde Direct Missouri-American Water Company WU-2017-0351 September 11, 2017

#### MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. WU-2017-0351

FILED

NOV 1 4 2017

### Missouri Public DIRECT TESTIMONY Service Commission

OF

#### JOHN R. WILDE

#### **ON BEHALF OF**

#### MISSOURI-AMERICAN WATER COMPANY

MAWC-Exhibit No. LateN-08-17 Reporter XF File No. 2017-0351

#### BEFORE THE PUBLIC SERVICE COMMISSION

#### OF THE STATE OF MISSOURI

IN THE MATTER OF THE APPLICATION OF	)
MISSOURI-AMERICAN WATER COMPANY	)
FOR AN ACCOUNTING AUTHORITY ORDER	) FILE No. WU-2017-0351
RELATED TO PROPERTY TAXES IN ST.	)
LOUIS COUNTY AND PLATTE COUNTY	)

#### **AFFIDAVIT OF JOHN R. WILDE**

John R. Wilde, being first duly sworn, deposes and says that he is the witness who sponsors the accompanying testimony entitled "Direct Testimony of John R. Wilde"; that said testimony and schedules were prepared by him and/or under his direction and supervision; that if inquiries were made as to the facts in said testimony and schedules, he would respond as therein set forth; and that the aforesaid testimony and schedules are true and correct to the best of his knowledge.

John R. Wilde

State of New Jersey County of Camden SUBSCRIBED and sworn to Before me this  $\frac{\sqrt{4h}}{\sqrt{4h}}$  day of  $\frac{\int chfch day}{\sqrt{2017}}$ .

My commission expires:

SHARIFAH HILTON NOTARY PUBLIC OF NEW JERSEY My Commission Expires 4/25/2022

#### DIRECT TESTIMONY JOHN R. WILDE MISSOURI-AMERICAN WATER COMPANY CASE NO. WU-2017-0351

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#### DIRECT TESTIMONY

. . .

### JOHN R. WILDE

1		I. <u>INTRODUCTION</u>
2	Q.	Please state your name and business address.
3	A.	My name is John R. Wilde, and my business address is 131 Woodcrest Road, Cherry
4		Hill, New Jersey 08003.
5		
6	Q.	By whom are you employed and in what capacity?
7	A.	I am employed by American Water Works Service Company, Inc. ("Service
8		Company") as Senior Director - Tax. The Service Company is a subsidiary of
9		American Water Works Company, Inc. ("American Water") that provides support
10		services to American Water's other subsidiaries, including Missouri-American Water
11		Company, Inc. ("Missouri-American" or "Company").
12		
13	Q.	What are your duties as Senior Director - Tax?
14	А.	My duties include management and oversight of the corporate tax function for
15		American Water and its consolidated subsidiaries including Missouri-American.
16		
17	Q.	Please summarize your educational background and professional experience.
18	A.	I graduated from Saint Norbert College, De Pere, Wisconsin, in 1984 with a Bachelor
19		of Business Administration Degree in Accounting. I have a graduate certificate in state
20		and local taxation, as well as a Master of Science Degree in Taxation from the
21		University of Wisconsin-Milwaukee. I have over 30 years of experience as a tax and

1		accounting professional serving utilities with regulated operations in multiple states.
2		For the 15 years before my employment with Service Company, I was the head of the
3		tax function for Integrys Energy Group, Inc (now WEC Energy Group, Inc.), that
4		included six utilities with operations in four states.
5		
6	Q.	Have you previously testified before this Commission or any other regulatory
7		agencies?
8	A.	I submitted direct testimony in the Company's pending water and sewer rate cases
9		(Case No. WR-2017-0285 and Case No. SR-2017-0286). I have previously testified
10		before Federal Energy Regulatory Commission ("FERC"), the Public Service
11		Commission of Wisconsin, the Michigan Public Service Commission, the Minnesota
12		Public Utilities Commission, the Illinois Commerce Commission, the Virginia State
13		Corporation Commission, and the Pennsylvania Public Utility Commission.
14		
15	Q.	What is the purpose of your testimony in this proceeding?
16	A.	The purpose of my testimony is to support and explain the Company's application for
17		an accounting authority order ("AAO") whereby the Company would: 1) be authorized
18		to record on its books a regulatory asset, which represents the increase in Missouri
19		property taxes for the counties of St. Louis and Platte associated with the counties'
20		change in the calculation of Modified Accelerated Cost Recovery ("MACRs") class
21		lives; and 2) maintain this regulatory asset on its books until the effective date of the
22		Report and Order in Missouri-American's next general rate proceeding and, thereafter,

