**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 Increase for Water and Sewer Service Provided in Missouri Service Areas | )<br>)<br>)<br>)<br>)<br>)<br>) | Case No. WR-2024-0320 |

# REPLY BRIEF OF THE MISSOURI OFFICE OF THE PUBLIC COUNSEL

John A. Clizer (#69043)
Senior Counsel
Missouri Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
Telephone: (573) 751-5324
Facsimile: (573) 751-5562
E-mail: john.clizer@opc.mo.gov

April 18, 2025

# **Table of Contents**

# Glossary of Terms

As used in this brief,

- “CCOS” means Class cost of Service
- “Consumer’s Council” means Consumer’s Council of Missouri
- “MAWC” means Missouri American Water Company
- “MECG” means Midwest Energy Consumer’s Group
- “MIEC” means Missouri Industrial Energy Consumers
- “OPC” means Office of the Public Counsel
- “PWSD” means Public Water Supply District Nos. 1 and 2 of Andrew County
- “Staff” means the Commission’s Staff
- “TAP” means Tiered Assistance Program
- “The Company” means Missouri American Water Company
- “UAT” means Universal Affordability Tariff
- "Water Districts" means Public Water Supply District Nos. 1 and 2 of Andrew County

## **Class Cost of Service and Rate Design**

Seven parties in this case filed briefs that addressed the issue of class cost of service and rate design. Of those, three took an identical position on the overall issue. The Commission's Staff ("Staff"), the Office of the Public Counsel ("the OPC"), and the Consumer's Council of Missouri ("Consumer's Council") all agree that the Commission should simply order "an equal percent increase to current rates across all classes" to resolve the issue of rate design. [*see Initial Brief of MO PSC Staff*, pg. 6, EFIS 276; *Initial Brief of Office of the Public Counsel*, pg. 7, EFIS 277; *Initial Brief of Consumer's Council of Missouri*, pg. 3, EFIS 280]. As Staff's brief points out, the rates from the prior rate case "are presumed to be just and reasonable" and the increasing costs at issue in this case are not being driven by any one given class, so an equal increase is already reasonable. [*Initial Brief of MO PSC Staff*, pg. 6]. Consumer's Council, meanwhile, correctly points to the necessity of considering the "equally important ratemaking principles" not associated with "a purely cost-based analysis," which include such things as efficiency of use, public acceptance, gradualism, and avoidance of rate shock. EFIS 277; *Initial Brief of Consumer's Council of Missouri*, pg. 3, EFIS 280]. These last two points merit some special attention.

MAWC witness Max W. McClellan provides a list of significant principles governing the concept of rate design. [Ex. 18, Direct Testimony of Max W. McClellan, pg. 23 ln. 10 – pg. 25 ln. 1, EFIS 197]. Mr. McClellan identifies the concept of gradualism as one of these principles, which he defines as follows:

> **Gradualism:** Changes in rate design should be made in a manner that avoids inappropriate levels of rate shock. Rate shock can come both from general increases in revenues that can affect all customers and from changes in rate designs that can cause large increases to specific pockets of customers. Drastic changes in rates can cause customer confusion and dissatisfaction and have adverse effects on the utility's ability to provide quality customer service.

[*Id*. at pg. 24 lns. 13 – 18]. As the OPC explained in its own initial brief, a certain degree of rate shock is now <u>guaranteed</u> in this case; given that rates are expected to increase by at least 25% across the board under the equal percentages proposal. [*Initial Brief of Office of the Public Counsel*, pgs. 6 – 7, EFIS 277]. The OPC therefore again asks the Commission to recognize the importance of maintaining gradualism and preventing rate shock as explained by MAWC's witness (and endorsed by Consumer's Council witness Caroline Palmer), by limiting the increase to an equal percentage for all classes. [*see* Ex. 451, *Direct Testimony of Caroline Palmer*, pg. 8 ln. 5 – pg. 10 ln. 5, EFIS 268].

