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**EXHIBIT**

203 P

**Exhibit No.:**  
**Issue(s):** Termination of Reflections  
Sale Agreement/  
Debit Acquisition Adjustment/  
Public Interest  
**Witness/Type of Exhibit:** Roth/Surrebuttal  
**Sponsoring Party:** Public Counsel  
**Case No.:** WA-2019-0185

**SURREBUTTAL TESTIMONY**

**OF**

**KERI ROTH**

Submitted on Behalf of the Office of the Public Counsel

**OSAGE UTILITY OPERATING COMPANY, INC.**

CASE NO. WA-2019-0185

Exhibit No. \_\_\_\_\_  
Date \_\_\_\_\_ Reporter \_\_\_\_\_  
File No. \_\_\_\_\_

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Denotes Confidential Information that has been redacted

September 4, 2019

OFC Exhibit No. 203P  
Date 9/18/19 Reporter BJB  
File No. WA-2019-0185

**NON-PROPRIETARY**

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

In the Matter of the Application of                            )  
Osage Utility Operating Company, Inc.                    )  
to Acquire Certain Water and Sewer                      )  
Assets and for a Certificate of                            )  
Convenience and Necessity                                )


Case No.: WA-2019-0185 &  
SA-2019-0186

**AFFIDAVIT OF KERI ROTH**

STATE OF MISSOURI    )  
                                  )   ss  
COUNTY OF COLE     )

Keri Roth, of lawful age and being first duly sworn, deposes and states:


1. My name is Keri Roth. I am a Public Utility Accountant III for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal 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.

  
\_\_\_\_\_  
Keri Roth  
Public Utility Accountant III

Subscribed and sworn to me this 4<sup>th</sup> day of September 2019.



JERENE A. BUCKMAN  
My Commission Expires  
August 23, 2021  
Cole County  
Commission #13764037

  
\_\_\_\_\_  
Jerene A. Buckman  
Notary Public

My Commission expires August 23, 2021.

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**SURREBUTTAL TESTIMONY**  
**OF**  
**KERI ROTH**  
**OSAGE UTILITY OPERATING COMPANY, INC.**  
**CASE NO. WA-2019-0185**

1 **I. INTRODUCTION**

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

3 A. Keri Roth, P.O. Box 2230, Jefferson City, Missouri 65102-2230.

4 **Q. Are you the same Keri Roth who filed rebuttal testimony on behalf of the Office of the**  
5 **Public Counsel (“OPC”) in this case?**

6 A. Yes.

7 **Q. What is the purpose of your surrebuttal testimony?**

8 A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of Mr.  
9 Anthony J. Soukenik, President of Reflections Subdivision Master Association, Inc. (“the  
10 Association”), regarding the notice to terminate the agreement to transfer the Reflections  
11 Condominiums (“Reflections”) water and sewer systems to Central States Water Resources,  
12 Inc. (“CSWR”)/Osage Utility Operating Company, Inc. (“OUOC”). I will also respond to the  
13 rebuttal testimony of Mr. Kenneth Hulett, President of the Cedar Glen Condominium Owners  
14 Association, Inc. (“Cedar Glen”), a subdivision which is part of Osage Water Company  
15 (“OWC”) that OUOC is pursuing to acquire.

16 **II. TERMINATION OF REFLECTIONS SALE AGREEMENT**

17 **Q. Was the agreement to sell the Reflections water and sewer system to CSWR/OUOC**  
18 **terminated by the Association, Reflections Condominium Owner’s Association, Inc.**  
19 **(“RCOA”), and Great Southern Bank (“GSB”), collectively the “Sellers”?**

1 A. Yes. The notice of termination, attached to Mr. Soukenik's rebuttal testimony, was issued to  
2 CSWR/OUOC President, Mr. Josiah Cox, on August 2, 2019.<sup>1</sup>

3 **Q. Why did the Sellers vote to terminate the agreement<sup>2</sup> with CSWR/OUOC?**

4 A. Mr. Soukenik states in rebuttal testimony:

5 "CSWR could not timely close its acquisition,"<sup>3</sup> and "it became apparent that  
6 Osage Utility Operating Company, Inc. would not provide the least cost,  
7 capable utility service to the Reflections development, given its requested rate  
8 base adjustment and acquisition premium."<sup>4</sup>

9 **Q. Did GSB's counsel request that Reflections be bifurcated from OUOC's request to  
10 process the acquisition case more quickly?**

11 A. Yes. Ms. Sue Schultz, counsel for GSB, requested that Reflections be removed from this  
12 acquisition case in a procedural meeting amongst all the parties on June 10, 2019. However,  
13 as stated in Mr. Soukenik's rebuttal testimony, CSWR/OUOC refused to do so.<sup>5</sup>

14 **Q. Mr. Soukenik states in his rebuttal testimony that CSWR knew, or should have known,  
15 that seeking an acquisition premium and rate base adjustment would extend the  
16 proceeding.<sup>6</sup> Does OPC agree?**

17 A. Yes. The debit acquisition adjustment is a new incentive that has not been requested by  
18 CSWR or any affiliate prior to this case. CSWR should have known there was a high  
19 probability of extended proceedings with the request of a new incentive.

