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EXHIBIT

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Issue(s):	Income Tax AAO
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Sponsoring Party:	Public Counsel
Case No.:	WR-2017-0285

SURREBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

MISSOURI-AMERICAN WATER COMPANY

CASE NO. WR-2017-0285

February 9, 2018

Exhibit No. 209
Date 3/8/18 Reporter MR
File No. WR-2017-0285

SURREBUTTAL TESTIMONY
OF
JOHN S. RILEY
MISSOURI AMERICAN WATER COMPANY
CASE NO. WR-2017-0285

1 **Q. What is your name and what is your business address?**

2 A. John S. Riley, PO Box 2230, Jefferson City, Missouri 65102

3 **Q. By whom are you employed and in what capacity?**

4 A. I am employed by the Missouri Office of the Public Counsel (“OPC”) as a Public Utility
5 Accountant III.

6 **Q. Are you the same John S. Riley that filed rebuttal testimony in this case?**

7 A. Yes. I am.

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

9 A. To address MAWC witness James Jenkins and John Wilde testimonies requesting an AAO
10 for the return of the excess accumulated deferred income tax (“ADIT”) and the MAWC
11 request for what Jenkins refers to as “Stub Period AAO”.

12 **Q. Can you summarize the ADIT AAO request now?**

13 A. MAWC proposes to defer the return of the excess ADIT until its *next* rate case due to its
14 inability to “fully estimate the exact amount of the [Tax Cuts and Jobs Act’s] (“TCJA”) impact
15 on MAWC’s ADIT at this time.”¹

¹ Wilde Rebuttal, page 5, line 1 and 2

1 **Q. Has deferment of some of the benefits of tax reform been included in the Company's**
2 **public relations communications regarding tax reform?**

3 A. No. The Company has emphasized its intent of passing on the benefits of tax reform to the
4 press², but it has minimized or entirely omitted the Company's intention of deferring (or
5 retaining) the return of the excess ADIT as a result of tax reform.

6 **Q. What is OPC's response to MAWC's proposal?**

7 A. An exact and perfect calculation of excess ADIT is not necessary to begin to flow back the
8 ratepayer's money. A skeptical person might question how a company who requires the
9 ratepayer to fund millions of dollars of computer hardware and programming to account for
10 every dollar reported to the financial statements of a publicly traded company cannot provide
11 a calculation of excess ADIT that is reasonably close to the expected amount to ultimately
12 refund.

13 **Q. What does OPC propose as the proper regulatory mechanism to return the excess ADIT**
14 **to the customer?**

15 A. OPC proposes the same solution that was filed as a nonunanimous stipulation and
16 agreement in the most recent Spire, Inc. ("Spire") rate cases.³ The new 21% tax rate should
17 be incorporated in the calculation of revenue requirement along with a reasonable and
18 conservative⁴ calculation of protected and unprotected amounts of ADIT to charge back to
19 the customer through rates set in this case.

² KMOX (2018) Customers shocked by water bill after hot, dry summer. *CBS*.

<http://stlouis.cbslocal.com/2018/01/24/customers-shocked-by-water-bill-after-hot-dry-summer/>

³ Cases GR-2017-0215 and GR-2017-0216, Nonunanimous Stipulation and Agreement Regarding Tax Cuts and Jobs Act, February 5, 2018

⁴ MAWC should provide Staff and OPC, the most up to date ADIT calculations through the true-up period and use those balances to calculate a fairly accurate protected and unprotected figures to use in the adjustment

1 To quote from paragraph 3 of the agreement:

2 The \$28 million is an estimate, because the actual changes to
3 Accumulated Deferred Income Tax cannot be known until each tax
4 year as current balances are amortized. Therefore, the Commission
5 should order Spire to calculate the actual impacts (income tax,
6 protected accumulated deferred income tax, and unprotected
7 accumulated deferred income tax) and book the difference between
8 the sum of the actual impacts and the \$28 million estimate in a
9 regulatory account (asset or liability, as appropriate) for
10 consideration in Spire's next general rate case.

11 Using this method allows for the small adjustments for ADIT to be recorded on an ongoing
12 basis and corrected in the next MAWC general rate cases while giving the ratepayers the
13 benefit of the tax cut.

