**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of the Application )

Of a Rate Increase ) **Case No. WR-2017-0259**

For Indian Hills Utility Operating )

Company, Inc. )

**OPC STATEMENT OF POSITION**

COMES NOW the Office of the Public Counsel (“Public Counsel” or “OPC”) and for OPC’s Statement of Position state:

LIST OF ISSUES

1. **Payroll**
   1. *What are the appropriate job titles to be used in MERIC to compare and determine labor expense associated with Mr. Josiah Cox and Mr. Todd Thomas?*

OPC Position:

In Missouri small utility rate cases, parties often use MERIC (or, Missouri Economic Research and Information Center) because, in part, MERIC provides baseline statistics for employee salaries based on geographical region.

MERIC’s job titles may differ from the job titles utilized by the Company, but it is important to look at the economic realities of the job duties and look at similarly situated utilities. The selection of an appropriate job title is important because it is how the parties can argue for larger or lower employee compensation. Staff and the Company ignore, or depart from, the standard practice of classifying the top manager of a small utility as a general manger; and instead, Staff and the Company take an outlier opinion: that Mr. Cox should be treated similar to a large utility, awarded a higher compensation, and utilize the MERIC classification of a Chief Executive.

OPC rejects this special treatment for a small utility. Instead, OPC finds that the evidence supports a job title of “General and Operations Manager” for Mr. Josiah Cox and the evidence supports a job title of “Construction Manager” for Mr. Todd Thomas.

* 1. *What are the appropriate MERIC salary wages?*

OPC Position:

For the reasons explained above and through testimony, Mr. Cox should be treated, under MERIC’s classifications, as a “General and Operations Manager” and Mr. Thomas should be treated as a “Construction Manager.” The Company is free to depart and pay themselves any salary it chooses; however, the Commission should only allow just and reasonable amounts in rates. OPC finds salaries, at a mean experience level under MERIC, would yield salaries of $124,049 and $102,448 respectively for Mr. Cox and Mr. Thomas.

* 1. *Should the Employment Cost Index inflation rate be applied in setting such amounts?*

OPC Position:

Not under OPC’s proposal because OPC is relying on updated MERIC information, which is consistent with the Commission’s approach in WR-2016-0064.

* 1. *What allocation factor (actual or assumed) should be used to determine payroll?*

OPC Position:

OPC agrees with Staff’s calculated corporate allocation factor based on employee hours, and this position is explained further in Ms. Roth’s testimony and Ms. Sarver’s direct testimony.

* 1. *What level of experience should be used to set the labor expense associated with each employee?*

OPC Position:

OPC finds that a mean-level is reasonable rather than an entry-level or an experienced-level for Mr. Cox and Mr. Thomas. OPC witness Keri Roth explained her rationale for selecting the mean level, which she supports as being based on the employees’ experience in the regulated utility industry and her experience in reviewing other similarly situated utilities and employees.

1. **Auditing and Tax Preparation Fees**
   1. *What is the appropriate amount of Indian Hill’s auditing and tax preparation (accounting) costs to include in Indian Hill’s cost of service?*

OPC Position:

OPC has included a portion of tax preparation expense for First Round, but OPC has not included tax preparation expense for Indian Hills tax returns because OPC has not received any invoices to substantiate these costs.

* 1. *Should accounting costs paid outside the test year be included in Indian Hill’s cost of service?*

OPC Position:

No. Although an invoice was received in the test year, the invoice was paid outside of the test year and the work was not finished until October 2017.

1. **Management Consulting Fees**
   1. *Should a management consulting fee be included in the cost of service for Indian Hills?*

OPC Position:

No. The management consulting fee is being paid to the prior owner of the system, and the Company has failed in its responsibility to keep any logs, timesheets, or detailed invoices for the services performed by the prior owner. Consequently, OPC has doubts about the prudency of this expenditure because the Company has not substantiated a reasonable relationship between the costs and her time through time sheet data. These doubts are further compounded by the fact that the agreement will last ten years except that there is a Company—option at the conclusion of year three to terminate the agreement upon notice.

1. **Bank Fees**
   1. *What is the appropriate level of bank fees to include in the cost of service for Indian Hills?*

OPC Position:

OPC raises concerns about the Company’s failure to do a variety of tasks in-house. Instead, the Company outsourced a variety of tasks to a bank for which it has an affiliate relationship raising concerns as to self-dealing. Staff witness Ms. Sarver shares OPC’s concern on the cost-benefit of outsourcing labor to a bank; however, she believes the Company should present additional evidence on this subject in a later case. OPC vigorously advocates for consideration of evidence on this subject in the existing case rather than giving the Company special treatment to present their cost justification in a separate case involving a future, unknown affiliate. To delay the duty to examine the facts and to allow the Company to meet their burden of evidence in an unrelated case would result in an unlawful and unjust result.