Beyond the agreement between Staff, the OPC, and Consumer's Council, a fourth party filed a brief that adopted, in large part, Staff's proposal to implement an equal percentage increase. That would be Public Water Supply District Nos. 1 and 2 of Andrew County (collectively "PWSD" or "the Water Districts"). The key difference is that PWSD argues for a reduction to <u>its</u> specific class, which would then be followed by an equal percentage increase to all remaining classes. [*Initial Brief of Public Water Supply District Nos. 1 and 2 of Andrew County*, pg. 5, EFIS 277]. While it is understandable that the Water Districts would want to reduce their own cost burdens (such is the expected desire of any customer), there is no discussion in PWSD's brief

– nor evidence elsewhere in the record – to show what size of an impact the proposed reduction would have on the remaining customer classes. So, again, given the threat of rate shock and the importance of gradualism to setting rates, this Commission should *err* on the side of caution by avoiding the shift that PWSD proposes.

Outside of these four parties, there were three other briefs filed: that of Missouri American Water ("MAWC" or "the Company"); Midwest Energy Consumer's Group ("MECG"); and Midwest Industrial Energy Consumers ("MIEC"). All three of these parties used the Class Cost of Service study ("CCOS") undertaken by the Company as the basis of their respective arguments. This is problematic on its face for at least one major and obvious reason: this CCOS is not based on the historic test year.

As explained by the Staff's witness Ms. Melanie Marek, MAWC's CCOS was completed using the Company's proposed future test year and its related data. [Ex. 217, *Direct/Rebuttal Testimony of Melanie Marek*, pg. 3 lns. 20 – 21, EFIS 227]. The Company further made a conscious decision not to update that data after the Commission issued an order requiring the use of a historic test year in this case. [*Id*. at pg. 4 lns. 1 – 4]. "Therefore, MAWC's proposed rates are inapplicable." [*Id*. at pg. 3 lns. 20 – 21]. This alone should give the Commission pause to even consider the cost allocation arguments that have been based on the Company's CCOS. And, as previously stated, this includes not only the Company but also MECG and MIEC whose witness, Ms. Jessica York, effectively adopted the Company's flawed CCOS to form the basis of her own opinion. [*see* Ex. 400, *Direct/Rebuttal Testimony of Jessica*

*A. York*, pg. 5 lns. 14 -19, EFIS 265; Ex. 500, *Direct/Rebuttal Testimony of Jessica A. York*, pg. 7 lns. 1 – 15, EFIS 269].

The fact that the Company's CCOS study is based on the wrong data is not its only flaw. The Company's CCOS also improperly allocates the costs of distribution mains, as explained by Consumer Council's witness Caroline Palmer:

> A. . . . Because large customers under Rate J and Rate B (the rates for Manufacturers, Large Quantity users of Water, and Sale of Water for Resale) may take service directly from the transmission system and therefore do not all use the distribution system, MAWC attempts to allocate larger customer classes only the distribution costs that are proportional their use of the system. To do so, the Company estimates the percentage of Rate J and Rate B's water usage that is served at the distribution level, and only allocates distribution costs to those classes based on the distribution-level usage, rather than based on total usage.
>
> . . .
>
> **Q. Has the Company made an error regarding its distribution multipliers?**
>
> A. Yes, the Company appears to use an erroneous distribution multiplier, 0.11, for Rate J customers in St. Louis County, which is lower than the multiplier indicated in its workpaper.

[Ex. 451, *Direct Testimony of Caroline Palmer*, pg. 4 ln. 15 – pg. 5 ln. 2, EFIS 268]. This is important because it "means that a lower proportion of distribution-level costs are allocated to Rate J and a higher proportion of costs allocated to the other customer classes." [*Id*. at pg. 5 lns. 14 – 16]. "Specifically, the results from the erroneous COSS would assign residential customers a 47.1 percent increase, whereas the results from a corrected COSS would assign residential customers a 45.8 percent increase." [*Id*. at pg. 5 lns. 16 – 18].

