

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 28th day of October, 2020.

In the Matter of the Application of Missouri-)
American Water Company for an)
Accounting Authority Order Authorizing It)
to Defer and Accumulate Costs and)
Financial Impacts Related to COVID-19)

File No. WU-2020-0417

**ORDER APPROVING NON-UNANIMOUS
STIPULATION AND AGREEMENT**

Issue Date: October 28, 2020

Effective Date: November 9, 2020

On June 26, 2020, Missouri-American Water Company (MAWC) applied for an accounting authority order (AAO) permitting it to accumulate and defer to a regulatory asset for consideration of recovery in future rate case proceedings all extraordinary costs and financial impacts incurred as a result of the COVID-19 pandemic, plus associated carrying costs. The Commission directed notice and established an intervention deadline. The Commission granted intervention to Midwest Energy Consumers (MECG), Missouri Industrial Energy Consumers (MIEC), the City of St. Joseph, Missouri, and the City of Riverside, Missouri.

On October 7, 2020, the parties, with the exception of the City of Riverside and the City of St. Joseph, filed a *Nonunanimous Stipulation and Agreement* (Agreement). The Agreement stated that the City of St. Joseph and the City of Riverside did not oppose it.¹

¹ See, File No. WU-2020-0417, *Nonunanimous Stipulation and Agreement* (filed October 7, 2020), Paragraph 3. The Commission notes that Paragraph 3 contains a typographical error referring to the “City of Joseph” instead of the “City of St. Joseph.” MAWC on behalf of all the parties filed a notice on October 22,

Commission Rule 20 CSR 4240-2.115(2)(B) allows nonsignatory parties seven days to object to a nonunanimous stipulation and agreement. That same rule allows the Commission to treat a non-unanimous stipulation as unanimous if no party timely objects. More than seven days have elapsed since the Agreement was filed and no party objected. Thus, the Commission will treat the Agreement as unanimous. The Commission heard additional explanations about the Agreement from the parties at an on-the-record presentation held on October 22, 2020.

The signatories to the Agreement request that the Commission issue an order authorizing MAWC to track and defer into a separate regulatory asset, assigned by service area, or allocated by service area and booked separately as between water and sewer, the following incremental costs directly related to the COVID-19 pandemic, beginning March 1, 2020:

(a) New or incremental operating and maintenance expense, limited to the following eligible costs:

- (i) Additional cleaning of facilities and vehicles;
- (ii) Personal protective equipment;
- (iii) Sanitizers;
- (iv) Signage related to pandemic safety;
- (v) Rental equipment, to include vehicles, portable hand washing stations, portable lavatories, and temporary office trailers;
- (vi) Other incremental COVID-related costs as agreed to by the parties or order of the Commission;

2020, clarifying that this was an error. Additionally, as Paragraph 3 indicates, the City of St. Joseph did not object to the Agreement making the typographical error immaterial.

(b) Increased bad debt expense to the extent total bad debt expense exceeds \$2,600,000 on an annual basis;

(c) Interest expense on MAWC's approximately \$70.0 million 364 day term loan entered into on March 20, 2020, with an interest rate of London Interbank Offered Rate (LIBOR) plus 80 basis points;

(d) Late payment fees waived during the moratorium period up to \$785,351;

(e) Reconnection charges and disconnection charges waived during the moratorium period up to \$783,200.

The Agreement also addresses how the signatories agree MAWC should treat: carrying costs, lost revenues, savings to be deferred, duration of the AAO, reporting of cost categories to be tracked and deferred, accounting practices and procedures, future recovery, treatment of this stipulation pending the outcome of an Evergy Missouri West, Inc. appeal related to AAOs,² additional customer support through a \$250,000 contribution to the H2O help for others program, and customer credit protections.

