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WR-2022-0303

DIRECT TESTIMONY

OF

ANGELA SCHABEN

Submitted on Behalf of the Office of the Public Counsel

MISSOURI-AMERICAN WATER COMPANY

CASE NO. WR-2022-0303

November 22, 2022

TABLE OF CONTENTS

Testimony	Page
Introduction	1
Affiliate Transactions	3
Service Company Charges	13
Conclusion	31

DIRECT TESTIMONY
OF
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MISSOURI-AMERICAN WATER COMPANY
CASE NO. WR-2022-0303

1 **INTRODUCTION**

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

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

5 **Q. What are your qualifications and experience?**

6 A. Please refer to the Schedule ADS-D-1 attached hereto.

7 **Q. Have you testified previously before the Missouri Public Service Commission?**

8 A. I have prepared and submitted pre-filed testimony, but I have not yet been called to testify
9 before the Public Service Commission of the State of Missouri (the “Commission”). Please
10 refer to the Schedule ADS-D-2 attached hereto for a list of the cases in which I filed pre-
11 filed testimony.

12 **Q. What is the purpose of your testimony?**

13 A. First, to bring attention to affiliate transactions between Missouri American Water Company’s
14 (“MAWC”) parent company, American Water Works Company Inc. (“AWWC” or “American
15 Water”), and American Water Resources Company (“AWRC” or “American Water
16 Resources”). Second, to address anomalies between service company charges and to address
17 points of interest regarding service company charges.

1 **Q. Please summarize your recommendations as presented in the subsequent testimony.**

2 A. Regulated, investor owned water and sewer utilities operate under corporate structures just as
3 complex, if not more so, than regulated, investor owned electric and natural gas utilities
4 operating in the State of Missouri. Therefore, investor owned water and sewer utilities should
5 be held to the same affiliate transaction standards as investor owned electric and natural gas
6 utilities. Missouri ratepayers should also have more control over their personal information
7 and how it's utilized by third parties. Personal information can be purchased and sold and is
8 therefore an asset as defined under current Missouri affiliate transaction rules for electric and
9 natural gas utilities:

10 **20 CSR 4240-20.015(1)(B)** Affiliate transaction means any transaction for the
11 provision, *purchase or sale of any information*, asset, product or service, or portion
12 of any product or service, between a regulated electrical corporation and an affiliated
13 entity, and shall include all transactions carried out between any unregulated
14 business operation of a regulated electrical corporation and the regulated business
15 operations of an electrical corporation. An affiliate transaction for the purposes of
16 this rule excludes heating, ventilating and air conditioning (HVAC) services as
17 defined in section 386.754 by the General Assembly of Missouri.¹

18 Emphasis added

19 **20 CSR 4240-40.015(1)(B)** Affiliate transaction means any transaction for the
20 provision, *purchase or sale of any information*, asset, product or service, or portion
21 of any product or service, between a regulated gas corporation and an affiliated
22 entity, and shall include all transactions carried out between any unregulated
23 business operation of a regulated gas corporation and the regulated business
24 operations of a gas corporation. An affiliate transaction for the purposes of this rule

¹ <https://www.sos.mo.gov/CMSImages/AdRules/csr/current/20csr/20c4240-20A.pdf>

1 excludes heating, ventilating and air conditioning (HVAC) services as defined in
2 section 386.754, RSMo by the General Assembly of Missouri.²

3 Emphasis added

4 **AFFILIATE TRANSACTIONS**

5 **Q. Are regulated water and sewer utilities operating within the State of Missouri currently**
6 **subject to the Commission’s affiliate transaction rules?**

7 A. Currently, the Commission’s affiliate transaction rules are only applicable to investor-owned
8 electric (20 CSR 4240-20.015), natural gas (20 CSR 4240-40.015), and steam heating (20
9 CSR 4240-80.015) utilities in Missouri (“Affiliate Transaction Rules”).³

10 **Q. Are there current dockets open before the Commission that attempt to establish affiliate**
11 **transaction rules for investor-owned water and sewer utilities in Missouri?**

12 A. Yes. Currently, there are at least two open dockets regarding the inclusion of water and sewer
13 utilities in the Commission’s affiliate transaction rules:

AW-2018-0393	In the Matter of the Establishment of a Working Case for the Writing of a New Rule on the Treatment of Customer Information by Commission Regulated Electric, Gas, Steam Heating, Water, and Sewer Utilities and Their Affiliates and Nonaffiliates
AW-2018-0394	In the Matter of the Establishment of a Working Case for the Review and Consideration of a Rewriting and Writing of Existing and New Affiliate Transaction Rules and HVAC Affiliate Transaction Rules

14

² <https://www.sos.mo.gov/CMSImages/AdRules/csr/current/20csr/20c4240-40.pdf>

³ These three rules are essentially the same. The only difference among them is the type of regulated utility to which the rule applies.

1 **Q. How do the two dockets listed above differ?**

2 A. The purpose of AW-2018-0393 is to prevent the misuse of customer information between
3 affiliates, whereas AW-2018-0394 reopens existing affiliate transaction rules for revision with
4 the purpose to create an applicable rule for all regulated utilities operating within the State of
5 Missouri, including water and sewer utilities.

6 **Q. What is the status of these dockets?**

7 A. Both dockets were opened on June 27, 2018, and remain open. The last significant activity in
8 both dockets was in March 2020, with the filing of comments. As a result, at this time, there
9 are no affiliate related protections for regulated water and sewer ratepayers.

10 **Q. Why are affiliate transaction rules necessary for regulated investor owned water and**
11 **sewer utilities, in addition to regulated natural gas, electric, and steam heating utilities?**

12 A. The purpose of the Affiliate Transaction Rules is to prevent regulated utilities from
13 subsidizing their affiliates' operations and providing a financial advantage to them.⁴
14 Typically, regulated investor owned utilities in Missouri, and across the country, are organized
15 in a complex organizational structure consisting of both regulated and unregulated operations
16 which are governed by a parent company. In many cases, corporate structures of investor
17 owned water and sewer utilities are just as complex as investor owned electric and natural gas
18 utilities. Given these complex corporate structures, it is as important to have an affiliate
19 transaction rule applicable to water and sewer utilities, as it is to have an affiliate transaction
20 rule applicable to natural gas, electric, and steam heating utilities.