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#### II. OVERVIEW OF CHANGES TO THE COMPANY'S PROPERTY TAX ASSESSMENTS AND EXPENSE

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#### Q. Please describe the Company's property tax obligations.

5 A. Missouri-American pays property taxes in 24 Missouri counties. Missouri American 6 property is broken into classifications pursuant to definitions provided for in the statute, 7 and assessed by the respective county at the percentage of fair value assigned by statute to that classification of property. A tax rate applicable to that classification of property 8 9 is then applied by the taxing jurisdiction within the county, and Missouri-American 10 then is billed. Property is assessed as of January 1 of the tax year and payable by 11 December 31 of the same year. Chapter 137 of Missouri Revised Statutes covers the Assessment and Levy of Property Taxes. 12

13

# 14 Q: Have there been any unique or extraordinary changes in the property tax 15 assessments on the Company in St. Louis County in 2017?

16 A: Yes. In assessing Missouri-American's property for 2017, St. Louis County has 17 indicated that in 2017 it will move a significant portion of the Company's property to 18 a 15-year MACRs class life from the 7-year MACRs class life it has used for over the 19 past 10 plus years. St. Louis County has further indicated that for 2018 it will transition 20 that property to a 20-year MACRs class life. Schedule JRW-1 sets forth the Company's 21 property in St. Louis County that will be moved from a 7-year MACRs class life to a 15-year class life in 2017 and a 20-year MACRs class life in 2018. These unexpected 22 changes will result in a significant increase in the assessed value of Missouri-23 24 American's property and thus a significant increase in Missouri-American's property 25 tax obligation.

1 2 **O**: Did the Company also experience other unique or extraordinary changes in the 3 property tax assessment in Platte County in 2017? 4 Yes, in assessing Missouri-American's property for 2017, Platte County has indicated A: 5 that it will move a significant portion of property to a 50-year life from the 20-year 6 MACRs class life it had been using for over 10 years. In addition, Platte County has 7 begun to assess the Company's Construction Work in Progress ("CWIP") for the first 8 time in 2017. Schedule JRW-2 sets forth the Company's property in Platte County 9 that will be moved from a 20-year MACRs class life to a 50-year MACRs class life, 10 the change in CWIP assessment is also shown. 11 12 When did the Company become aware of these property tax assessment changes? Q: 13 Missouri-American became aware of the changes in St. Louis County on May 31, 2017, A: 14 after receiving an email correspondence from the Company's outside tax preparer, who 15 became aware of the changes during a discussion with the St. Louis County Property 16 Tax Assessor. Missouri-American became aware of the Platte County changes on June 17 6, 2017, during a conference call with the Platte County Property Tax Assessor to 18 discuss the Company's Personal Property Return filing. 19 20 When will these property tax assessment changes become effective? Q: 21 A: Both the St. Louis County and the Platte County changes are effective as of January 22 1, 2017 and thus impact assessments, tax bills, and expense accruals in calendar 23 year 2017.

24

- Q: What impact will the property tax assessment changes have on the Company's
   property tax expense?
- 3 A: The increases resulting from the changes are substantial. As set forth in Schedule 4 JRW-1, these changes will result in an estimated increase of approximately \$4.4 5 million to the Company's property tax obligations in St. Louis County for 2017, 6 and \$6.1 million for 2018; and an estimated increase of approximately \$0.4 million 7 to its property tax obligations in Platte County in each of 2017 and 2018. Therefore, 8 the Company is anticipating that the property tax assessment changes will result in 9 a total property tax expense increase of approximately \$4.8 million in 2017 and 10 \$6.5 million in 2018.
- 11

# 12 Q: Has the Company sought to work with St. Louis and Platte Counties to resolve 13 and minimize its property tax expense?

