

Exhibit No. 131

Exhibit No.:
Issue(s): *Corrections and Updates to
Staff's Direct Filing, Tax
Cuts and Jobs Act of 2017
Tracker, Income Tax
Expense*
Witness: *Keith D. Foster*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Surrebuttal Testimony*
Case No.: *WR-2022-0303*
Date Testimony Prepared: *February 8, 2023*

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL & BUSINESS ANALYSIS DIVISION

AUDITING DEPARTMENT

SURREBUTTAL TESTIMONY

OF

KEITH D. FOSTER

MISSOURI-AMERICAN WATER COMPANY

CASE NO. WR-2022-0303

Jefferson City, Missouri
February 2023

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SURREBUTTAL TESTIMONY
OF
KEITH D. FOSTER
MISSOURI-AMERICAN WATER COMPANY
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1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **KEITH D. FOSTER**

4 **MISSOURI-AMERICAN WATER COMPANY**

5 **CASE NO. WR-2022-0303**

6 Q. Please state your name and business address.

7 A. Keith D. Foster, 200 Madison Street, Suite 440, Jefferson City, MO 65101.

8 Q. By whom are you employed and in what capacity?

9 A. I am a Utility Regulatory Audit Supervisor for the Missouri Public Service
10 Commission (“Commission”), a member of Commission Staff (“Staff”).

11 Q. Are you the same Keith D. Foster who filed direct testimony on
12 November 22, 2022, and rebuttal testimony on January 18, 2023, in this case?

13 A. Yes, I am.

14 **EXECUTIVE SUMMARY**

15 Q. Please summarize your rebuttal testimony in this proceeding.

16 A. I am sponsoring Staff’s Surrebuttal Accounting Schedules in this proceeding.
17 I also provide in this surrebuttal testimony a list of corrections and updates to Staff’s rebuttal
18 revenue requirement calculation for the Missouri-American Water Company (“MAWC”) in this proceeding. In addition, I respond to the rebuttal testimonies of MAWC witness
19 Jennifer M. Grisham regarding the Tax Cuts and Jobs Act of 2017 (“TCJA”) Excess
20 Accumulated Deferred Income Tax (“EADIT”) tracker and of the Office of the Public
21 Counsel (“OPC”) witness John S. Riley regarding income tax.
22

1 **CORRECTIONS AND UPDATES TO STAFF'S DIRECT FILING**

2 Q. Is Staff aware of corrections and updates that need to be made to Staff's rebuttal
3 revenue requirement?

4 A. Yes. After the rebuttal filing on January 18, 2023, Staff became aware of certain
5 corrections and updates that need to be made to the rebuttal revenue requirement amount.

6 Q. What are the corrections and updates?

7 A. The following issues will be corrected or updated and reflected in Staff's revenue
8 requirement included in Staff's Surrebuttal Accounting Schedules:

- 9 ○ Cash Working Capital – Update to change the expense lag for support
10 services - See Angela Niemeier's surrebuttal testimony for further
11 explanation of the update.
- 12 ○ Payroll, Payroll Taxes, and Employee Benefits – Corrections to the
13 calculations for Employee Benefits for the Defined Contribution Plan -
14 See Courtney Horton's surrebuttal testimony for further explanation of
15 the corrections.
- 16 ○ Capitalized Depreciation – Updates to include capitalized depreciation
17 credits not previously provided by MAWC in the capitalization of
18 depreciation expense - See Courtney Horton's surrebuttal testimony for
19 further explanation of the updates.
- 20 ○ Incentive Compensation – Updates to include the full amount of the
21 Annual Performance Plan for union employees only - See Courtney
22 Horton's surrebuttal testimony for further explanation of the updates.
- 23 ○ PSC Assessment – Update to a one-time three-year average for this case
24 only - See Alexis L. Branson's surrebuttal testimony for further
25 explanation of the update.

- 1 ○ Office Supply and Services Expense – Updates based on updated
- 2 information provided by MAWC - See Alexis L. Branson’s surrebuttal
- 3 testimony for further explanation of the updates.
- 4 ○ Promotional Items – Correction to restore expenses MAWC originally
- 5 misidentified as promotional – See Alexis L. Branson’s surrebuttal
- 6 testimony for further explanation of the correction.
- 7 ○ Pensions and Other Post-Employment Benefits (“OPEBs”) Trackers –
- 8 Corrections to use the correct starting date for the trackers - See Ashley
- 9 Sarver’s surrebuttal testimony for further explanation of the corrections.

10 Q. What is Staff’s revised revenue requirement?

11 A. Staff’s revised revenue requirement is \$70,581,644.

12 **TAX CUTS AND JOBS ACT OF 2017 (“TCJA”) TRACKER**

13 Q. Does Staff have corrections to apply to its direct adjustments for the amortization

14 of Excess Accumulated Deferred Income Tax (“EADIT”) for the TCJA tracker?