⁴ Please see Schedule ADS-D-3; Lena Mantle affiliate transaction whitepaper

1 **Q. Do you have a specific example?**

2 A. Yes. MAWC's parent company, AWWC, sits at the top of a corporate organizational structure
3 consisting of multiple holding companies under which both regulated and non-regulated
4 operations are managed as shown in schedule ADS-D-4. The AWWC organizational structure
5 is very complex, rivaling and perhaps exceeding the complex structure of some Missouri
6 regulated gas and electric utilities, yet the Commission's current Affiliate Transaction Rules
7 do not apply to water and sewer operations.

8 **Q. Please provide a specific example of affiliate transactions affecting MAWC customers.**

9 A. AWRC, once a subsidiary of AWWC, targets MAWC ratepayers by sending out direct
10 mailings that notify MAWC's customers of various home services products. Attached as
11 Schedule ADS-D-5 is a letter targeting a MAWC customer in order to sell AWRC products.
12 As will be explained in further detail below, AWWC entered into revenue sharing agreements
13 as a part of the sale of AWRC. Therefore, AWWC continues to receive revenue when AWRC
14 makes certain types of sales. In these instances, it appears then that MAWC ratepayer
15 information is utilized for corporate gain at the parent company level and subsidizes non-
16 regulated operations.

17 **Q. What kind of Missouri ratepayer information does AWRC receive from MAWC?**

18 A. According to Staff DR 0022, attached as Schedule ADS-D-6, MAWC has not provided a
19 customer list to AWRC since 2003. However, based on the direct mailings MAWC's
20 ratepayers have received from AWRC soliciting them for AWRC services, it appears that
21 AWRC has access to Missouri ratepayer data.

1 **Q. If MAWC responded that it has not provided a customer list to AWRC since 2003, what**
2 **are other possible ways for AWRC to acquire MAWC customer data?**

3 A According to the AWRC California consumer privacy rights section,⁵ customer data could be
4 collected and shared through a myriad of processes and interactions. I have attached Schedule
5 ADS-D-7 which is part of the AWRC California consumer privacy rights section entitled “**D.**
6 **Summary of [personal information (“PI”)] we collect, the sources, purpose and parties**
7 **with whom we may share PI.”** It contains the extent to which customer personal information
8 is collected and utilized. In short, AWRC could collect customer data through interactions
9 with call centers, interactions with independent contractors, meter installations, meter
10 consumption data, and mergers and acquisitions, to name a few. This data is “also used for
11 providing customer service, improving our products and services and marketing” and can be
12 shared with other service providers⁶.

13 **Q. Why would American Water Resources have access to customer meter consumption**
14 **data?**

15 A. I do not know. However, I have sent additional data requests to MAWC regarding customer
16 data sharing practices.

17 **Q. You mentioned that you found the information regarding AWRC sources of PI under**
18 **the privacy policy section included specifically for California residents. Why do**
19 **California residents have a section of the AWRC privacy policy written specifically for**
20 **them?**

21 A. California residents are entitled to privacy protections and disclosures regarding how their
22 personal information is collected and used by third parties. California residents also currently
23 have the option to “make an Access Request, Deletion Request or Do Not Sell Request under

⁵ <https://www.awrusa.com/page/privacy-policy/226621>

⁶ <https://www.awrusa.com/page/privacy-policy/226621>

1 [AWRC's] Privacy Policy and in accordance with the California Consumer Privacy Act"
2 by visiting the [Customer Privacy](#) website and selecting a customized level of data privacy.⁷

3 **Q. Is it reasonable to assume that Missouri customer data is collected in a similar manner**
4 **as California residents?**

5 A. I believe so. AWRC has active customer contracts in states all over the country. Employing
6 different data collection methods for different states does not follow consistent practices. In
7 theory, consistency leads to more uniform and efficient operations.

8 **Q. Do Missouri customers currently have the option to “make an Access Request, Deletion**
9 **Request or Do Not Sell Request” by visiting the [Customer Privacy](#) website and**
10 **selecting a customized level of data privacy?**

11 A. No. At this time, only California customers can access their own personal information from
12 this privacy portal. Missouri customers do not have the right to delete their personal
13 information that's not required for essential services. Missouri customers also do not have the
14 right to opt-out of targeted advertising, nor do they have the right to request that their data not
15 be sold to third parties. I have attached examples in schedule ADS-D-8.

16 **Q. Does the State of California enforce standards related to California American Water's**
17 **affiliate transactions?**

18 A. Yes. The affiliate transaction rule relating to California American Water is D.02-12-068

19 **Q. Do Missouri residents and ratepayers deserve the right to manage how their personal**
20 **information is used by utilities and third party affiliates?**

21 A. Absolutely. It is difficult to believe that consumer data protections and privacy rules for
22 ratepayers are not already in effect. Personal information is an asset. Personal information can

⁷ [Customer Market Home Page - Customer Privacy Portal \(service-now.com\)](#)

1 be bought and sold like any other commodity. There is value in personal information. For
2 instance, on average, the cost of a data breach rose by 10% from 2020 to 2021 with the energy
3 industry ranked fifth in data breach costs.⁸ Social engineering, system intrusion, and web
4 application attacks made up 98% of energy data breaches in 2021.⁹ Even as defensive
5 capabilities advance, offensive methods evolve as well, resulting in a perpetual game of cat
6 and mouse. Missouri ratepayers deserve to know how their individual personal data is
7 collected and used by their service providers and have a right to the peace of mind that they
8 can manage their own personal data. In addition, if customer information has been provided
9 to AWRC in the past at no cost or at a cost lower than market value, then the revenue
10 requirement in this case should be reduced to account for the value of the information that was
11 received.