There are yet more problems with the Company's CCOS that Ms. Palmer points out in her testimony. She also goes on to explain that "the Company has not used a representative sample of customers with which to calculate its distribution multipliers." [*Id*. at pg. 5 lns. 20 – 21]. Specifically:

> The Company estimates the distribution-level sales for Rates B and J by analyzing the usage of its top 50 largest quantity users of water across all customer classes and districts rather than the top 50 users for Rate B in St. Louis County and top 50 users for Rate B outside of St. Louis County, and so on. Thus, the sample size is far less than 50 for each of the four individual distribution multipliers that the Company ultimately calculates.

[*Id*. at pg. 5 ln. 21 – pg. 6 ln. 5]. This means that the largest quantity users of water are likely not representative of overall Rate J and Rate B customer class usage. [*Id*. at pg. 6 lns. 6 – 8].

> Based on the Company's statement that large customers take service directly from the transmission system, it stands to reason that the largest users in the large customer classes might have higher transmission-level usage than the average customers in those classes. If those customers indeed have higher-than-average transmission-level usage, and therefore have lower-than-average distribution-level usage, then distribution multipliers based on their data would be lower than the overall classes' actual distribution system usage. This would not accurately represent cost causation <u>and would result in the Company allocating a lower proportion of distribution-level costs to Rates B and J and a higher proportion of costs to the other customer classes, including residential</u>.

[*Id*. at pg. 6 lns. 8 – 17 (emphasis added)]. It should also be noted that Ms. Palmer <u>did</u> try to directly quantify these impacts, but the Company informed her that it had not undertaken the proper analysis. [*Id*. at pg. 6 ln. 20 – pg. 7 ln. 2]. As Ms. Palmer states: "[I]t is unclear why the Company does not calculate precise allocators based on complete data from the relatively small number of customers in these classes, given the magnitude of these customers' water usage and the meaningful impact of distribution multipliers on revenue allocations in the COSS." [*Id.* at pg. 7 lns. 2 – 5].

Given the myriad problems underlying the Company's CCOS study, there is no reason for this Commission to rely upon it when ordering rates in this case. Moreover, there is no reason for the OPC to reply to the arguments raised by MECG and MIEC, because those parties based their analysis on the Company's already flawed CCOS. That leaves only the Staff's recommendation (supported fully by the OPC and Consumers Council and partially by PWSD) as the only logical choice.

It has often been said that rate design in more art than science, but that is not how the parties are behaving. Instead, MECG and MIEC are desperate to convince the Commission that the flawed MAWC CCOS must be considered the end-all-be-all of the case upon which the Commission' decision must rest. That is simply not true. The Commission set rates in the last case that were just and reasonable. An equal percentage increase in this case is merely a continuation of those current rates and is hence just and reasonable until proven otherwise. Moreover, an equal percentage increase recognizes the very real impact that these rates will have on <u>all</u> customers. There is a time and a place to argue about which customer class deserves to bear the larger burden of a rate increase, but that time and place is not a case where the rates are so high that rate shock is already guaranteed. The OPC therefore asks the Commission to do the sensible thing and order a fair and equal percentage increase for all customer classes.

## **Universal Affordability Tariff**

Of the seven initial briefs filed, only five took a position on the UAT.[1] Predictably, four of those five remaining briefs argued in favor of the UAT. [*see Initial Brief of MO PSC Staff*, EFIS 276; *Initial Brief of Office of the Public Counsel*, EFIS 277; *Initial Brief of Missouri American Water Company*, EFIS 278; *Initial Brief of Consumer's Council of Missouri*, EFIS 280]. This leaves only MECG to argue the contrary position opposing the implementation of the UAT. The OPC will consequently constrain its response to just addressing and refuting the arguments raised by MECG.

While MECG's brief attempts to list supposed issues with the UAT, the actual arguments presented can be readily distilled down into just two main points:

1. MECG argues the UAT is illegally discriminatory in violation of RSMO. §393.130; and
2. MECG is concerned the UAT will cost a great deal of money and will shift those costs onto other MAWC customers.

[*see Initial Brief of Midwest Energy Consumer's Group*, pgs. 22- 25, EFIS 275]. Neither of these claims hold water when examined carefully. The OPC will therefore focus on independently rebutting these two points.

[1] Neither the Water Districts nor MIEC briefed the issue of the UAT.