15 A. Yes. Staff inadvertently included the five-year amortization of the TCJA

16 tracker balance established in this case as a subtraction to rate base. Staff corrected this in

17 surrebuttal by removing the amount from rate base and including it as an expense item with

18 other amortizations in the Income Statement. Staff also failed to include the TCJA tracker

19 balance in rate base in direct. Staff corrected this in surrebuttal by including the balance as

20 an addition to rate base.

21 Q. On page 7, line 18 through page 8, line 1 of her rebuttal testimony, Ms. Grisham

22 addresses MAWC’s proposal to apply the TCJA tracker balance against the remaining stub

23 period TCJA amortization to include as a customer bill credit. How do you respond?

1 A. Staff is not opposed to entertaining this proposal but would like to have
2 discussions with MAWC representatives to determine if there are any long-range implications to
3 this approach to be considered before reaching agreement.

4 **INCOME TAX EXPENSE**

5 Q. On page 7, lines 14 through 23 of his rebuttal testimony, Mr. Riley discusses
6 Staff's use of the deduction of the repairs expense from net operating income in the calculation
7 of income tax for Staff's revenue requirement. He states that it is "a change in methodology
8 for Staff" and "Staff did not apply repair expenses to income in the 2020 case." How do you
9 respond?

10 A. The "2020 case" he refers to presumably is MAWC's last rate case, Case
11 No. WR-2020-0344. While the repairs deduction was not included in Staff's direct filing, it was
12 included in Staff's rebuttal filing, as I addressed on page 5, lines 11 through 18 of my rebuttal
13 testimony in that case:

14 The Internal Revenue Service (IRS) tax code allows businesses
15 under certain conditions to treat as repair expense for tax purposes
16 qualifying outlays that are capitalized to plant-in-service for book
17 purposes. On this basis, MAWC has chosen to take an immediate
18 deduction for repairs expense on its tax returns in lieu of later reflection of
19 those amounts on its returns through tax depreciation deductions. I did not
20 include a deduction for repairs expense in the income tax calculation
21 for Staff's direct filing, but I am adding it to our rebuttal filing. I am
22 including it as an additional item under Subtractions from Operating
23 Income Before Taxes on Accounting Schedule 11, Income Taxes.

24 Q. On page 8, lines 9 through 10 of Mr. Riley's rebuttal testimony states,
25 "Staff seems to unilaterally apply tax to any additional income calculated outside of the test
26 year." How do you respond?

27 A. Staff calculates its proposed revenue requirement, including the impact of income
28 tax expense, in a consistent manner in almost all of large Missouri investor-owned utility general

1 rate cases. Any incremental increase in a utility's revenue requirement as measured over the
2 utility's test year, update period, or true-up period, that is approved by the Commission results
3 in an increase in the utility's revenues. Any incremental increase in a utility's revenues, all other
4 things being equal, results in an incremental increase in the utility's net income. Any net increase
5 in the net income can be expected to result in a corresponding increase in a utility's income tax
6 expense. Like many other expenses, income tax is an expense recoverable in rates. Therefore,
7 it is appropriate to calculate income tax to incorporate the impact of a utility's increased revenue
8 requirement in order to maintain the "matching principle" of revenues to expenses.

9 Q. In calculating its proposed revenue requirement, does Staff calculate income tax
10 prospectively or retroactively?

11 A. Prospectively, since Staff is calculating a revenue requirement that goes into
12 effect on or before a future operation of law date.

13 Q. Is there any guarantee that a particular utility will have an income tax obligation
14 in a future tax year?

15 A. No, it is impossible to predict with 100 percent accuracy what income tax
16 obligation a utility will have in the future. The same goes with any expense a utility will incur
17 and the revenue it will collect in the future. As with a utility looking for other suppliers or other
18 mechanisms for reducing its expenses in an attempt to achieve its Commission-authorized rate
19 of return, the utility has the right to take advantage of any tax reduction strategies authorized by
20 the Internal Revenue Service in order to reduce its income tax obligation and, therefore, its
21 overall expenses.

22 Q. Is Staff's calculation of income tax expense in this case an example of an
23 adjustment that is "outside the test year?"

Surrebuttal Testimony of
Keith D. Foster

1 A. No. Staff's calculation of net operating income, which is then adjusted as
2 necessary to derive the utility's taxable income, is based on utility test year results as updated in
3 a matched fashion through the end of the true-up period. The resulting income tax expense
4 calculated by Staff is likewise a direct product of the utility's adjusted financial results measured
5 through the end of the true-up period.

6 Q. Does this conclude your surrebuttal testimony in this proceeding?

7 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Missouri-American Water)
Company's Request for Authority to)
Implement General Rate Increase for Water)
and Sewer Service Provided in Missouri)
Service Areas)

Case No. WR-2022-0303

AFFIDAVIT OF KEITH D. FOSTER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW KEITH D. FOSTER and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Surrebuttal Testimony of Keith D. Foster*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



KEITH D. FOSTER

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 2nd day of February 2023.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070



Notary Public