12 **Q. How did MAWC respond to Staff when asked what level of revenue that American**
13 **Water Resources received from MAWC customers?**

14 A. The Company responded with the following:

15 On July 18, 2022, MAWC objected to part (c) of the data request for the following
16 reasons: a) the responsive information is not relevant to the subject proceeding, not
17 proportional to the needs of the case considering the totality of the circumstances, nor
18 reasonably calculated to lead to the discovery of admissible evidence in that it requests
19 information about a company that is not regulated by the Missouri Public Service
20 Commission; and, b) the information is beyond MAWC's possession, custody, and
21 control.

⁸ <https://securityintelligence.com/articles/cost-data-breach-energy-utilities/>

⁹ <https://www.verizon.com/business/resources/reports/dbir/2021/data-breach-statistics-by-industry/energy-utilities-data-breaches/>

1 **Q. Did Staff request this information in MAWC’s 2020 rate case, WR-2020-0344?**

2 A. Yes. The Company objected at that time as well, as shown in Schedule ADS-D-9.

3 **Q. If the Affiliate Transaction Rules included water and sewer utility companies, would**
4 **enforceable standards have been in place to require MAWC to transparently disclose**
5 **the profit made by AWRC from MAWC customer information assets?**

6 A. I believe so. However, the Affiliate Transaction Rules do not include water and sewer utilities.
7 Therefore, enforceable standards do not exist.

8 **Q. Was American Water Resources still owned by AWWC during the 2020 rate case,**
9 **WR-2020-0344?**

10 A. Yes. AWWC owned American Water Resources through December 9, 2021, when AWRC
11 was sold to funds managed by Apax Partners LLP (“Apax”) for approximately 1.275 billion.
12 Highlights of the sale are listed below:

- 13 • American Water agrees to sell its Homeowner Services Group to funds advised
- 14 by Apax Partners LLP (“Apax”) in a deal valued at \$1.275 billion.
- 15 • At closing, American Water will receive \$480 million in cash and a \$720
- 16 million secured Seller’s Note bearing a 7% annual interest rate with a five-year
- 17 term.
- 18 • Additional purchase price of \$75 million if certain milestones are met.
- 19 • American Water also enters into revenue sharing agreements on revenue
- 20 generated from on-bill billing arrangements with American Water customers.
- 21 • American Water’s core regulated business strengthened as cash proceeds from
- 22 the transaction will be redeployed into the regulated water and wastewater
- 23 businesses in near- and long-term.
- 24 • Proposed sale further narrows market-based business focus to regulated-like
- 25 Military Services Group.
- 26 • The structure of the transaction enables initial cash proceeds to be redeployed
- 27 into the regulated water and wastewater business to fund near-term incremental

1 capital investments, while interest on the Seller's Note will provide a stream of
2 earnings over the term of the note.¹⁰

3 **Q. Since the structure of the AWRC sale enables initial cash proceeds to be redeployed into**
4 **the regulated water and wastewater business to fund near-term incremental capital**
5 **investments, what portion of these funds are earmarked for Missouri regulated**
6 **operations?**

7 A. OPC data request 1103(i) has been sent to MAWC requesting this information.

8 **Q. Does a relationship still exist between AWWC and AWRC beyond the sale?**

9 A. Yes. As explained in the announcement regarding the sale,

10 The Company (AWWC) and the buyer entered into revenue sharing agreements,
11 pursuant to which the Company is to receive 10% of the revenue generated from
12 customers who are billed for home warranty services through an applicable
13 Company subsidiary (an "on-bill" arrangement), and 15% of the revenue
14 generated from any future on-bill arrangements entered into after the closing.

15 American Water Resources also selected AWWC to be its service provider for privacy and
16 security related questions.¹¹ If customers have any questions or suggestions about the AWRC
17 site, American Water Resources or its products, services, or privacy practices, they are
18 directed to contact representatives at the number or addresses given below:

19 American Water Works
20 Attn: Enterprise Security
21 1 Water St

¹⁰ <https://www.apax.com/news-views/american-water-announces-agreement-to-sell-its-homeowner-services-group-to-funds-advised-by-apax-partners/>

¹¹ <https://www.awrusa.com/page/privacy-policy/226621>

1 Camden, NJ 08102
2 Telephone: 1-856-346-8200
3 E-mail: Privacy@amwater.com

4 Also, even though AWWC no longer owns AWRC, American Water Resources is a trademark
5 of American Water and is presently used to market AWRC products under a licensing
6 agreement.

7 **Q. If AWRC displays American Water’s trademark on its materials, would this lead to**
8 **brand recognition and potential confusion among MAWC and AWRC customers?**

9 A. I believe so. The AWRC logo remains the same even after AWWC sold AWRC and no
10 specific announcement was evident that AWRC is not regulated by the Commission.
11 Missouri’s current Affiliate Transaction Rules call for distinctive language separating
12 regulated from non-regulated operations. Specifically, 20 CSR 4240-20.015(2)(F), which
13 applies to electric utilities, states: “Marketing materials, information or advertisements by
14 an affiliate entity that share an exact or similar name, logo or trademark of the regulated
15 utility shall clearly display or announce that the affiliate entity is not regulated by the
16 Missouri Public Service Commission.” However, again, these Affiliate Transaction Rules
17 do not apply to water and sewer utilities. And, as shown in schedule ADS-D-5, there was
18 no such announcement displayed on this example of direct marketing correspondence.
19 While there is a disclaimer found at the very bottom of the AWRC website, it may not be
20 clear to customers this is not a regulated entity, even if they scroll to the very bottom of the
21 page to view the disclaimer. The most noticeable element of the disclaimer is the use of
22 American Water’s logo in larger font than the font used for the disclaimer. Recognition of
23 the American Water logo may cause consumers to skip over reading the disclaimer entirely.
24 Figure 1 below is American Water Resources’ logo and Figure 2 below is American Water’s
25 logo. As can be seen, the two are nearly identical.