**The UAT does not illegally discriminate**

The first argument raised by MECG centers on the application of Missouri revised statutes section 393.130. MECG argues that the statute's sections 2 and 3 prohibit discriminatory rates under Missouri law and cites the Missouri Supreme Court case *State ex rel. Laundry, Inc. v. Public Service Com'n*, 34 S.W.2d 37 (Mo. 1931) to support its position. However, MECG's legal analysis is much mistaken. "Section 393.130.3, RSMo 1986, and the cases which have discussed the statute <u>do not</u> lay down the proposition that all discrimination is prohibited." [*State ex rel. Mo. Office of Pub. Counsel v. Mo. Pub. Serv. Com.*, 782 S.W.2d 822, 825 (Mo. W.D. 1990) (emphasis added)].

Contrary to what MECG seeks to have this Commission believe, the Missouri's courts have long made it clear that <u>reasonably based</u> discrimination in rates is completely legal if not outright expected. [*Id.* ("If discrimination is <u>reasonable</u> because of the particular circumstances in the case, rates <u>are not struck down</u> merely because of the dissimilarity.")(emphasis added)]. As explained:

> [T]he court [has] noted that a discrimination as to rates is not unlawful under the statute where it is based upon a <u>reasonable</u> classification <u>corresponding to actual differences in the situation of the consumers</u> or the furnishing of the service. Whether a discrimination is unlawful and unjust or the circumstances are essentially dissimilar is usually a question of fact.

[*Id.* (citing *State ex rel. Marco Sales, Inc. v. Public Serv. Comm'n.*, 685 S.W.2d 216, 221 (Mo. W.D. 1984)(emphasis added)]. An excellent example of this principle, and one highly illustrative for this case, is the Missouri Supreme Court case *Smith v. Pub. Serv. Com.*, 351 S.W.2d 768, 772 (Mo. 1961).

The *Smith* case concerned an appeal from a Missouri Public Service Commission decision authorizing new rates for an electric utility company doing business under the name Missouri Utilities Company. [*Smith v. Pub. Serv. Com.*, 351 S.W.2d 768, 769 (Mo. 1961)]. The central issue on appeal was that the Commission had allocated different percentages of the increase among different rate classes, as explained by the Court:

> The Company by its Exhibit No. 8 shows that its annual revenues under the new rates will be increased by $539,985.00. This will amount to an increase of something like 15.2% for its Southeast Missouri system. Exhibit No. 8 also shows that the residential service under the proposed rates will increase the revenues something like 15.4%. Commercial service will be increased slightly over 20% and commercial power about 27%. Industrial power would be increased something like 26.2%.

[*Id.* at 770]. Appellants, who were customers of Missouri Utilities Company, argued this decision was "erroneous in that it approves a rate schedule for electric service which is discriminatory." [*Id.* at 771]. More specifically:

> The contention of appellants that the revised rate schedules are discriminatory is primarily directed to rates coming under the classification of commercial power and is based upon the fact . . . that the greater percentage of increase was made in that category[.]

[*Id.*]. The Missouri Supreme Court, however, determined that the Commission's use of different rates for difference classes was completely acceptable and not at all discriminatory. [*Id.* at 772].

In reaching its conclusion, the Missouri Supreme Court first began by noting that, while

> [i]t is true that the percentage increase in rates applicable to customers coming under the classification of commercial power is considerably larger than the increase applied, for example, to residential service[;] that fact alone does not indicate that the commercial power rate is unfair or unreasonable or that there was unlawful discrimination.

[*Id.* at 771]. The Court then went on to state:

> [I]n considering the reasonableness of the higher percentage increase we find testimony indicating that such was imposed because (1) the Company must at all times be prepared to meet a high demand which is often used only occasionally, or, stated another way, the customer must pay for the privilege of being able to put a heavy load on the line at any time, and (2) <u>many of the commercial power customers use the service only a portion of the day or for a short time during the year</u>. Examples cited were the use of commercial air-conditioners for 8 hours per day in many instances as compared to frequent residential use for 24 hours daily, and the operation of cotton gins for only a few weeks during the year. It seems clear that the maintenance of facilities to meet possible load demands which are utilized infrequently is usually unprofitable to the utility.