14 **Q. Why is OPC urging the Commission not to allow deferral of the ADIT balances until**
15 **the next general rate case as requested by MAWC?**

16 **A.** The rate change can be implemented for this case and a reasonable protected amount of ADIT
17 and reasonable amount of unprotected ADIT can be established, and the protected amount of
18 ADIT can be amortized over 20 years and the unprotected amount of ADIT can be amortized
19 over 10 years. This is consistent with the fair proposal offered earlier this week in the Spire
20 cases that are much further along in their rate case schedules. If a deferral as requested by
21 MWAC is established then there is a very good chance that the customers of the company
22 may never see a dime of the regulatory asset returned to them. MAWC may have a substantial
23 amount of plant that will be added to rate base in the next general rate case. Both of these
24 events may be looked upon as offsetting and then the ratepayer never would see the refund.
25 There is no need to implement an AAO deferral and have the customer wait.

26 **Q. MAWC witness Jenkins has also proposed a "Stub Period AAO". Would you provide**
27 **a brief explanation of MAWC's proposition?**

1 A. MAWC has offered to combine the property tax increases addressed in the previously decided
2 case WU-2017-0351 with the income tax savings that MAWC will receive from January 1,
3 2018 until the operational date (May 28, 2018) of this rate case.

4 **Q. Why is OPC opposed to this suggestion?**

5 A. MAWC is trying to rebrand an old issue by combining the property tax request that the
6 Commission has already decided unfavorably for the Company in case WU-2017-0351 with
7 an income tax proposition in this general rate case WR-2017-0285. The property tax request
8 for an AAO where the company claimed extraordinary circumstances was rejected by the
9 Commission and should not be brought up again. I fully expect Staff to true-up property taxes
10 through December 31, 2017 so the impact is muted. However, OPC is against the
11 Commission making decisions in an effort to alleviate what has turned out to be a huge error
12 by the Company and its representatives.

13 **Q. Would you describe this error by MAWC?**

14 A. It has been well documented in WU-2017-0351 that MAWC, through its tax representatives,
15 did not properly identify St. Louis County property as 20 year property. When the St. Louis
16 Assessor's office discovered this discrepancy, the property was reclassified. The
17 reclassification caused the property tax due to rise in 2017. That could have been the end of
18 this issue if the Company had agreed to pay the new tax assessment at the end of 2017.
19 However, MAWC miscalculated the regulatory process. As MAWC witness John R. Wilde
20 stated in his direct testimony in case WU-2017-0351, MAWC negotiated a step up integration
21 of the tax impact which dragged the payment out into 2018.

1 **Q: Has the Company sought to work with St. Louis and Platte**
2 **Counties to resolve and minimize its property tax expense?**

3
4 A: Yes. Missouri-American, through outside counsel, informally
5 appealed to the St. Louis County Assessor seeking a transitional
6 approach to move to a 20-year recovery period. The assessor agreed
7 to use a 15-year recovery period for 2017, before moving to a 20-
8 year period for 2018.

9 Knowing when it would file this case, Company officials should have realize that true-up
10 would not go past the end of December 2017. The Commission decided against this AAO
11 and this issue should not be taken up again in this case.

12 **Q. Should the Commission grant an AAO for the change in income tax rates from January**
13 **through the operational date in May?**

14 A. The stipulation that was mentioned earlier in this testimony is silent on the three month period
15 between the date when the tax rate changed and when Spire, Inc. rates go into effect. MAWC
16 offered an income tax AAO for this case, however, there were strings attached. Staff witness
17 Mark Oligschlaeger has stated in his rebuttal testimony in this case:

18 Q. Does Staff recommend that [*Tax Cuts and Jobs Act of 2017*
19 ("TCJA")] impacts be reflected in MAWC's customer rates
20 resulting from this case?

21 A. Preliminarily, yes. The true-up testimony filings and
22 hearings would be the appropriate time and forum to consider issues
23 regarding appropriate quantification of the TCJA impacts on
24 MAWC. However, Staff is not taking a final position on rate
25 treatment of TCJA impacts in this proceeding until after it has had
26 an opportunity to review, at a minimum, MAWC and other utilities'
27 filings in Case No. AW-2018-0174 made on or before January 31,
28 2018 regarding the effect of the TCJA on Missouri utility cost of
29 service.⁵

⁵ Oligschlaeger rebuttal, page 31, lines 15-20

1 MAWC witness Jim Jenkins stated in is testimony⁶ that the income tax expense is an
2 extraordinary cost change. He did not mention the magnitude of the change estimated by
3 MAWC witness Wilde to be \$20.3 million. However, he did say it garnered AAO
4 consideration. OPC agrees with the MAWC witness Jenkins' interpretation that the change
5 in income tax may garner AAO consideration from January 2018 until rates become effective.
6 However, the full impact of the rate change should be included in the revenue requirement
7 determined in this case.

8 **Q. Does this conclude your rebuttal testimony?**

9 **A. Yes.**

10

⁶ Jenkins rebuttal, page 34, lines 3-13