1

Figure 1:



2

3

Figure 2:



4

5 **Q. Is there a recent example of a Missouri utility company changing the name of its affiliate**
6 **in order to comply with Missouri affiliate transaction rules?**

7 A. Yes. KCP&L Solar was changed to Evergy Energy Solutions, Inc. The name change was
8 recommended, in part, by a third party audit report citing, 20 CSR 4240-20.015(2)(F), defined
9 above. As stated in the third party management audit report required by merger conditions,
10 instant name recognition provides name recognition advantage:

11 Evergy should consider eliminating the KCP&L from the name of KCP&L Solar,
12 Inc. when all of the Evergy companies' names are changed. Including KCP&L in
13 the name, KCP&L Solar, Inc., may provide a marketing advantage that is not
14 available to other competing solar companies in marketing their services. The name,
15 KCP&L Solar, Inc. is obviously closely related to the utility name, KCP&L.
16 Although KCP&L may not refer prospective solar customers to KCP&L Solar, Inc.,
17 the name would seem to provide instant name recognition and a connection to the
18 utility company. Other solar companies do not receive the same name recognition
19 advantage. Through name recognition, KCP&L can be deemed to provide
20 preferential treatment to KCP&L Solar, Inc. regarding the sale or lease of solar
21 equipment. When Evergy changes the names of all of its subsidiaries (see Finding

1 II-6), it should consider naming KCP&L Solar without including a name
2 recognizable tie-in to the KCP&L or to Evergy or any other Evergy affiliate.¹²

3 **Q. To summarize, AWWC has entered into a revenue sharing agreement with AWRC, a**
4 **company it previously owned and for which it still manages privacy and security related**
5 **questions and from which it receives revenue for sales relating to MAWC customers and**
6 **their personal data. Is that correct?**

7 A. It appears so. Unlike California customers, Missouri customers do not have the right to their
8 own data and therefore are without the option to opt out of their data being sold to third parties
9 for marketing purposes.

10 **Q. How much revenue will MAWC and its customers receive from this revenue sharing**
11 **agreement due to resulting sales generated from Missouri ratepayer personal**
12 **information?**

13 A. I do not know. OPC data request 1103(l) has been sent to MAWC requesting this information.

14 **SERVICE COMPANY CHARGES**

15 **Q. Are there other example(s) of affiliate transactions affecting Missouri American Water**
16 **customers?**

17 A. Yes. AWWC utilizes a service company which delivers centralized administrative and general
18 services that are then divided between operating companies based on varying allocators.
19 MAWC Witness Patrick Baryenbruch submitted testimony addressing the reasonable nature
20 of these transactions between American Water Works Service Company, Inc. (“AWS” or the
21 “Service Company”) and the various AWWC operating companies.

¹² File No. EM-2018-0012; Schumaker & Company [evergy notice of 3rd party management audit-condition 31 2-5-2020.pdf](#), page 41.

1 **Q. Can you summarize your recommendations regarding the Service Company?**

2 A. I recommend that the Commission require MAWC to adhere to the Cost Allocation Manual
3 requirements of regulated Missouri electric and natural gas utilities. A Commission approved
4 MAWC CAM should include cost allocations from the Service Company to all of its regulated
5 and non-regulated affiliates. Additionally, pro forma support services requests should not be
6 allowed since these are future test year projections and not known and measurable.

7 **Q. What are your thoughts on MAWC Witness Patrick Baryenbruch's testimony regarding**
8 **service company charges?**

9 A. Mr. Baryenbruch provides an insightful analysis and cost comparisons between the Service
10 Company and utility service companies who file a FERC Form 60.

11 **Q. What was the purpose of Mr. Baryenbruch's study of service company charges?**

12 A. According to page 3 of 39 of Schedule PLB-2, Mr. Baryenbruch's study is designed to
13 answer the following questions:

14 This market-to-cost comparison of American Water Works Service Company, Inc.
15 (Service Company) Charges to Missouri American Water Company (MAWC) study
16 (Study) was undertaken to answer four questions, each of which bears on the
17 reasonableness of those charges as incurred during 2021:

18 1. Were the Service Company's charges to MAWC during 2021 reasonable?

19 2. Was MAWC charged the lower of cost or market value for managerial and
20 professional services provided by the Service Company during 2021?

21 3. Were 2021 costs of Service Company's customer accounts services
22 comparable to those of other utilities?

1 4. Are the services MAWC receives from the Service Company necessary?¹³

2 **Q. How does Mr. Baryenbruch answer his first question of whether the Service Company's**
3 **charges to MAWC during 2021 were reasonable?**

4 A. Mr. Baryenbruch contends that the

5 Service Company's 2021 cost per MAWC customer is reasonable compared to
6 cost per customer for the proxy service companies. During 2021, MAWC was
7 charged \$73 per customer for administrative and general ("A&G")-related
8 services provided by the Services Company. This compares to an average of \$115
9 per customer for service companies reporting to the Federal Energy Regulatory
10 Commission ("FERC"). Seventeen of the 22 utility service companies that filed
11 a FERC Form 60 for 2020 has a higher per-customer A&G cost than MAWC's
12 charges from the Service Company.¹⁴

13 **Q. Do you agree?**

14 A. No. Electric utilities are structured differently than water utilities. To compare the two is
15 like comparing apples to oranges.

16 **Q. What is FERC?**

17 A. The Federal Energy Regulatory Commission, or FERC, is an independent agency that
18 regulates the interstate transmission of natural gas, oil, and electricity. FERC also regulates
19 natural gas and hydropower projects.¹⁵

¹³ Baryenbruch WR-2022-0303, Schedule PLB-2, Page 3 of 39.

¹⁴ Baryenbruch WR-2022-0303, Schedule PLB-2, Page 3 of 39.

¹⁵ <https://www.ferc.gov/what-ferc>

1 **Q. Does FERC regulate investor owned water and sewer utilities?**

2 A. No.

3 **Q. Do regulated water and sewer companies submit FERC Form 60 data?**

4 A. No, not that I found.

5 **Q. Did American Water Services submit FERC Form 60 data?**

6 A. No, not that I found.

7 **Q. Does Mr. Baryenbruch's comparison of the Service Company to the proxy electric**
8 **companies address potential affiliate transaction violations?**

9 A. No.

10 **Q. Does Mr. Baryenbruch's analysis elaborate in more detail on how service company costs**
11 **are distributed between AWWC's operating companies?**

12 A. No. His analysis mainly focuses on the reasonableness of Service Company costs when
13 compared with a proxy group of electric utility companies. While a comparison to like utilities
14 is a check for reasonableness, the accuracy of the method of allocation is more important.