[*Id.* at 772 (emphasis added)]. The key point that the *Smith* decision identified was that the differences in <u>how</u> the commodity in question (in this case power) was being consumed provided a reasonable basis for ordering different rates. In particular, it was the <u>variation on usage over time</u> that occurred throughout the year (as the court noted, for example, in the operation of cotton gins "for only a few weeks during the year") that justified the difference. Applying that same logic to the present case demonstrates easily how the proposed UAT is not illegally discriminatory.

Uncontested evidence was presented during the hearing that showed MAWC's residential customer usage patterns were highly impacted by household income. [Ex. 22, *Direct Testimony of Charles B. Rea*, pg. 28 ln 10 – pg. 29 ln. 1]. As MAWC's witness Mr. Charles Rea explained:

> Across the American Water footprint, usage data and customer demographic data shows that there is a positive correlation between household income and the seasonal use of water, meaning that communities with higher household incomes, and by extension the customers in those communities, generally have more discretionary seasonal use of water than communities with lower household incomes. Lower income customers generally don't use water for discretionary purposes in the summertime to the extent that higher income customers do and generally only use Basic Water Service . . . .

[*Id*.]. This is not at all surprising given how Mr. Rea defines "discretionary seasonal water usage" to mean water used "for filling swimming pools, lawn irrigation, etc." [*Id*. at pg. 14 lns. 14- 15]. Lower income residential customers are quite obviously far more likely to have smaller yards to irrigate in the dry summer months – or might even be living in an apartment building without a yard – and are equally far less likely to own a pool that would need filling when it gets hot enough for people to enjoy swimming. It should therefore come as no surprise to learn that Mr. Rea's data shows high income customers are significantly more likely to have higher seasonal usage:

> The data shows that residential customers in high income communities tend to be seasonal use customers at a significantly higher rate than residential customers in low income communities (48% versus 15%), and that seasonal use customers in high income customers use more than twice the amount of water than seasonal use customers in low income communities (184,370 gallons per month vs 76,540 gallons per month).

[*Id*. at pg. 33 ln. 16 – pg. 34 ln. 3]. This is important because it directly mirrors the difference in usage patterns that the Missouri Supreme Court noted and relied upon in the *Smith* case cited above. Equally as important (and relevant) is the data Mr. Rea provided to show the difference in cost to serve seasonal and non-seasonal use.

Mr. Rea explains how the general idea behind determining cost allocations is "to reward load factor (or capacity factor)." [*Id*. at pg. 31 lns. 1 – 8]. "This means that steadier flatter consumption patterns are allocated less cost per gallon of water served than consumption patterns that are peakier or more seasonal." [*Id*]. This is justified by the fact that "the cost of investments used to serve higher amounts of water can be spread over a larger usage base with a resulting lower volumetric rate than the same cost of the same size investment that serves smaller amounts of water because the investment is not utilized as efficiently." We thus reach the natural conclusion: "it is cheaper on a per unit basis to provide Basic Water Service than it is to provide peakier seasonal service." [*Id*. at pg. 31 lns. 11 – 12].

Having determined that it is cheaper on a per unit basis to provide water for basic services (*i.e.* cooking, cleaning, and bathing) than it is to provide seasonal service, it is eminently reasonable "from a cost of service perspective that Basic Water Service should be priced at a lower rate than seasonal water service." [*Id*. at lns. 11 – 14]. Again, this is perfectly consistent with what the Missouri Supreme Court noted in *Smith*. [*Smith v. Pub. Serv. Com.*, 351 S.W.2d 768, 772 (Mo. 1961) ("the customer must pay for the privilege of being able to put a heavy load on the line at any time")].