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<sup>1</sup> Rebuttal Testimony, Anthony J. Soukenik, page 3, lines 9 – 11

<sup>2</sup> Rebuttal Testimony, Anthony J. Soukenik, page 3, lines 14 – 15

<sup>3</sup> Rebuttal Testimony, Anthony J. Soukenik, page 3, line 19

<sup>4</sup> Rebuttal Testimony, Anthony J. Soukenik, page 4, lines 17 – 20

<sup>5</sup> Rebuttal Testimony, Anthony J. Soukenik, page 4, lines 2 – 3

<sup>6</sup> Rebuttal Testimony, Anthony J. Soukenik, page 4, lines 5 – 7

1 **Q. Has CSWR/OUOC filed an amended application in the current case since the Sellers of**  
2 **the Reflections systems terminated the agreement?**

3 A. No. However, it is my understanding that CSWR has filed a case against the Sellers in  
4 Camden County Circuit Court, case number 19CM-CC00158, which includes a Motion for  
5 Temporary Restraining Order, a Motion for Preliminary Injunction, and a Petition for  
6 Injunction & Declaratory Relief.

7 **Q. Has the circuit court judge issued a ruling on any of CSWR's motions?**

8 A. Yes. CSWR's Motion for Temporary Restraining Order, which requested the Sellers of  
9 Reflections be restrained from terminating the sale agreement and be prohibited from selling  
10 the water and sewer system to any other party, was denied on August 22, 2019.

11 **III. DEBIT ACQUISITION ADJUSTMENT**

12 **Q. Should the Sellers termination of the sale agreement affect the Missouri Public Service**  
13 **Commission Staff's ("Staff") Recommendation attached to Ms. Natelle Dietrich's direct**  
14 **testimony?**

15 A. Yes. In my opinion, calculations of Staff's proposed debit acquisition adjustment should  
16 change for the OWC systems.

17 **Q. Please explain.**

18 A. As previously stated in my rebuttal testimony, currently, Staff has calculated its proposed  
19 debit acquisition adjustment based on the combined purchase prices of the OWC and  
20 Reflections systems compared to the total rate base values as of December 31, 2018, of the  
21 OWC and Reflections systems. This amount equaled \*\* \*\*.<sup>7</sup>

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<sup>7</sup> Direct Testimony, Natelle Dietrich, Staff Memorandum, page 21 - 22

1           However, since the agreement to sell the Reflections systems to CSWR/OUOC has been  
2           terminated, Staff's calculation should only be based on the OWC systems. The difference  
3           between the purchase price of the OWC systems of \$800,000 and Staff's calculated rate base  
4           of \$341,508<sup>7</sup>, results in a debit acquisition adjustment of \$458,492, approximately 216%  
5           higher than Staff's current recommendation. In other words, Staff's methodology may reward  
6           OUOC with a **larger** incentive, while purchasing **less** of an asset, since the purchase price of  
7           Reflections and its rate base offsets Staff's current recommended debit acquisition adjustment.  
8           This ties back to OPC's concerns described in my rebuttal testimony regarding CSWR's  
9           purchase price over OWC's rate base value and not meeting its burden of proof requesting the  
10          debit acquisition adjustment, beginning on page 7, line 14.

11   **IV. PUBLIC INTEREST**

12   **Q. Did the Sellers of Reflections express concerns that CSWR/OUOC will not provide the**  
13   **least cost option for Reflections customers?**

14   **A. Yes. Mr. Soukenik states in this rebuttal testimony:**

15           "Based up the testimony and data request responses that have been filed and  
16           issued by the various parties in the matter to date, it became apparent that  
17           Osage Utility Operating Company, Inc. would not provide the least cost,  
18           capable utility service to the Reflections development, given its requested rate  
19           base adjustment and acquisition premium. The associations and the bank had  
20           agreed to transfer the utility systems to CSWR for one dollar, in order to allow  
21           rates to be maintained at the most economical level. By seeking the rate base  
22           adjustment and acquisition premium, Osage Utility Operating Company, Inc.  
23           sought to increase rates beyond what is required to make the needed  
24           improvements to the systems."<sup>8</sup>