15 **Q. Does Mr. Baryenbruch find that MAWC was charged the lower of cost or market value**
16 **for managerial and professional services provided by the Service Company during**
17 **2021?**

18 A. Yes. His deductions are based on the comparison between the Service Company charge per
19 customer to the electric companies in the proxy group.

1 **Q. Did Mr. Baryenbruch find the Service Company’s allocated costs of customer account**
 2 **services comparable to those of other utilities?**

3 A. Yes, by comparing these costs to the proxy group of electric utilities.

4 **Q. Did Mr. Baryenbruch find the services that MAWC receives from the Service**
 5 **Company necessary?**

6 A. Yes.

7 **Q. Have the MAWC customers served by the Service Company increased since the last rate**
 8 **case?**

9 A. Yes. MAWC customers served by the Service Company has increased by 5,739 since the last
 10 MAWC rate case filed on June 30, 2020, WR-2020-0344. Table 1 below demonstrates the
 11 differences in Service Company charges between the three most recent rate cases:

12 **Table 1:**

	WR-2017-0285	WR-2020-0344	WR-2022-0303	Difference between WR-2017-0285 and WR-2020-0344 rate cases	Difference between WR-2020-0344 and WR-2022-0303 rate cases
Case File Date	6/30/2017	6/30/2020	7/1/2022	3 years	2 years
Customer Count	476,071	484,517	490,256	8,446	5,739
Net A&G Service Company Charges	\$28,842,268.00	\$30,645,250.00	\$36,018,440.00	\$1,802,982.00	\$5,373,190.00
Approximate Cost per Customer	\$60.58	\$63.25	\$73.47	\$2.67	\$10.22

13

1 **Q. Did Mr. Baryenbruch provide a summary of MAWC customer Service Company**
2 **charges in MAWC’s 2020 rate case, WR-2020-0344?**

3 A Yes. During MAWC’s 2020 rate case, Mr. Baryenbruch’s testimony included a table
4 accounting for a future test year increase of Service Company charges by \$6,429,778 while the
5 future test year customer count remained static. A snapshot of the table Mr. Baryenbruch
6 submitted is below¹⁶:

	Actual 12 Months Ended Dec. 31, 2019	Proforma 12 Months Ended May 31, 2022
Total Service Company Charges	\$ 45,659,195	\$ 45,659,195
Less: Capital Charges	\$ (13,385,058)	\$ (13,385,058)
Less: Non-A&G Charges		
Engineering	\$ (587,838)	\$ (587,838)
Operations	\$ (910,332)	\$ (910,332)
Water Quality	\$ (130,718)	\$ (130,718)
Add: Increase Through Future Test Year		\$ 6,429,778
Net A&G Service Company Charges	\$ 30,645,250	\$ 37,075,028
MAWC Customer Count	484,517	484,517
MAWC A&G Charges per Customer	\$ 63	\$ 77

7
8 **Q. What was the reason for the \$6.4 million projected increase in Service Company charges**
9 **shown in this table?**

10 A. According to Mr. Baryenbruch’s testimony in WR-2020-0344:

11 **Q. What are the primary drivers of the projected a [sic] \$6.4 million increase**
12 **in Service Company charges from 2019 to the future test year ending May 31,**
13 **2022?**

14 A. The increase is driven primarily by three factors: (1) divestiture of American
15 Water’s New York operations (\$1.4 million), (2) transfer of certain customer

¹⁶ DT Baryenbruch, WR-2020-0344, page 11, line 17

1 service-related expenditures from MAWC to the SC (“Service Company”) (\$3.7M)
2 and (3) regular annual merit increases (\$1.2M).

3 **Q. Was there testimony submitted in MAWC’s 2022 rate case, WR-2022-0303, relating**
4 **to the increase in the Service Company employee compensation charges?**

5 A. Yes. MAWC witness Brian LaGrand states the following relating to the Service Company
6 increases:

7 The increase in expense is due in large part to the annualizing of the base pay
8 increase effective 3/7/22 at 3.15%, then the 3 year average merit increase (based on
9 2020, 2021, and 2022) of 2.99% applied to non-union employees for the discrete
10 adjustment period through 5/31/23. For union employees, the actual contract rate
11 increases were applied to derive the pro forma compensation and related expense
12 levels. Additionally, adjustments were made to eliminate severance expense, to
13 normalize pension and OPEB costs to reflect the projection for 2023, and to reflect
14 the movement of employees between the Company and the Service Company.
15 Additional adjustments were made for depreciation, interest associated with capital
16 leases and travel expense. Lastly, the Company removed certain expenses for 1 time
17 costs from its requested pro forma expense including, but not limited to, charitable
18 contribution, donations, injuries and damages, and penalties.¹⁷

¹⁷ Brian LaGrand Direct Testimony, Case Nos. WR-2022-0303 and SR-2022-0304, page 158 of 162.

1 **Q. Looking to other AWWC subsidiaries, what level of increase for Service Company**
2 **employee compensation charges did New Jersey American Water Company (“New**
3 **Jersey American Water” or “NJAWC”) request in the most recent 2022 NJAWC Rate**
4 **Case Petition filed January 18, 2022 (Docket # WR22010019)?**

5 A. According to NJAWC witness Jamie Hawn, NJAWC annualized a base pay increase
6 effective March of each year, then the three-year average merit increase (based on 2019,
7 2020 and 2021) of 2.88% was applied to non-union employees. For union employees, the
8 actual contract rate increases were applied to derive the pro forma compensation and related
9 expense levels. Lastly, New Jersey American Water removed certain expenses or one-time
10 costs from its requested pro forma expense, including but not limited to charitable
11 contributions, injuries and damages, and penalties.¹⁸

12 **Q. What level of increase for Service Company employee compensation charges did**
13 **Pennsylvania American Water Company (“PAWC”) seek in its most recent rate case**
14 **(R-2022-3031672) filed May 4, 2022, and how was it calculated?**