Mr. Rea's testimony even provides a graph that shows the numerical difference in cost for providing these two types of service:

| ***TABLE 6 Residential Cost of Service*** | **Maximum Day Peaking Factor** | **Maximum Hour Peaking Factor** | **Allocated Revenue Requirement** | **Cost per Thousand Gallons** |
|---|---|---|---|---|
| *Seasonal Use* | 2.66 | 9.61 | $175,231,676 | $15.60 |
| *Basic Water Service* | 1.24 | 2.76 | $94,754,282 | $6.45 |

[Ex. 22, *Direct Testimony of Charles B. Rea*, pg. 32 lns. 3 – 4]. Mr. Rea further makes it clear that the difference in cost of service shown in this table "is related entirely to the differences in consumption patterns for these two groups of customers which . . . is a direct result of the maximum day and maximum hour peaking factors being higher for the seasonal use group than for the Basic Water Service group." [*Id*. at lns. 6 – 10 (emphasis added)].

Combining the impact of higher income residential customers having higher seasonal usage with the fact that it costs more on a per unit basis to provide seasonal usage than basic services leads to the final conclusion:

> If a) seasonal water service is more expensive on a per unit basis to serve than basic water service from a cost of service and cost causation perspective, b) higher income customers are more likely to have significant higher cost seasonal water use than lower income customers, and c) a single volumetric rate applies to all service for all customers, both Basic Water Service and seasonal service as is the case in the Company's service territory, the result is that lower income customers are actually subsidizing higher income customers under the Company's current rate design.

[*Id.* at pg. 37 lns. 3 – 9 (emphasis added)]. It is therefore completely reasonable for rates to differentiate between residential customers based on their level of income. And because it is <u>reasonable</u>, it is not illegally discriminatory under section 393.130. [*Smith v. Pub. Serv. Com.*, 351 S.W.2d 768, 770-72 (Mo. 1961); *see also State ex rel. Mo. Office of Pub. Counsel v. Mo. Pub. Serv. Com.*, 782 S.W.2d 822, 825 (Mo. W.D. 1990) ("In *Smith v. Public Serv. Comm'n.*, 351 S.W.2d 768 (Mo. 1961), for example, discriminatory rates for electric service between commercial users and residential customers was found acceptable because the basis for the classifications related to power usage was reasonable.")].

Perhaps sensing this implicit problem with its argument, MECG makes a token effort to address the point. Specifically, MECG sought to question Mr. Rea on the stand in an effort to show that there would most likely be <u>some</u> low-income customers who would be seasonal users and <u>some</u> high-income customers who would not be seasonal users. [*see* Initial Brief of Midwest Energy Consumer's Group, pgs. 24, EFIS 275]. But this is a pointless digression.

It must be acknowledged by all parties who routinely engage in rate-making process that no rate authorized by the Commission will ever <u>unerringly</u> encapsulate the cost causation principles. There are simply too many variables at play and too many customers involved to expect absolute perfection. This is a fact well understood and acknowledged by rate design experts. [Ex. 22, Direct Testimony of Charles B. Rea, pg. 37 lns. 13 – 14 ("[T]here will always be times in rate design where the rates charged to customers are different than cost of service would indicate for a variety of reasons[.]")]. Instead, the goal of this Commission should be to rely on the accurate statistical evaluations to guide its decisions. And in this case, no one has offered anything to challenge the statistical evidence of Mr. Rea.

To consider this point in action, return to the *Smith* case. The Missouri Supreme Court clearly found compelling the idea that some commercial customers only ran their air-conditioners for 8 hours of the day (as opposed to the more common 24 hour use seen by residential customers) and that some industrial customers had cotton gins that only ran for a few weeks of the year to justify discriminatory rates. *Smith v. Pub. Serv. Com.*, 351 S.W.2d 768, 769 (Mo. 1961). The obvious reality that there was certainly some other commercial customer who ran their air condition more than 8 hours a day or who did not operate a cotton gin was not enough to change the Court's opinion. For the same reason, the fact that there must be some non-seasonal high-income customers or some low-income seasonal users should not be enough for this Commission to reject the UAT now.

In the *Smith* case, the Missouri Supreme Court determined that the variations in the usage patterns of a commodity between different rate classes was sufficient to justify different rates among those classes. [*Id*. at 772]. The evidence now before the Commission shows that there are also variations between the usage patterns of customers of the same class based on their respective income levels. Applying the logic of the Missouri Supreme Court in *Smith* to the present case thus supports the conclusion drawn by Mr. Rea: "it is certainly not discriminatory to offer lower income customers a reduced rate relative to the rate that is charged to the population in total based on an analysis of actual usage patterns and demographics." [Ex. 22, Direct Testimony of Charles B. Rea, pg. 37 lns. 14 – 17].

