

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

In the Matter of the Petition of Missouri- )  
American Water Company for Approval to )  
Establish a Water and Sewer Infrastructure )  
Rate Adjustment (WSIRA) )

Case No. WR-2025-0345

**RESPONSE TO STAFF RECOMMENDATION**

**COMES NOW** the Office of the Public Counsel (the “OPC”) and in response to the Staff of the Public Service Commission of the State of Missouri’s (“Staff” and the “Commission,” respectively) Recommendation (the “Recommendation,” Doc. 7) respectfully states:

The OPC opposes the Water and Sewer Infrastructure Rate Adjustment (“WSIRA”) recovery amounts identified by Staff because, as explained more fully in the attached Memorandum authored by certified public account Mr. John Riley, Staff included a tax gross up component in its calculations even though Missouri-American Water Company (“MAWC”) will not pay any taxes during the period over which it will recover these WSIRA revenues. As neither the WSIRA statutes nor Internal Revenue Service (“IRS”) guidelines require recovery of this additional amount and MAWC will not pay taxes during this period, MAWC should not be authorized to collect this additional amount. Removing the tax gross up results in customer savings of approximately \$430,535.

**I. Background**

On September 3, 2025, MAWC filed its Petition to Establish a Water and Sewer Infrastructure Rate Adjustment and Motion for Approval of Customer Notice, seeking Commission authority to establish a WSIRA to recover approximately \$15 million across its four rate districts (St. Louis County Water, Other Water, Arnold Sewer, and Other Sewer). (the “Petition,” Doc. 2).

On September 5, 2025, the Commission issued its Order Directing Notice, Setting an Intervention Deadline, Directing a Staff Recommendation, and Consolidating Files. (the “Order,” Doc. 5). In the Order, the Commission required Staff to file its recommendation no later than December 2, 2025. (Order 3). The Commission required responses to Staff’s recommendation to be filed no later than December 9, 2025. (*Id.*).

On December 2, 2025, Staff filed its Recommendation. It recommended that the Commission authorize MAWC to establish a WSIRA to recover revenues of \$15,567,151. (Rec. Memo. 7). In the Recommendation Memorandum, Staff stated, in pertinent part, that its “calculations reflect the overall weighted average cost of capital of 7.00% (tax grossed up rate of return).” (*Id.*). On December 9, 2025, Staff filed an Amended Staff Recommendation stating that after it filed its original Recommendation, “communications between Staff and Missouri-American Water Company revealed an error relating to Rate B.” (the “Amended Recommendation,” Doc. 8). In the Amended Recommendation, Staff continues to recommend that MAWC be allowed to recover the same amount of WSIRA revenues, \$15,567,151 and states that it reached this result using a “tax grossed up rate of return.” (Am. Rec. Memo. 7).

## **II. Response**

The OPC files this Response because it opposes Staff’s use of a “tax grossed up rate of return.” (*See* Am. Rec. Memo. 7). Neither the WSIRA statutes nor any IRS guideline require the use of the tax gross up calculation, as described by Mr. Riley in his Memorandum. Because MAWC will not pay income taxes during the period it will recover the WSIRA revenues, no need exists for it to recover the tax gross up amount. Therefore, the tax gross up should be left out of the calculation.

**A. Applicable Legal Background: The WSIRA Statutes**

Pursuant to § 393.1506 RSMo., certain water and sewer corporations are eligible to establish a WSIRA that allows for the recovery of certain costs outside of a rate case. The statutes identify these costs as “the appropriate pretax revenues associated with the eligible infrastructure system projects, less the appropriate pretax revenues associated with any retired utility plant that is being replaced by the eligible infrastructure system projects.” § 393.1506 RSMo.

“Appropriate pretax revenues” include four components, namely:

(a) The water or sewer corporation's pretax weighted cost of capital multiplied by the net original cost of eligible infrastructure system projects, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system projects which are included in the petition to establish or change a WSIRA, plus accumulated deferred income taxes and accumulated depreciation associated with any eligible infrastructure system projects in a currently effective WSIRA implemented pursuant to sections 393.1506 and 393.1509;

(b) The state, federal, and local income or excise taxes applicable to such revenues;

(c) The depreciation expense applicable to the eligible infrastructure system project less annual depreciation expense associated with any related facility retirements; and

(d) The property taxes applicable to the eligible infrastructure that will be due within twelve months of the filing of a request to implement a water and sewer infrastructure rate adjustment pursuant to sections 393.1506 and 393.1509, less any property taxes associated with any related facility retirements;

§ 393.1503(1) RSMo.

**B. Argument: The Tax Gross Up Should be Left Out of the WSIRA Calculation Here**

As Mr. Riley explains, the tax gross up is an additional calculation, completed to ensure that a company collects enough revenue to pay all iterations of the income taxes due on the revenues it generates. It is a tax on tax calculation. Generally, it must be included so that the company can recover all of its authorized revenues.

However, in MAWC’s last rate case, two of Staff’s accounting schedules show that MAWC will have no income taxes due during the duration of the rates set in the case. (*See* Staff Total Company – Cross Rebuttal-Surrebuttal Accounting Schedules p. 4<sup>1</sup>, 14, Case Number WR-2024-0320, Doc. 145). The recovery period for the WSIRA revenues authorized in this case will likely match the duration of the rates set in Case Number WR-2024-0320.<sup>2</sup> *See* § 393.1509.6 RSMo. (requiring that a WSIRA be reset to zero when rates resulting from a rate case that incorporates the WSIRA-eligible costs become effective); § 393.1506.3 RSMo. (prohibiting the collection of a WSIRA for a period exceeding three years, unless the water or sewer utility has a pending general rate case).

Though the WSIRA statutes require inclusion of the “state, federal, and local income or excise taxes applicable to such revenues,” they do not mention the inclusion of the tax gross up amounts. *See* §§ 393.1503(1)(b); 393.1506.1 RSMo. Yet, in this WSIRA case Staff asserts that it utilized a “tax grossed up rate of return.” (Am. Rec. Memo. 7).

Because MAWC will pay no income taxes during the period it will recover these WSIRA revenues and nothing requires the inclusion of the tax gross up amounts, they should be excluded. To do so otherwise, will simply allow MAWC to increase its profits at the expense of its customers. Excluding the tax gross up amounts results in savings of approximately \$430,535 for customers, leading to WSIRA revenue requirements for each district as: St. Louis County Water-\$11,956,304; Other Water-\$2,976,761; Arnold Sewer-\$1,673; Other Sewer-\$201,878.

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<sup>1</sup> The page numbers here refer to the page of the pdf document as filed in the Commission’s Electronic Filing Information System (“EFIS”).

<sup>2</sup> The time periods may differ if MAWC chooses not to file a new general rate case within three years. *See* § 393.1506.3 RSMo. In that instance, its WSIRA would expire, but its general rates would continue. *See id.*

### **III. Conclusion**

The Commission should exclude the tax gross up from the WSIRA revenue requirement calculation in this case as MAWC will pay no income taxes during the period it will collect these WSIRA revenues and nothing requires their inclusion. Alternatively, the OPC requests that the Commission hold a hearing in this matter.

WHEREFORE, the Office of the Public Counsel respectfully requests that the Commission either exclude the tax gross up amounts from the WSIRA revenues it authorizes in this matter or hold a hearing on this issue.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 9th day of December 2025.

/s/ Lindsay VanGerpen