14 A: Yes. Missouri-American, through outside counsel, informally appealed to the St. 15 Louis County Assessor seeking a transitional approach to move to a 20-year 16 recovery period. The assessor agreed to use a 15-year recovery period for 2017, 17 before moving to a 20-year period for 2018. The Company is currently in the 18 process of evaluating its options and whether a further formal protest is warranted. 19 For Platte County, after trying to work informally with the Platte County Assessor 20 to resolve the Company's concerns, the Company filed an Appeal with the Platte 21 County Board of Equalization. A hearing on that Appeal occurred on July 21, 2017, 22 and on August 18, the Company was informed that the property would be assessed 23 using a 50 year life, and CWIP would be included in the assessment. Having 24 received an adverse decision by the Platte County Board of Equalization, the

1		Company can appeal the decision to the Missouri Tax Commission by September
2		30, 2017 or within 30 days after receiving the decision, whichever is later. The
3		Company also has the option of seeking judicial review of determinations by the
4		Board of Equalization concerning adverse property valuations within 30 days after
5		the final decision by the board.
6		
7	Q:	Is Missouri-American able to challenge the lawfulness of the property tax
8		assessment changes?
9	A:	I have been informed by counsel that Missouri-American may be able to challenge
10		the lawfulness of using a 50-year MACRs class life in the valuation for property
11		taxes as that practice appears to be inconsistent with Missouri statutes, as well as
12		other ground. However, when assessed and upon receiving a final tax bill, the
13		Company is required to pay the challenged taxes "under protest."
14		
15	Q:	When will Missouri-American be required to pay the challenged taxes "under
16		protest?"
17	A:	The Company will need to start making the tax payments beginning in the fall of
18		2017 with all property tax payments related to 2017 assessments due by December
19		31, 2017, including those that Missouri-American chooses to challenge and pay
20		"under protest."
21		
22	Q:	Does the property tax expense that was used for rate setting purposes in
23		Missouri-American's last rate case (WR-2015-0301) or pending rate cases

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1(WR-2017-0285 and SR-2017-0286) account for the increased property tax2expense resulting from the property tax assessment changes?

3 A: No. The property tax expense levels utilized in Missouri-American's last rate case 4 were based on historical levels and thus do not account for the unexpected 5 administrative changes that St. Louis and Platte Counties have made to their 6 property tax assessment methodologies. The Company had no reason to believe 7 that its property tax expenses would suddenly increase significantly beyond the 8 levels incorporated into Missouri-American's current rates. The significant shift in 9 property tax policy was not in effect for the Company's last rate case. The increased 10 property tax expense, therefore, is not built into Missouri-American's current rates, and Missouri-American has no mechanism to recover these significant additional 11 12 property tax expenses.

13

# 14 Q: Does the Company have any ability to control the property tax assessment 15 methodologies used by St. Louis and Platte Counties?

A: No. The change in practice being implemented by the referenced counties results
 from unusual and extraordinary actions of government officials that are beyond the
 control of MAWC's management. The changes the counties are making to their
 property tax assessment methodologies were unpredictable and could not have been
 adequately or appropriately addressed through the ratemaking process.

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#### III. BASIS FOR PROPERTY TAX AAO REQUEST

23 Q: What is an AAO?

1 Α. An AAO is a mechanism used to allow a utility to defer expenses between rate 2 cases to cover items that were not in effect at the time of the last rate case and were 3 generally unforeseen. I have been advised by counsel that it is within the Commission's discretion to determine the circumstances under which an AAO may 4 5 be granted.