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<sup>8</sup> Rebuttal Testimony, Anthony J. Soukenik, page 4, lines 16 – 23, and page 5, line 1

1 **Q. Did the Sellers of Reflections develop concerns that CSWR/OUOC has plans to over-**  
2 **build the systems?**

3 A. Yes. Mr. Soukenik states in his rebuttal testimony:

4 “Additionally, the improvements discussed by Osage Utility Operating  
5 Company, Inc. include items that are not required by the Missouri Department  
6 of Natural Resources (“DNR”); again adding to the costs that would be  
7 recovered through future rates.”<sup>9</sup>

8 **Q. Which entities have the Sellers instead contracted with to sell the Reflections systems**  
9 **since terminating the sale agreement with CSWR/OUOC?**

10 A. Mr. Soukenik states in his rebuttal testimony:

11 “The non-profit entities Missouri Water Association and Lake Area Waste  
12 Water Association indicated that they were willing and able to provide the  
13 service to Reflections; to make the improvements required by DNR; to set  
14 rates based on costs incurred in their respective systems; and to close the  
15 acquisition before the end of August.”<sup>10</sup>

16 **Q. Is Missouri Water Association (“MWA”) and Lake Area Waste Water Association**  
17 **(“LAWWA”) the same entities discussed in your rebuttal testimony with interest in**  
18 **acquiring the OWC water and sewer systems?**

19 A. Yes, along with Public Water Supply District #5, collectively the “Joint Bidders.” The Joint  
20 Bidders have a standing offer to purchase the OWC systems for the same purchase price of

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<sup>9</sup> Direct Testimony, Anthony J. Soukenik, page 5, lines 2 - 5

<sup>10</sup> Direct Testimony, Anthony J. Soukenik, page 5, lines 5 - 9



1           \$800,000, without the use of an acquisition incentive. These entities have also intervened in  
2           the current case and have submitted testimony.

3           **Q.    Should the Missouri Public Service Commission (“Commission”) grant**  
4           **CSWR/OUOC’s application to acquire the Reflections water and sewer systems?**

5           A.    No. The Sellers terminated the contract with CSWR/OUOC and have concluded, “The  
6           acquisition by the non-profit entities would be in the best interest of the associations and the  
7           bank, as well as the public interest in having capable utility service at reasonable rates.”<sup>11</sup>

8           **Q.    Should the Commission grant CSWR/OUOC’s application to acquire the OWC water**  
9           **and sewer systems?**

10          A.    No. Since the termination of the sale agreement with CSWR/OUOC to purchase the  
11          Reflections systems, this continues to compound my concerns discussed in my rebuttal. The  
12          same concerns the Sellers have for the Reflections systems can easily apply to the OWC  
13          systems. CSWR cannot guarantee there will not be a large rate increase after improvements  
14          to the systems are completed or its request for a debit acquisition adjustment. However, as  
15          described in Mr. Hulett’s rebuttal testimony:

16                    “PWSD#5 charges customers \$78 a month for water and sewer service  
17                    combined, a rate which PWSD#5 has advised will not change if it obtains the  
18                    facilities serving Cedar Glen.”<sup>12</sup>

19          Current rates for Cedar Glen are \$24.76 per month, plus \$5.86 per 1,000 gallons over 2,000  
20          gallon usage for water, and \$29.02 for sewer. This equates, for example, to \$65.50 per month  
21          for water and sewer service combined for a customer that uses 4,000 gallons of water.

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<sup>11</sup> Rebuttal Testimony, Anthony J. Soukenik, page 5, lines 10 - 12

<sup>12</sup> Rebuttal Testimony, Kenneth Hulett, page 5, lines 3 - 5

1           The remaining service areas of OWC would be charged for service by MWA and LAWVA  
2           if the OWC systems were obtained. Customer rates would be \$94 per month for water and  
3           sewer service combined.

4           Additionally, the Sellers' concerns regarding CSWR/OUOC's planned improvements,  
5           including those beyond required by the Department of Natural Resources, can be applied to  
6           the OWC systems. For example, Mr. Hulett explains in rebuttal testimony that PWSD#5  
7           estimates only \$39,000 in improvements to achieve DNR compliance standards, whereas, Mr.  
8           Todd Thomas, witness for CSWR/OUOC, estimates \$659,700. This example alone causes  
9           huge concern for CSWR/OUOC's intentions to over-build the systems. Therefore, the  
10          Commission should deny OUOC's application to acquire the Reflections and OWC systems,  
11          as there are other interested, locally-based buyers with a standing offer, to step in and operate  
12          the systems at a much more economical cost while still providing safe and adequate service.

13   **Q.     Does this conclude your surrebuttal testimony?**

14   **A.     Yes.**