

Exhibit No.: *Tariff Rule 3E*
Issue(s): *David A. Spratt*
Witness: *MoPSC Staff*
Sponsoring Party: *Direct / Rebuttal Testimony*
Type of Exhibit: *WR-2024-0320*
Case No.: *December 6, 2024*
Date Testimony Prepared:

MISSOURI PUBLIC SERVICE COMMISSION

INDUSTRY ANALYSIS DIVISION

WATER, SEWER, GAS & STEAM DEPARTMENT

DIRECT / REBUTTAL TESTIMONY

OF

DAVID A. SPRATT

MISSOURI-AMERICAN WATER COMPANY

CASE NO. WR-2024-0320

Jefferson City, Missouri
December 6, 2024

1 **DIRECT / REBUTTAL TESTIMONY**

2 **OF**

3 **DAVID A. SPRATT**

4 **MISSOURI-AMERICAN WATER COMPANY**

5 **CASE NO. WR-2024-0320**

6 Q. What is your name and by whom are you employed and in what capacity?

7 A. My name is David A. Spratt. I am a Senior Research/Data Analyst for the Water,
8 Sewer, Gas, and Steam Department in the Industry Analysis Division for the Missouri
9 Public Service Commission.

10 Q. Please describe your educational background.

11 A. I received my Masters degree in Public Administration from the University of
12 Missouri-Columbia in 1999. I have been employed by the Commission since April 2008 in the
13 Water, Sewer, Gas & Steam department. A list of my case participation is included in
14 Schedule DAS-d1.

15 **EXECUTIVE SUMMARY**

16 Q. What is the purpose of your testimony today?

17 A. The purpose of my testimony is to address deficiencies Staff has found in the
18 Missouri-American Water Company (MAWC) tariff.

19 Q. What do you mean by deficiencies?

20 A. There are some updates and obsolete language in the tariff that need to be
21 addressed. Some language needs to be changed and one Rule in particular needs to be removed
22 from the tariff.

23 Q. Which Rule does Staff believe needs removed?

Direct / Rebuttal Testimony of
David A. Spratt

1 A. Staff believes that Rule 3E should be removed.

2 Q. What is Rule 3E?

3 A. Rule 3E states: “The Company shall not be liable for damages resulting to
4 Customer or to third persons, unless due to contributory negligence on the part of the Company,
5 and without any contributory negligence on the part of the Customer or such third party.”

6 Q. Please explain why Rule 3E should be removed from the tariff.

7 A. The tariff outlines rights and protections for MAWC; however, it is Staff’s
8 position that it should not provide MAWC with immunity from accidents when those accidents
9 cause property damage. Based on advice from Staff Counsel, it is Staff’s position that
10 “contributory negligence” is no longer a legal defense to a damage claim in Missouri, and it
11 should not be allowed to be used as a defense through a tariff sheet.

12 Q. Has MAWC used Rule 3E as a defense?

13 A. MAWC and its insurance providers have used Rule 3E as a defense when
14 customers claim property damage occurred as the result of water main breaks, water leaks that
15 have caused damage, or sewer backups into a home.

16 Q. Do you have any evidence to support that statement?

17 A. Based on several recent complaint investigations, Staff has been provided with
18 letters from MAWC’s insurance company denying claims from customers by citing Rule 3E.
19 Copies of some of those letters have been included as Confidential Schedule DAS-d2 to this
20 testimony.

21 Q. What was the result of Staff’s investigations into these complaints?

22 A. Staff reported in each case that the Rule did not apply as the Company was
23 attempting to use it.

1 Q. Is this Rule found in other company tariffs?

2 A. No. Similar language has been removed from all other water and sewer company
3 tariffs because, based on advice of Staff Counsel, it was determined that a tariff cannot restrict
4 a customer's rights with respect to the law of negligence.

5 Q. What if a water main breaks on its own. Does Staff think Rule 3E should not
6 apply to accidental breaks of water mains?

7 A. Rule 1(34) of MAWC's tariff defines a "water main" as: "A pipe, which is
8 owned or leased and maintained by the Company, located on public property, public utility
9 easements, or on private easements, and used to distribute and supply water to Customers."
10 Staff is of the opinion that if the main breaks and causes property damage as a result, then
11 MAWC should be responsible for the water coming out of the mains that it owns and maintains.
12 Staff is also of the opinion that large water leaks causing damage to property are not safe and
13 that large water leaks make MAWC's ability to provide adequate water service more difficult.