The Agreement waives any procedural requirements that would otherwise be necessary before final decision.³ Also, because the Agreement disposes of this action, the Commission need not separately state its findings of fact and conclusions of law.⁴

Missouri courts have recognized the Commission's regulatory authority to grant relief to a utility in the form of an AAO

which allows the utility to defer and capitalize certain expenses until the time it files its next rate case. The AAO technique protects the utility from earnings shortfalls and softens the blow which results from extraordinary

² *Office of Pub. Counsel v. Evergy Missouri W., Inc.*, No. WD 83319, 2020 WL 4290057, (Mo. Ct. App. July 28, 2020), reh'g and/or transfer denied (Aug. 27, 2020), transfer requested No. SC 98724 (Sept. 16, 2020).

³ Section 536.060, RSMo 2016.

⁴ Section 536.090, RSMo 2016.

construction programs. However, AAOs are not a guarantee of an ultimate recovery of a certain amount by the utility.⁵

The AAO “simply allows for certain costs to be separately accounted for *possible* future recovery in a future ratemaking proceeding.”⁶ “This is not retroactive ratemaking, because the past rates are not being changed so that more money can be collected from services that have already been provided; instead, the past costs are being considered to set rates to be charged in the future.”⁷ Although the courts have recognized the Commission’s authority to authorize an AAO in extraordinary and unusual circumstances, there is nothing in the Public Service Commission Law or the Commission’s regulations that would limit the grant of an AAO to any particular set of circumstances.⁸

The Commission has discretion in prescribing accounting methods and forms of accounts, records, and memorandum kept by water and sewer corporations without conducting a hearing.⁹ Nevertheless, the Commission issued notice in this matter and allowed interested entities to intervene and request a hearing. No hearing was

⁵ *State ex rel. Aquila, Inc. v. Public Service Comm’n of State*, 326 S.W.3d 20, 27 (Mo. App. 2010) (quoting, *Missouri Gas Energy v. Public Service Commission*, 978 S.W.2d 434 (Mo.App. W.D.1998)). See also Section 393.140, RSMo 2016. Additionally, Commission Rules 20 CSR 4240-50.030(1) and 61.020(1) require water and sewer companies to keep all accounts in conformity with the uniform systems of accounts issued by the National Association of Regulatory Utility Commissioners (NARUC) for water and sewer companies, respectively. However, section (4) of each rule provides that in prescribing this system of accounts the Commission is not committing itself to the approval or acceptance of any item set out in any account for the purpose of fixing rates or in determining any other matter.

⁶ *State ex rel. Office of Public Counsel v. Missouri Public Service Comm’n*, 301 S.W.3d 556, 570 (Mo. App. W.D. 2009) (emphasis in the original).

⁷ *Id.*, (quoting, *State ex rel. Mo. Gas Energy*, 210 S.W.3d at 335-36, citations omitted).

⁸ Section 393.140, RSMo 2016. See also, *Missouri Gas Energy v. Public Service Comm’n*, 978 S.W.2d 434, 437 (Mo. App. 1998); *State ex rel. Office of Public Counsel v. Public Service Comm’n*, 858 S.W.2d 806, 811 (Mo. App. 1993).

⁹ The courts have not decided the issue of whether Section 393.140(4) (which does not require a hearing) or Section 393.140(8) (which does require a hearing) controls the grant of an AAO. *State ex rel. Public Counsel v. Public Service Commission*, 858 S.W.2d 806, 809-810 (Mo. App. 1993).

requested.¹⁰ Instead, the signatory parties filed the Agreement to which there was no objection.

Based on the Commission's review of the Agreement, the Commission finds that the Agreement is consistent with the public interest and will approve it. The Commission will incorporate the terms of the Agreement into this order. So that the consumer aid and consumer protections provisions can become effective as soon as possible, the Commission will make this order effective in ten days.

THE COMMISSION ORDERS THAT:

1. The provisions of the *Non-Unanimous Stipulation and Agreement* filed on October 7, 2020, are approved and incorporated into this order as if fully set forth herein. The signatories shall comply with the terms of the Agreement. A copy of the Agreement is attached to this order as Appendix A.

2. This order shall become effective on November 9, 2020.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Dippell, Senior Regulatory Law Judge

¹⁰ The requirement for a hearing is met when the opportunity for hearing was provided and no proper party requested the opportunity to present evidence. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Comm'n of State of Mo.*, 776 S.W.2d 494, 495-496 (Mo. App. 1989).