1. **Rate Case Expense**
   1. *What is the appropriate rate case expense to include in the cost of service for Indian Hills?*

OPC Position:

OPC continues to receive information related to rate case expense, and OPC continues to evaluate the appropriate level of rate case expense. OPC proposes to normalize attorneys fees and customer notices over a three-year period. OPC proposes to disallow a video that was aired at the local public hearing, and OPC proposes to limit the high hourly rate of consultants in this case and spread the costs over a five-year amortization period.

1. **Treatment of Leak Repair Costs**
   1. *What are the appropriate accounts to book leak repair?*

OPC Position:

OPC recommends that certain of the leak repairs be capitalized and placed into Account 343 Transmission and Distribution Mains. The Company failed to maintain adequate documentation logging repairs and replacements, which is a large concern for OPC. OPC also has discovered questions about the way in which the company makes repairs, and OPC is supportive of better policies and procedures to cure the Company’s problems with its record-keeping and management practices. Because of these issues, OPC’s approach is the most conservative approach to avoid ratepayer harm.

* 1. *What is the appropriate level of leak repair to include in the cost of service?*

OPC Position:

OPC has included leak repair expense in its calculation of operations, labor and expenses at $90,426 and total maintenance expense of $5,198. OPC is aware that $57,000 relates to monthly operator fees, and OPC calculates that approximately $33,000 relates to additional fees which include added labor for leak repairs. Staff has also built in an amount for extraordinary repairs to be amortized over three-years, for which OPC believes capitalization would be the correct approach. The Company is advocating against an amortization and a capitalization, and the Company believes they should recover the entire amount as an expense on an annual basis going forward.

1. **Extension of Electric Service**
   1. *Should the Company be able to capitalize the electric line extension?*

OPC Position:

The Company does not own the electric line extension. For this reason, no party should recommend that it be capitalized. This is OPC’s position, which is consistent with NARUC USOA, Account 101.

* 1. *If so, what are the appropriate accounts to book the extension of electric line service?*

OPC Position:

Again, the Company does not own the electric line extension. This question should be moot for all parties.

1. **Rate Design**
   1. *How should rates be developed based on the cost of service approved in this case?*

OPC Position:

OPC recommends setting a seasonal rate because many of the residents of the community are seasonal. OPC also acknowledges that none of the parties have access to a robust set of usage data, and the parties will need to evaluate any rate design as the usage data improves over time.

* 1. *Should a seasonal rate design be adopted in this case, and if so, what should be the structure of the seasonal and non-seasonal rates?*

OPC Position:

Yes. OPC recommends rate design for non-seasonal months of October through April and seasonal months of June to September. OPC’s rate structure can be shown in Dr. Marke’s direct testimony, Schedule GM-2. OPC is recommending a $13.03 base charge and a $16.11 usage charge during non-seasonal months, and OPC recommends a $43.03 base charge and a $6.06 usage charge during seasonal months. Again, OPC’s proposal also recognizes that the parties will need to evaluate any rate design as the usage data improves over time. OPC also believes customer notice is essential prior to rates changing for each season.

1. **Rate of Return**
   1. *What capital structure should be used for determining rate of return?*

OPC Position:

OPC recommends a 50-50 capital structure to reflect what the Company should be working toward, over time, in order to improve its financial standing. Currently, the utility is highly leverage with debt, which arguably could have impacted its ability to obtain a lower cost of debt on the market.

* 1. *What cost of debt should be used for determining rate of return?*

OPC Position:

OPC recommends 6.75% as a reasonable imputed cost of debt. Mr. Gorman and Mr. Meyer explain why the Company’s financing agreement has not been shown to be prudent. The financing agreement involves affiliate relationships raising the risk of self-dealing; and furthermore, the financing agreement contains a high interest rate and prevents refinancing. These conditions are not beneficial to ratepayers, and it would be unreasonable to pass forward these costs to ratepayers.

* 1. *What return on common equity should be used for determining rate of return?*

OPC Position:

OPC recommends an embedded cost of capital of 9.34% resulting in an overall rate of return of 8.045% and pre-tax rate of return of 9.874% (using a composite tax rate of 27.98%).

WHEREFORE, for these reasons, OPC submits its Statement of Position.

Respectfully submitted,

\_**/s/Ryan D. Smith**

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ATTORNEY FOR THE OFFICE

OF THE PUBLIC COUNSEL

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail or by U.S. Mail, postage prepaid, on November 21, 2017 to all counsel of record.

/s/ Ryan D. Smith