6

7

Q:

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### What is your understanding as to the circumstances under which the **Commission may grant an AAO?**

- 8 It is my understanding that the Commission reviews AAO requests on a case-by-A: 9 case basis and AAOs are permitted and appropriate where a utility has incurred 10 some "extraordinary" expense that was not foreseen in the development of the 11 utility's rates. I am also aware that the Commission has stated that it will allow 12 deferrals "when events occur during a period which are extraordinary, unusual and unique, and not recurring."<sup>1</sup> It is my understanding that the Commission has in 13 14 the past issued AAO's for costs "caused by unpredictable events, acts of 15 government and other matters outside the control of the utility or the Commission."<sup>2</sup> 16 The Commission has further stated that it "has periodically granted AAOs and 17 subsequent ratemaking treatment for various unusual occurrences such as flood-18 related costs, changes in accounting standards, and other matters which are 19 unpredictable and cannot adequately or appropriately be addressed within normal budgeting parameters."<sup>3</sup>. 20
- 21 Q.

Has the Commission granted AAOs to utilities in the past?

<sup>&</sup>lt;sup>1</sup> In the matter of Missouri Public Service for the Issuance of an Accounting Order Relating to its Electrical Operations, Case No. EO-91-358 et al., (R&O issued December 20, 1991), 1991 Mo. PSC Lexis 56, p. 11. <sup>2</sup> In the matter of St. Louis County Water Company's Tariff Designed to Increase Rates for Water Service to Customers in the Company's Service Area, Case No. WR-96-263, (R&O issued December 31, 1996), 1996 Mo. PSC Lexis 99, p. 18.

<sup>&</sup>lt;sup>3</sup> Id, 1996 Mo. Lexis 99, p. 19.

A: Yes. The Commission has granted AAOs to various utilities in the past. In fact,
 Missouri-American itself has in the past received AAOs from the Commission.

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Q: Why is an AAO appropriate for Missouri-American's increased property tax
 expense related to St. Louis and Platte Counties' changes in their property tax
 assessment methodologies?

6 A: An AAO is appropriate under the current circumstances because the additional 7 property taxes are: (1) unusual, as the assessment method for calculating MACRs 8 has not been changed by these counties for over ten years; (2) material, as they 9 could amount to approximately 9.6% of Company's 2016 net income; and (3) not 10 included in the cost of service for the Company's current rates. As previously 11 stated, the changes in the property tax assessment methodologies are unusual and 12 the result of extraordinary actions of government officials that are beyond the 13 control of the Company's management. It was impossible for the Company to 14 predict these changes and thus the changes could not have been adequately or 15 appropriately addressed through the ratemaking process. The governmental 16 administrative policy changes here (changes in assessment methodologies) create 17 increased tax liabilities for Missouri-American. Specifically, the Company will be subject to increased property tax expense due to a change in the MACRs class lives 18 19 for certain property, which represents a departure from the prior property tax 20 assessment methodologies used by the relevant counties for over the past ten years. 21 This is the first time in over 10 years that either county has changed the applicable 22 recovery period used to value property, and with respect to Platte County this is the 23 first time any Missouri county has used something other than a MACRS class life 24 and a 50 year recovery and is therefore arguably non-recurring. Thereafter, it will

Page 10 MAWC - DT-JRW

1		be the St. Louis and Platte Counties' known methodology and will be captured in
2		the Company's ongoing rate case forecasts.
3		
4	Q:	Has the Commission granted AAOs under similar circumstances?
5	A:	Yes. In 2005, the Commission granted an AAO to Missouri Gas Energy that
6		allowed it to defer the amount of property taxes incurred as a result of a new Kansas
7		law. The law, which was enacted in 2004, permitted Kansas counties to assess
8		property taxes against the value of natural gas held in storage. Though it
9		acknowledged that "[i]n most cases, the payment of property taxes by a utility
10		would not be a fit subject for an AAO," the Commission found that an AAO was
11		warranted, as the additional property tax expense incurred as a result of the new
12		Kansas law was an "extraordinary" expense. <sup>4</sup>
13	Q:	What would Missouri-American do if the Commission grants its AAO
14		request?
15	A:	If the Commission grants the AAO that Missouri-American requests, Missouri-
16		American would move the new increase in property tax expense for these two
17		counties into a deferred account (Account 18689900 - Regulatory Asset Other). If

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MAWC is successful in challenging any of the new property tax expense, then the deferred amount would be collected as a refund from the taxing authority with no effect on the Company's earnings. If, on the other hand, the legality of a new property tax expense is upheld, the Company has asked the Commission to allow it to recover those deferred costs in its current rate case.