**The UAT will not expose customers to significant costs**

The second argument championed by MECG concerned the cost of the UAT program. Specifically, MECG claims that "[t]he estimated cost of the UAT is $58,185,236 over two years" and that "the UAT alone could raise rates for all other customers by over 10%." [*Initial Brief of Midwest Energy Consumer's Group*, pg. 25, EFIS 275]. It should be unsurprising to hear that these claims by MECG are simply wrong.

To begin, MECG is relying on the information provided by MAWC (at the Commission's request) that shows estimated total costs for the UAT program over two years at varying levels of adoption. [*Id.*]. However, MECG has unrealistically assumed that the UAT program will result in 100% adoption by eligible customers within days of it becoming available. [*see Filing in Response to Commission Requests*, Appendix A, EFIS 274]. This is completely at odds with reality.

As explained by MAWC's witness Mr. Rea, the Company has previously offered similar programs to the UAT in other states. [Tr. Vol. 10 pg. 204 lns. 8 – 23]. The oldest and by far the most successful in terms of participation was the Company's offering in Pennsylvania. [*Id*. at pg. 219 lns. 6 – 8]. Even there, however, where the program has been around for at least ten years, the Company has only seen 35 to 40 percent participation by those eligible for the program. [*Id*. at pg. 219 lns. 17 – 19].

Illinois's program, by comparison, is only a couple of years old and Mr. Rea identified that participation there was "less than 10 percent." [*Id.* at lns. 20 – 22].

Once a realistic level of adoption rates is taken into consideration, the actual cost of the UAT program becomes significantly less than what MECG would have the Commission believe. If Illinois is used as a proxy, for example, and the Commission assumes at least 10% of eligible customers apply over the first two years, the total program cost is only $6,466,524 according to the Company's projections. [*see Filing in Response to Commission Requests*, Appendix A, EFIS 274]. And it must again be noted that this is the total over two years. This means that even if one assumes all 10% of eligible customers join immediately, the cost of the program will be just over $3M annually. Even if you raise participation to 40% (the highest it has ever gotten after ten years of practice in Pennsylvania), the program's yearly cost is under $12M.[2] And it cannot be stressed enough that this is still a hopelessly high assumption.

The fact that MECG is relying on unrealistic assumptions is far from the only fatal flaw in its argument. It has also completely failed to address the cost-offsets that come with a low-income program like this. To understand those points, it is first necessary to "understand the difference between *gross* program costs and *net* incremental program costs when considering the impacts of a low-income discount for

[2] $23,706,094/2=$11,853,047

MAWC customers" [Ex. 450, *Direct Testimony of Roger D. Colton*, pg. 53 lns. 4 – 6]. As Consumer Council of Missouri's witness Mr. Roger Colton explains:

> Gross program costs are determined by subtracting participant bills calculated using the MAWC discounts from participant bills calculated at standard residential rates. This calculation assumes that MAWC would have collected 100% of the billed revenue in the absence of the discount. In fact, however, MAWC would ***not*** collect 100% of its billed revenue in the absence of the low-income discount. Low-income customers experience substantial levels of arrearages. Low-income customers experience frequent service disconnections for nonpayment in the months outside of the winter shutoff moratorium. Low-income customers experience higher levels of uncollectibles. The actual net cost to ratepayers accruing from a low-income MAWC discount will be much less than the gross costs . . .

[*Id*. at lns. 6 – 15]. Mr. Colton backed these findings with an extensive review of the Tiered Assistance Program ("TAP") offered by the water department of the City of Philadelphia. This analysis shows that TAP program ultimately "generated more complete payments on the part of low-income program participants" than had occurred before the program was implemented. [*Id*. at pg. 56 lns. 7 – 8]. As Mr. Colton explains:

> At the 12-month mark, TAP customers have paid more than 70% of the bills they received. In contrast, at the 12-month mark, low-income customers not participating in TAP have paid only 36% (FY2018) to 46% (FY2021) of the bills they have received. At the 24-month mark, TAP customers are paying between 80% and 90% of the bills they have received. In contrast, low-income customers not participating in TAP have paid only 45% (FY2018) to 63% (FY2021) of the bills they received by Month 24.