15 A. According to PAWC Witness Lori O’Malley, PAWC is:

16 seeking recovery of an expense of Service Company charges of \$59.9 million
17 for the FPPTY (“fully projected future test year”). The expense is divided into
18 two categories consisting of labor and labor-related expenses and all other
19 expenses. For the labor and labor-related portion, the expenses incurred for the
20 HTY (“historic test year”) have been adjusted to annualize a base pay increase
21 in March 2021 of 3.07% for non-CBU employees of the Service Company, and
22 annual contract increases of 3.00% for CBU (“collective bargaining unit “
23 employees of the Service Company. For non CBU (“non-collective bargaining
24 unit”) employees, the HTY level of base pay was further adjusted to annualize

¹⁸ [Jamie Hawn Direct Testimony, Docket no. WR22010019, page 23 lines 15-21.](#)

1 base pay increases of 3.15% to calculate the base pay for the FTY (“future test
2 year”) and 2.99% to calculate the base pay for the FPFTY. The FTY percentage
3 increase reflects the actual average increase effective March 7, 2022. The
4 FPFTY percentage was calculated using a historical three year average. For
5 CBU employees, the HTY level of base pay was further adjusted to annualize
6 annual contract increases of 2.75% to calculate the base pay for the FTY and
7 FPFTY. Additionally, adjustments were made to eliminate severance expense,
8 to normalize pension and OPEB costs, and to reflect the movement of
9 employees between PAWC and the Service Company.¹⁹

10 **Q. How does the Service Company charge for its services?**

11 A. After reviewing testimony in several dockets related to various American Water operating
12 companies, I found that PAWC witness Lori O’Malley provides the clearest explanation
13 detailing the Service Company allocation processes. Per Ms. O’Malley,

14 The Service Company provides its services to PAWC at cost and issues monthly
15 invoices. Under the Service Company’s billing system, costs can be billed as
16 direct charges to a single company or as charges reflecting an allocation among
17 several companies. If the Service Company can identify costs that relate
18 exclusively to PAWC, 100% of those costs are charged directly to
19 Pennsylvania-American. Costs the Service Company incurs in rendering
20 services in common to a group of companies and not exclusive to Pennsylvania
21 American are charged to each service recipient in the relevant group based on
22 an allocation.²⁰

¹⁹ DIRECT TESTIMONY OF LORI O’MALLEY; Docket No. R-2022-3031672

²⁰ [DIRECT TESTIMONY OF LORI O’MALLEY; Docket No. R-2022-3031672, page 17, lines 21-22 through page 18, lines 1-5](#)

1 **Q. Please explain the direct charging of Service Company costs as provided in Ms.**
2 **O'Malley's direct testimony.**

3 A. Service Company personnel are instructed to charge their hours and any operational
4 expenses they incur directly to the entity for which they are performing service. In addition,
5 charges associated with the Central Laboratory and certain charges associated with the
6 customer service centers are directly charged based on specific volumes of work.²¹

7 **Q. Using PAWC as an example, how does the Service Company allocate costs between**
8 **regulated and non-regulated companies?**

9 A. According to Ms. O'Malley,

10 Service Company costs are charged to PAWC and its affiliates using Tier One
11 or Tier Two allocation factors. The Tier One allocation factor represents the
12 allocation of costs between regulated and non-regulated companies. The
13 allocation factors are based on cost-causation drivers for a particular service
14 and include operating revenues, net property, plant and equipment and number
15 of employees. The allocation is calculated using one or an applicable
16 combination of these allocation factors. If a combination of allocation factors is
17 used, each factor is equally weighted in the calculation. The Tier Two allocation
18 factor is used to allocate regulated company costs to the regulated businesses
19 that benefit from a service. Tier Two factors are primarily based on the number
20 of customers served in the immediately preceding calendar year.²²

²¹ DIRECT TESTIMONY OF LORI O'MALLEY; Docket No. R-2022-3031672, page 18, lines 6-10.

²² DIRECT TESTIMONY OF LORI O'MALLEY; Docket No. R-2022-3031672, page 18, lines 12-21.

1 **Q. How is pointing out the Service Company employee compensation requests from**
2 **two other American Water operating companies relevant?**

3 A. The Service Company is a centralized entity providing goods and services to regulated
4 and non-regulated affiliates. Affiliates receiving services from the Service Company
5 are billed after the services have occurred. Employee positions can also shift from
6 operating companies to the Service Company and vice versa. Hours worked could
7 fluctuate from month to month, depending on workload. It does not make sense for
8 operating companies, such as MAWC, to request pro forma increases for projected
9 work hours that may, or may not, be realized.

10 **Q. Does the MAWC yearly affiliate transaction Cost Allocation Manual (“CAM”) show**
11 **this level of cost allocation factor detail from the Service Company level?**

12 A. Not that I have found.

13 **Q. Do the regulated Missouri electric and natural gas utilities to which the current**
14 **Affiliate Transaction Rules apply submit CAM reports with more detailed cost**
15 **allocation distributed costs?**

16 A. The regulated Missouri electric and natural gas utility CAMs provide a greater level of cost
17 allocation details between the regulated and non-regulated companies operating under their
18 respective parent companies.

19 **Q. If the Service Company is an entity providing centralized services that are divided out**
20 **based on a combination of direct charges and complex cost allocation factors based, in**
21 **part, on employee hours, why are the individual operating companies including**
22 **forecasted service company raises in rate cases?**

23 A. I do not know. After reviewing copious amounts of rate case testimony from various
24 American Water operating companies across the country, it appears that employee positions

1 can transfer from AWWC operating companies to the Service Company, and vice versa, on
2 a regular basis. Given the frequency in which positions are transferred from one company
3 to the other and the possibility that employee hours could vary from one project to another,
4 it seems like a stretch to project Service Company costs at the operating company level.

