

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

REPLY BRIEF OF CITIES OF ST. JOSEPH AND RIVERSIDE, MISSOURI

The City of St. Joseph, Missouri and the City of Riverside, Missouri ("Cities"), intervenors in this case, submit the following for the Commission's consideration.

OVERALL RATE INCREASE

The Cities remain deeply concerned about the magnitude of the rate increase requested by Missouri-American Water Company in this case and even about the revenue requirement increase stipulated to by the parties to this case. The Cities do not have the resources to hire expert witnesses to audit the Company's costs but must rely on the good work of PSC Staff, the Office of the Public Counsel and industrial intervenors to address the revenue requirement issues. Therefore, the Cities had no basis for objecting to the revenue requirement Stipulation and Agreement submitted in the case or forcing the issue to hearing.

Having said that, the Cities encourage the Commission to direct its Staff to intensely audit, on an ongoing basis, the capital investments and expenditures made by Missouri-American going forward, to ensure that all such investments and expenditures are indeed necessary and prudent, just and reasonable and

that the Company is not “gold-plating” its system to increase its Missouri rate base and, therefore, its return on equity.

The Company’s proposal in this case was for roughly a 40% overall increase in its Missouri Revenue Requirement. Such an increase significantly surpasses the rate of inflation experienced in the country since MAWC’s previous rate case. Even the stipulated Revenue Requirement results in an overall increase of approximately 24.46% after the Water System Infrastructure Rate Adjustment (WSIRA) is reset to zero. Such a sizable rate increase will significantly affect all customers economically, especially residential customers who cannot pass along their rates to anyone else, as can industrial and commercial customers.

It is striking to the Cities that Missouri-American asked for every risk-reducing method it could imagine in this case, while requesting an extremely high ROE in a range of 10.25% to 11.25%. Company’s case included Company-friendly ratemaking mechanisms like future test years, RSMs, WSIRA, production cost trackers, discrete adjustments, depreciation cost deferrals, etc.

Thus, MAWC sought to eliminate its risk while increasing its reward. To state the matter a bit hyperbolically, if a utility’s risk is reduced to something commensurate to the risk of a Certificate of Deposit at a bank (“CD”) , its return should also be commensurate to that of a CD,

The Company’s request for a 40% rate increase in this case calls to mind the Commission’s case first recognizing the Callaway nuclear plant into rates in 1985. *In the Matter of Union Electric ...*, Case Nos. EO-85-17 and ER-85-160, 27

MoPSC 2nd Series 183 (1985). Adding Callaway into rates, even after historic prudence disallowances ordered by the Commission, resulted in a 45% rate increase overall, which the Commission deemed too large for households or businesses to absorb all at once. Granted, that case affected electric rates, not water. But the Commission ordered a phase-in of that rate increase over a period of years. *Id.*, at 270-273.

At least the Callaway rate increase was caused by the construction of a nuclear power plant, one that still operates for the benefit of Ameren's customers providing extremely reliable and cost-effective electricity to the grid. What new does MAWC's 40%, or even its stipulated 24.46%, rate increase, give to its customers? It is difficult to explain the large rate increase in this case to clients and the public.

In evaluating the expenditures of a utility, the Commission must balance the interests of the shareholders against the benefit to the ratepayers.

Expenditures that show no benefit to ratepayers may be excluded. *Spire Missouri, Inc. v. Mo. Pub. Serv. Comm'n.*, 618 S.W.3d 225 (Mo. banc 2021).

A utility is not entitled to recover all prudent expenditures in its rates. The Commission has broad discretion to include or exclude expenditures to arrive at rates it deems to be 'just and reasonable,' subject of course to judicial review that the Commission's conclusions are supported by competent and substantial evidence and are not arbitrary, capricious, or an abuse of discretion. *Spire Missouri, Inc. v. Mo. Pub. Serv. Comm'n.*, 618 S.W.3d 225,233 (Mo. banc 2021),

A utility cannot spend any amount it pleases secure in the knowledge or expectation that ratepayers will foot the bill, *particularly when those expenses include items seeking to subordinate ratepayers' interests to those of the utility's investors*. *Spire*, at 233. Emphasis added.

Even assuming there is no basis in the evidence to reject the presumption of prudence with respect to one or more expenses or capital investments, the Commission does not err in its decision to exclude a portion of those costs in setting “just and reasonable” rates if they serve only to benefit shareholders and minimize shareholder risk with no accompanying benefit (or potential benefit) to ratepayers. *Spire*, at 233.

The Cities encourage the Commission to ensure that Staff bolsters its oversight and auditing of MAWC’s construction program and operating expenses on an ongoing basis in order to be able to carefully and critically audit MAWC’s capital additions and costs in the next rate case.

RATE DESIGN – RATE A

“At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the ... water ... corporation...” §393.150.2 RSMo.

The Commission’s duties include the duty of determining just and reasonable rates a utility company can charge for providing what today are considered necessities of life, electricity, gas, water and sewer services and at the same time attempt to receive a fair rate of return for providing those services.