[*Id*. at pg. 59 lns. 3 – 8]. In doing this, the TAP program substantially improved the "Payment Coverage Ratio" as shown in Mr. Colton's testimony. [*Id*. at pg.61 ln. 2 –

pg. 62 ln. 8]. This resulted in nearly 100% of those TAP program participants going from being severely "behind on their bill payments upon entering the program" to being "reasonably good-paying customers." [*Id.*].

In addition to increasing the likelihood of low-income customers paying their bills, the TAP program also dramatically increased how <u>quickly</u> those bills were paid. [*Id.* at pg. 63 ln. 1 – pg. 64 ln. 10]. This would constitute an important achievement for any prospective water company for two different reasons:

> First, improving the timeliness of payments reduces the lag days between the date of billing and the date of payment. As a result, it will reduce the working capital requirement of the utility that contributes to the level of rates charged to all customers. Second, given that working capital is a capital expenditure, it earns a rate of return, part of which is an equity return. The equity return is the "profit" of the utility on which it will pay an income tax. Accordingly, each dollar of reduced working capital will also generate a tax impact. Each $1 reduction in working capital will generate more than a $1 reduction in rates. These two impacts are particularly important because they can be realized in one of two ways. On the one hand, reducing the level of unpaid bills will generate a working capital reduction. All else equal, a $100 arrears will generate a lower working capital requirement than a $150 arrears. On the other hand, reducing the age of unpaid bills (i.e., the number of days a bill is unpaid) will also generate a working capital reduction. All else equal, a $100 bill that remains unpaid for 60 days will generate a lower working capital requirement than a $100 bill that remains unpaid for 120 days.

[*Id.* at pg. 64 ln. 14 – pg. 65 ln. 5]. There are thus <u>significant</u> financial benefits to be achieved by <u>all</u> MAWC's water and waste-water customers tied to reducing both the lag in payments and ultimate non-payments of low-income customers. This then forms the final nail in the coffin for MECG's arguments against the UAT.

MECG is simply wrong to claim that the UAT program will cost $58,185,236 over two years or that it could raise rates for all other customers by over 10% as there is simply no rational basis to conclude that such events would transpire.[3] In addition, MECG has ignored the many real and tangible benefits that come from low-income bill assistance programs. These are benefits that the experts have shown will apply to <u>all</u> customers, not just those participating in the program. There is consequently no reason for the Commission to fall prey to MECG's incessant fear mongering.

## Conclusion

Neither of the two main points presented by MECG are justifiable reasons for this Commission to deny the chance to experiment with a novel approach to rate design that was developed by recognizing the very real and proven difference in cost to serve seasonal and non-seasonal residential customers. Nor should this commission be concerned with the proposed cost of the program given how few customers can be expected to participate based on the historical results of the similar programs that have been undertaken in the other states where MAWC affiliates operate. Moreover, it stands to be seen how much of those program costs should or actually will be borne by customers, as compared to the Company's shareholders, given those shareholders will receive some very real financial benefits from the program. The OPC therefore asks this Commission to take the initiative to pursues this exciting opportunity and to see what can be learned as a result.

[3] It should also be noted that MECG's 10% claim is based on incorrectly comparing the total <u>two-year</u> cost of the program to the <u>annual</u> revenue requirement included in the stipulation. Even at 100% adoption, the UAT would only rise to 5% of the Company's annual revenue.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission rule in the OPC's favor on the issues presented herein and grant any such other relief as is just and reasonable under the circumstances.

Respectfully submitted,

By: /s/ John Clizer

John Clizer (#69043)
Senior Counsel
Missouri Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
Telephone: (573) 751-5324
Facsimile: (573) 751-5562
E-mail: john.clizer@opc.mo.gov

## CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this eighteenth day of April, 2025.

/s/ John Clizer