5 **Q. Does Mr. LaGrand mention Service Company employee pay increases in his WR-**
6 **2020-0344 direct testimony?**

7 A. Not that I have seen.

8 **Q. What are some contributing factors behind the Service Company expense increases**
9 **shown between 2019 to the present?**

10 A. I think the most illustrative examples can be found in the most recent Iowa American Water
11 Company (“IAWC”) rate case. Below is a table found in Mr. Baryenbruch’s testimony²³:

²³ Docket No. RPU-2020-0001 IAWC Baryenbruch Direct Testimony Page 15 of 18

Year		Service Company Charges to IAWC	Eliminations (A)		Net Charges
			CSC Adjustment	Software Adjustment	
2010	Actual	\$ 4,235,825			\$ 4,235,825
2011	Actual	\$ 4,149,923			\$ 4,149,923
2012	Actual	\$ 4,479,976			\$ 4,479,976
2013	Actual	\$ 4,684,610			\$ 4,684,610
2014	Actual	\$ 4,249,485			\$ 4,249,485
2015	Actual	\$ 4,185,559			\$ 4,185,559
2016	Actual	\$ 4,352,851			\$ 4,352,851
2017	Actual	\$ 4,298,756			\$ 4,298,756
2018	Actual	\$ 4,362,517			\$ 4,362,517
2019	Actual	\$ 4,520,901			\$ 4,520,901
2020	Actual (B)	\$ 5,453,155	\$ (637,866)		\$ 4,815,289
2021	Forecast	\$ 5,798,743	\$ (651,130)	\$ (336,125)	\$ 4,811,488
YE 6/30/22	Proforma	\$ 5,843,096	\$ (657,839)	\$ (336,223)	\$ 4,849,034
Compound Average Growth Rate (2010 - YE 6/30/2022)					1.13%

Note A: Prior to 2020, these expenses were recorded on the books of IAWC. Starting in 2020, the Service Company began managing these expenditures centrally and assigning them to the operating companies, including IAWC.

Note B: These amounts are preliminary because the books were not formally closed at the time the numbers were obtained from the general ledger

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This illustrative example demonstrates that expenses previously recorded on the books of IAWC were shifted to the Service Company in 2020.

Q. Which expenses were shifted to the Service Company?

A. IAWC witness Charisse L. Cephas summarizes the shift of expenses to the Service Company in the testimony below:

The increase in expense is due in large part to the transfer of postage and customer accounting services and their related expenses from Iowa-American to the Service Company. This adjustment decreases Iowa-American's postage and customer accounting expense, while increasing support services expense related to these functions. The Company has also transferred software maintenance responsibility

1 and related expenses from Iowa-American to the Service Company. This adjustment
2 decreases Iowa-American's maintenance service and supplies expense, while
3 increasing its support services expense. In addition, the Company has included an
4 adjustment that projects an increase in support services expense related to the
5 pending sale of the New York-American Water system, anticipated to occur at the
6 end of 2020.²⁴

7 Mr. LaGrand also mentions the transfer of postage and the New York divestiture in his
8 direct testimony²⁵ submitted in WR-2020-0344.

9 **Q. If information and technology and support services are functions of the Service**
10 **Company, why is MAWC requesting approximately \$20 million in new technology**
11 **and/or software enhancements?**

12 A. I am not certain. According to Mr. Baryenbruch's Market to Cost Comparison of Service
13 Company Charges to MAWC 12 Months Ended December 31, 2021, the Service Company
14 provides services to American Water's operating companies from the following locations:

- 15 • One Water Street – Service Company employees at One Water Street
16 provide corporate governance and service functions, including executive
17 management, finance, accounting, audit, tax, regulatory, external affairs,
18 engineering, supply chain, human resources and benefits services. One
19 Water Street also includes American Water's main Information Technology
20 (IT) Services center for employees, which provides software delivery and
21 enhancements. The center also provides local on-site support as well as the
22 IT Service Desk for remote assistance for all employees using personal
23 computers in the performance of their day-to-day activities. Further, One

²⁴ Docket No. RPU-2020-0001 IAWC Cephas Direct Testimony Page 19 of 28

²⁵ Direct testimony of Brian Lagrand, File Nos. WR-2020-0344 and SR-2020-0345; Page 113 of 115

1 Water Street supports mission critical systems such as SCADA as well as
2 emerging technologies such as geographic information systems and
3 mobility. It provides technical expertise in project governance and release
4 management while ensuring compliance with all governmental regulations.

5 • Central Lab – The national trace substance laboratory is located in
6 Belleville, Illinois, and performs testing for all American Water operating
7 companies.

8 • Customer Relations and Customer Service Centers – Provides customer
9 relations and field resource coordination services from two locations:
10 Belleville, Illinois, and Wilkes Barre, Pennsylvania and provides customer
11 communication, billing and collection services from various locations.

12 • Information Technology Services Center –The IT Services Center
13 supports the technology infrastructure required to run business applications
14 and communications systems for American Water’s operating companies.
15 American Water’s primary data center is an IBM facility in Sterling Forrest,
16 New York.

17 • Haddon Heights IT Services Center – American Water's data center,
18 located in Haddon Heights, New Jersey, maintains data servers for back-up
19 and disaster recovery.

20 • Regional Support Services – Operating companies are provided with
21 certain support services that are delivered more effectively on a regional
22 basis because individual operating company workloads are not sufficient to
23 warrant maintaining their own full-time staff for these activities. These
24 services require closer proximity to operating companies and therefore are

1 located closer to the operating companies the employees provide service to
2 instead of one of the corporate locations.²⁶

3 Given that the Service Company provides such extensive IT support and infrastructure
4 services, the purchasing of software should be a Service Company expense. I am currently
5 working through discovery related to this issue and may recommend disallowances in
6 subsequent testimony.