14 Q. What are Staff's recommendations with regard to Rule 3E?

15 A. Staff recommends that the Commission order Rule 3E be removed from
16 the tariff.

17 Q. Do you have any other suggestions for changing the tariff?

18 A. Yes. My suggestions are:

- 19 • All references to quarterly billing should be removed from MAWC's tariff.
20 There are 20 references in the tariff to quarterly billing. Since MAWC no longer
21 utilizes quarterly billing, that language should be removed.¹

¹ See pages, Sheet R1(9) – "Billing Period", Sheet R21 – Rules 9C and 9H; Sheet R28 – Rules 12B(3) and 12C(1);
Sheet R31 – Rule 12C, Sheet R36 – Rules 17B and 17C; Sheet R37 – Rules 18A, 18D, and 18E; and Sheet R39 –
Rules 19B and 19C.

- 1 • Gender specific language should be removed from MAWC’s tariff. The word
2 “his” can be found in the current tariff six times.² Staff recommends MAWC
3 select neutral language appropriate to the context.
- 4 • Sheet R4 - Rule 1(33) “Late Payment Charge” should be removed from the tariff.
5 Late payment charges have been removed from MAWC’s service charges and
6 should also be removed from the tariff.
- 7 • Sheet RT9.1 needs to be changed to remove reference to a \$27.50 service charge
8 to turn off service during normal business hours. Rule 14B on Sheet R31 states,
9 “A termination (turn-off) of an existing service will be made during MAWC’s
10 regular business hours without charge.” This charge needs to be removed from
11 sheet RT9.1 to agree with the Sheet R31 of the tariff.
- 12 • Rule 22P on Sheet R47 should be placed in Rule 3; Rule 22P seems out of place
13 as it deals with liability and responsibility.
- 14 Q. Does this conclude your testimony?
- 15 A. Yes it does.

² See pages, Sheet R16 – Rule 6D; Sheet R24 – Rules 10C and 10E(3); Sheet R30 – Rule 13B; Sheet R33 – Rule 15L;
Sheet R52 – Rule 23C(7)(b).

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI


In the Matter of Missouri-American Water Company's)
Request for Authority to Implement a General Rate) Case No. WR-2024-0320
Increase for Water and Sewer Service Provided in)
Missouri Service Areas)

AFFIDAVIT OF DAVID A. SPRATT

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW DAVID A. SPRATT and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Direct / Rebuttal Testimony of David A. Spratt*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

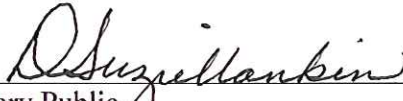


DAVID A. SPRATT

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 26th day of November 2024.

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

David A. Spratt

As a Senior Research/Data Analyst, with the Water, Sewer and Steam Department of the Commission Staff Industry Analysis Division my core duties revolve around being a Case Manager for Small Company Rate Cases filed with the Commission. These duties include, but are not limited to: setting up the case Activities Timeline; authoring Customer Notice(s); coordinating meetings and correspondence between Staff, Office of the Public Counsel (“OPC”), and the utilities; disseminating information between Staff, OPC and the utilities; reviewing and if necessary, revising Company tariffs as well as performing rate design and authoring testimony when appropriate. I have earned D level certificates from the Missouri Department of Natural Resources (DNR) for Drinking Water Treatment and Wastewater Treatment as well as a DS-I certificate for Water Distribution.

Educational Background and Work Experience

Masters of Public Administration Degree from the University of Missouri – Columbia

Bachelor of Arts in History from Lincoln University

June 1995 to January 2000 – Manager of a small family owned retail inventory business

January 2000 to May 2001 – Ameren UE Call Center

May 2001 to August 2007 – Ameren UE Engineering Department

August 2007 to April 2008 – Financial Advisor with AXA Advisors

April 2008 to Present – Missouri Public Service Commission Water and Sewer Staff

Previous Testimony Before the Public Service Commission

Case Number	Company	Type of Filing	Issue
WR-2023-0344	The Raytown Water Company	Direct, Surrebuttal & Live Testimony	Management Audit & Meter Issues
WC-2023-0273	Missouri-American Water Company (MAWC)	Direct & Surrebuttal Testimony	Water damage
WC-2023-0142	Missouri-American Water Company (MAWC)	Direct & Surrebuttal Testimony	Water damage
WC-2022-0162	MAWC	Live Testimony	Unexplained use
WC-2021-0075	MAWC	Live Testimony	Unexplained use
WC-2020-0181	MAWC	Live Testimony	Unexplained use

Case Number	Company	Type of Filing	Issue
WR-2017-0259	Indian Hills Utility Operating Company, Inc.	Direct, Surrebuttal & Live Testimony	Operations & Maintenance
SR-2016-0202	Moore Bend Water Utility, LLC	Rebuttal Testimony	Maintenance
WC-2011-0409	Woodland Manor Water Company, LLC	Live Testimony	Ownership of water service lines

Case No. WR-2024-0320

SCHEDULE DAS-d2

HAS BEEN DEEMED

CONFIDENTIAL

IN ITS ENTIRETY