The Cities express their disappointment in the amount of rate increase to true residential customers in this case and believe there are issues relating to the structure of Rate A that might have been addressed in this case and absolutely should be addressed before MAWC's next rate case.

The issue is the Rate A class ("Class") which constitutes users of water from zero (0) gallons to Four Hundred Ninety-nine Thousand Nine Hundred Ninety-nine (499,999) gallons to pay the highest price for water. The Class is not determined by volume or purpose of the use of the water as the other classes are constructed, but by the size of the meter. In this case a 5/8 inch meter.

In the discussion of Class Cost of Service and Rate Design there is no differentiation between true residential ratepayers, for example the senior widow living on a fixed income, and commercial ratepayers, those ratepayers who have the opportunity to recover the cost of water from their customers.

That is neither just nor reasonable, and no evidence has been introduced to justify it other than the "NIMBY" like explanation, class cost of service for rate classes. However, "Class Cost of Service" is not the determinant of rates. In fact, the Company's witness testified he had never considered establishing a separate rate class for the "true residential ratepayer", Transcript of Proceedings 3-6-2025, McClellan Pg. 144:17-25; Pg. 145:1-8, and the MECG's expert testified that breaking up Rate A into additional classes would make it easier to tie the additional classes to the cost of service results. She further testified that when you have a class that goes from zero to Four Hundred Fifty Thousand (450,000)

gallons it makes it more challenging to utilize cost of service effectively.
Transcript of Proceedings 3-6-2025, York Pg 173:18-25 thru Pg. 174:1-16.

This Commission has the authority, and the Cities would suggest the duty, to establish a true residential rate class for those 5/8th inch meter customers who use 10,000 or fewer gallons a month. The Commission would certainly be within its authority to establish classes A-1 to A-4 and a volumetric rate that could be designated as follows: A1-0-3,000 gallons, A2-3,001 to 7,000 gallons, A3-7,001 to 10,000 gallons and A4-10,001+ rate classes, if it so chooses, in order to provide a just and reasonable rate for the true residential ratepayer.

The City of Riverside and the City of St. Joseph seek here to represent the true residential ratepayer, who sometimes falls through the cracks when we get to just and reasonable pricing for their rates.

Returning to the question, what is the price per gallon of water that a user pays? If the cost of production of that unit, that gallon of water, is the same, why do people have to pay differently? And if there is a basis, it should not start with the individual or the family who doesn't get to recapture their cost. The residents are the single customer of MAWC that does not get to recover their costs and may be suffering from a fixed revenue of their own of which they don't have anybody to appeal to, whether they're fixed on Social Security or their wages at their job. There are reasons why the residential user has the most limited avenues for relief of any other ratepayer out there.

Because we're dealing again with a commodity that's regulated and restricted, there really isn't competition for the Company. The legislature has gone to great lengths to reduce risk to the Company.

But there is also no place else for the true residential consumer, whether it is a retired couple, retired single individual, a young person starting out from college with their first house, their first apartment dealing with fixed costs and costs to which they have no control because you have to have water. You have to drink water. We hope people bathe. But those are the type of things that, again, residential ratepayers lack the luxury of choice. A residential ratepayer is not guaranteed a savings account, and is certainly not guaranteed a return on investment of over 9%.

It is in the context of the residential ratepayer that this Public Service Commission was established. Its very name reinforces that idea that the Commission is here to make sure residents are guarded, businesses are guarded and just *and reasonable* rates are established. We're not attempting to pit anybody against anybody.

Again, water is a rare commodity for which the residential ratepayer has no options to go elsewhere. A reasonably defined and established true residential rate might also help mitigate the need for a Universal Affordability Tariff (UAT) such as is under consideration in this case.

APPLICATION OF RATE INCREASE IN THIS CASE

Cities agree with the Office of the Public Counsel and MoPSC Staff that, in order to avoid undue rate shock on any one customer class, the Commission should apply the stipulated revenue requirement increase in this case by an equal percent increase across all rates and districts. *Ex. 217, Direct/Rebuttal Testimony of Melanie Marek, pg. 6, ln. 21-22, EFIS 227; OPC Initial Brief, page 7 of 10.*

CONCLUSIONS

The Cities encourage the Commission to ensure that Staff bolsters its oversight and auditing of MAWC's construction program and operating expenses on an ongoing basis in order to be able to carefully and critically audit MAWC's capital additions and costs in the next rate case.

The Cities encourage the Commission to adopt a rate design which includes a true residential rate as a subclass of the existing Rate A class. In the alternative, Cities encourage the Commission to direct its Staff and the Company to present options for the Rate A class with more subclassifications based on volumetric usage in order to recognize a true residential rate in the Company's next rate case.

The overall rate increase in this case should be applied by an equal percentage increase across all rates and districts.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been served electronically on the PSC Staff Counsel's office (at staffcounsel@psc.mo.gov), on the Office of the Public Counsel (at opcservice@opc.mo.gov) and on all parties of record on this 18TH day of April 2025.

/s/ William D. Steinmeier