7 **Q. Given the increase of MAWC customers from the 2020 rate case, WR-2020-0344, to the**
8 **current rate case, WR-2022-0303, and Mr. Baryenbruch’s projected Service Company**
9 **charges increase, would you also expect service company charges to increase to such an**
10 **extent?**

11 A. Not necessarily. In testimony submitted in the IAWC rate case (Docket No. RPU-2020-0001),
12 submitted January 14, 2021, Mr. Baryenbruch wrote how the increasing customer base causes
13 “the Service Company’s services to become relatively less expensive” due to “economies of
14 scale.”²⁷

15 **Q. What are “economies of scale”?**

16 A. Economies of scale are cost advantages realized by companies when production becomes
17 efficient. Companies can achieve economies of scale by increasing production and
18 lowering costs. This happens because costs are spread over a larger number of goods. Costs
19 can be both fixed and variable.²⁸

²⁶ Market to Cost Comparison of Service Company Charges to Missouri American Water Company 12 Months Ended December 31, 2021 page 6 of 39, submitted in Baryenbruch Direct testimony, File Nos. WR-2022-0303 and SR-2022-0303

²⁷ Reply testimony of Patrick Baryenbruch, File No. Docket No. RPU-2020-0001, page 15 of 18, lines 5 through 8

²⁸ <https://www.investopedia.com/terms/e/economiesofscale.asp>

1 **Q. Why were economies of scale raised in the IAWC rate case?**

2 A. Mr. Baryenbruch wrote testimony on the equitable allocation of Service Company charges
3 relating to the divestiture of New York American Water, saying:

4 **Q. Do you believe it would be equitable for IAWC to recover the additional**
5 **allocation of Service Company charges related to the divestiture of NYAW?**

6 A. Yes. The most equitable outcome is produced by a consistent treatment of the
7 cost of Service Company's services provided to IAWC. In the past, when American
8 Water's total customer base grew, IAWC's customers received the economies of
9 scale that flowed through in the form of actual Service Company costs. IAWC did
10 not receive any premium because the Service Company's services became relatively
11 less expensive as the enterprise customer base grew. The same treatment should be
12 applied to the rare instance where American Water's customer base declines. It
13 would be inconsistent for IAWC to be penalized with a disallowance of the Service
14 Company's actual costs of service that have been demonstrated to be reasonable.²⁹

15 **Q. Referencing Table 1 above showing the three most recent MAWC rate cases, does it**
16 **give the appearance of "economies of scale"?**

17 A. No. It appears that costs are being shifted to the Service Company and then justified based
18 on the premise of being considered "reasonable" based on comparisons to electric utility
19 service company practices.

20 **Q. Have other American Water operating companies increased their customer base?**

21 A. Yes. According to the Regulated Acquisitions Update of AWWC's [September 2021 investor](#)
22 [presentation](#), as of August 1, 2021, American Water reported approximately 89,900 new

²⁹ [Iowa-American Baryenbruch Reply Testimony Docket No. RPU-2020-0001, page 15 & 16, lines 1-9](#)

1 customer connections from 45 acquisitions in 8 states. Also, there were additional
2 opportunities totaling approximately 1,300,000 customer connections as shown in exhibit
3 ADS-D-10.

4 Further, American Water's [2022 Third Quarter Earnings and 2023 Outlook Call Presentation](#)
5 reports approximately 86,900 customer connections through 44 acquisitions in 9 states as of
6 September 30, 2022, with approximately 1.3 million customer connections in the pipeline to
7 be added to the system. With AWWC's aggressive approach to building rate base through
8 constant acquisitions, the economies of scale principle should, in theory, be driving down the
9 Service Company charges per customer because costs are spread over a larger number of
10 customers.

11 **Q. Are there additional cost comparisons regarding the Service Company that you would**
12 **like to see?**

13 A. Yes. While Mr. Baryenbruch's testimony was informative, I would also prefer to see how
14 overall Service Company costs are distributed between its regulated and non-regulated
15 affiliates. Mr. Baryenbruch has established that the Service Company's cost per customer is
16 more reasonable than several electric utility service companies within a proxy group of electric
17 utility service companies. However, the vital question here is whether the Service Company
18 costs are distributed in such a manner as to not provide financial advantages to affiliates, either
19 regulated or non-regulated. If enforceable water and sewer affiliate transaction rules were in
20 place, these are the transactions that would require AWWC to fulfill the burden of proof to
21 show that regulated operating companies are not subsidizing unregulated operations,

1 **CONCLUSION**

2 **Q. What is your recommendation to the Commission?**

3 A. As a large, regulated water and sewer utility, operating under a complex corporate structure
4 consisting of both regulated and non-regulated entities, MAWC should be held to the same
5 affiliate standards as the regulated electric and natural gas utilities operating in the State of
6 Missouri. I recommend the finalization of affiliate transaction rules so that investor owned
7 water and sewer utility companies are held to the same enforceable standards as investor owned
8 electric and natural gas utilities. I also recommend that customer privacy rules be updated to
9 ensure that Missouri ratepayers have the same consumer privacy freedoms as California
10 residents when attempting to manage their personal information on the AWRC privacy page.

11 **Q. Do you have any additional recommendations to the Commission regarding affiliate**
12 **transactions?**

13 A. I recommend that a percentage of the revenue related to the sale of AWRC, as well as a
14 percentage of the revenue sharing agreements between AWWC and the buyer of AWRC be
15 included in MAWC's infrastructure investments. AWRC's profits likely result from the use
16 of Missouri ratepayer personal data. Missouri utility ratepayer personal data should be
17 considered an asset, whether the data is collected from electric, natural gas, water or sewer
18 ratepayers. Profits derived from the use of this asset should be treated as an offset to necessary
19 infrastructure improvements, as proclaimed in press releases related to the sale of AWRC
20 Homeowner Services Group³⁰. Additional discovery related to this matter has been requested
21 from MAWC. I will update my recommendations in subsequent testimony once discovery
22 responses are received.

³⁰ <https://www.bloomberg.com/press-releases/2021-10-29/american-water-announces-agreement-to-sell-its-homeowner-services-group-to-funds-advised-by-apax-partners>

1 **Q. Does this conclude your testimony?**

2 A. Yes.

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


In the Matter of the Application of Missouri-)
American Water Company's Request for)
Authority to Implement General Rate Increase) Case No. WR-2022-0303
for Water and Sewer Service Provided in)
Missouri Service Areas)

AFFIDAVIT OF ANGELA SCHABEN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Angela Schaben, of lawful age and being first duly sworn, deposes and states:

1. My name is Angela Schaben. 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 direct 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.



Angela Schaben
Utility Regulatory Auditor

Subscribed and sworn to me this 22nd day of November 2022.



TIFFANY HILDEBRAND
My Commission Expires
August 8, 2023
Cole County
Commission #15637121



Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2023.