<sup>&</sup>lt;sup>4</sup> In the matter of the Application of Missouri Gas Energy, a Division of Southern Union Company, for an Accounting Authority Order Covering the Kansas Property Tax for Gas in Storage, Case No. GO-2005-0095 (R&O issued September 8, 2005), 2005 Mo. PSC Lexis 1191, p. 21.

Q: Does authority to defer certain amounts also provide that those amounts are
 recoverable through rates?

A: No, granting an AAO for costs associated with the Company's increased property tax expense does not automatically authorize rate recovery for those costs. An AAO simply allows the Company to defer items for later consideration in a general rate case. Thus, an AAO is not an assurance for recovery, only the temporary accounting recognition of a significant, unexpected, and material event. It is up to the Commission to determine whether those deferred costs should be included in rates.

#### 10 Q: What is a possible effect of the Commission denying this AAO application?

A: Without approval from the Commission of this AAO application, the Company will
be denied a chance to recover prudently incurred property tax expense that has
increased above what was authorized in the Company's prior rate case proceeding.
Without the approval, therefore, the Company will not have a reasonable
opportunity to earn the authorized return established in its last general rate case.

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#### 17 Q. Does this conclude your direct testimony at this time?

18 A. Yes, it does.

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Parcel ID	Cone		Value	Value	Value	Value	V 20 0 C	Value
19-4.0-18-200-004-888-000	20	Valution of Distribution Properties at 50 yr vs 20 yr (Mains, Fire Mains, Services, Supply Mains)	67,398	21,567	95,821	30,663	28,423	9,096
19-4.0-18-000-000-888.000	21	Valution of Distribution Properties at 50 yr vs 20 yr .(Mains, Fire Mains, Services, Supply Mains)	314,363	100,596	444,593	142,270	130,230	41,674
20-5.0-21-200-001-888.000	63	Valution of Distribution Properties at 50 yr vs 20 yr (Mains, Fire Mains, Services, Supply Mains)	4,193,994	1,342,078	5,381,906	1,722,210	1,187,912	330,132
19-9.0-32-000-000-888.000	13	Valution of Distribution Properties at S0 yr vs 20 yr (Mains, Fire Mains, Services, Supply Mains)	160,263	51,284	259,727	83,113	99,464	31,829
20-9.0-31-000-000-888.000	72	Valution of Distribution Properties at 50 yr vs 20 yr I (Mains, Fire Mains, Services, Supply Mains)	158, <del>6</del> 74	50,775	240,748	77,039	82,074	26,263
17-8.0-27-000-000-888.000	12	Valution of Distribution Properties at 50 yr vs 20 yr (Mains, Fire Mains, Services, Supply Mains)	15,935	5,419	21,910	7,011	4,975	1,592
19-9.0-29-000-000-888.000	13	Valution of Distribution Properties at 50 yr vs 20 yr (Mains, Fire Mains, Services, Supply Mains)	362,668	116,054	469,211	150,148	106,543	34, <b>094</b>
20-8.0-34-000-000-888.000	18	Valution of Distribution Properties at 50 yr vs 20 yr (Mains, Fire Mains, Services, Supply Mains)	7,554,744	2,449,518	11,527,458	3,688,787	3,872,714	1,739,269
23-2.0-09-000-000-888.000	23	Valution of Distribution Properties at 50 yr vs 20 yr (Mains, Fire Mains, Services, Supply Mains)	5,861,416	1,875,653	10,042,130	3,213,482	4,180,714	1,337,829
Parkville #84729	18	Valuation of Business Personal Properties with CWIP Included	2,478,610	825,377	5,319,404	1,772,957	2,840,794	947,580
Riverside #373546	23	Valuation of Business Personal Properties with CWIP Included	1,433,713	477,452	1,492,014	497,288	58,301	19,836
TOTALS	5		22,702,778	7,315,774	35,294,922	11,384,968	12,592,144	4,069,194