

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

CASE NO. SR-83-69

In the matter of Terre Du Lac Utilities Corporation of Bonne Terre, Missouri, for authority to file tariffs increasing rates for sewer service provided to customers in the Missouri service area of the Company.

CASE NO. WR-83-70

In the matter of Terre Du Lac Utilities Corporation of Bonne Terre, Missouri, for authority to file tariffs increasing rates for water service provided to customers in the Missouri service area of the Company.

APPEARANCES: Richard S. Brownlee, Attorney at Law, P. O. Box 1069, Jefferson City, Missouri 65102, for the Applicant.

Willard C. Reine, Attorney at Law, 314 East High Street, Jefferson City, Missouri 65101, and Geoffrey L. Pratte, P. O. Box 430, Farmington, Missouri 63540, for Terre Du Lac Property Owners' Association, Inc.

Michael C. Pendergast, Assistant Public Counsel, 1014 Northeast Drive, Jefferson City, Missouri 65101, for the Office of the Public Counsel.

Martin C. Rothfelder, Assistant General Counsel, P. O. Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REPORT AND ORDER

On October 13, 1981, the Terre Du Lac Utilities Corporation (Company) filed with the Missouri Public Service Commission (Commission) revised tariffs designed to increase rates for water and sewer service. The Commission suspended those tariffs and assigned the suspended tariffs Case Nos. SR-82-233 and WR-82-234. By a subsequent order the Commission further suspended those tariffs and set a prehearing conference for November 17, 1982, and set a hearing on November 22, 1982.

As a result of Company's interim rate Case Nos. WR-83-6 and SR-83-7, the Commission found that the revenue deficit for the sewer operation was larger than the Company's proposed tariffs would provide.

On September 20, 1982, the Company withdrew the proposed tariffs pending in Case Nos. SR-82-233 and WR-82-234 and submitted substitute tariffs which have become the basis for the instant cases. The previously established prehearing date of November 17, 1982, was retained as well as the hearing scheduled for November 30, 1982.

As a result of the prehearing conference, the parties provided a Hearing Memorandum outlining the issues in dispute.

Following the hearing, a briefing schedule was established. As a result of various continuances and extensions of time the record has been completed by the filing of the Company's reply brief on April 15, 1983.

The initial briefing schedule was altered to permit the parties to file briefs simultaneously with the briefs to be filed in two of the Company's pending financing Case Nos. WF-82-159 and WF-82-193. On December 22, 1981, Company filed an application seeking retroactive approval of the following transactions:

1. The issuance of the stock in the corporation;
2. The execution of a promissory note as evidence of indebtedness to Terre Du Lac, Inc., in the principal sum of \$400,000 at an interest rate of 13-3/4 percent per annum, with principal due January 1, 1985; and
3. The issuance of a security agreement pledging all of the assets of the Company as collateral for a loan from CIT Corporation to Terre Du Lac, Inc.

On February 8, 1982, the Company filed a second application seeking permission to issue a promissory note in favor of Terre Du Lac, Inc., for the purchase of the water and sewer properties being operated.

By a letter dated April 6, 1982, the attorney for the Company requested that the two financing cases be consolidated with the pending rate cases. By order

issued on April 29, 1982, the Commission consolidated only the two finance cases and set the matters for hearing on a joint record on June 30, 1982.

The Company's initial brief was a consolidated brief filed for Case Nos. SR-83-69, WR-83-70, WF-82-159 and WF-82-193. The Company's brief also seeks a consolidation of the four cases. The Commission Staff has filed separate briefs in the financing cases and in the rates cases, and opposes the consolidation. The Public Counsel and Intervenor, Terre Du Lac Property Owners' Association, Inc. (Property Owners) also oppose the consolidation.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

At the outset it is necessary to address the question of the consolidation sought by the Company, and opposed by the other parties. The Commission Staff objects to any consolidation of the cases at this time since they have been tried separately and have now been briefed separately by the Staff. The Public Counsel has filed a brief only in Case Nos. SR-83-69 and WR-83-70. The Property Owners also object to the consolidation because they were not involved in the finance cases.

In the Commission's opinion the belated request for consolidation should not be granted and this Report and Order addresses only the record made in Case Nos. SR-83-69 and WR-83-70 and that part of the Company's brief relating to those two dockets.

It is also necessary to dispose of the threshold question concerning the issue of interest on \$79,000 borrowed in 1982. This issue materialized for the first time in the Hearing Memorandum (Exhibit 1). The Commission Staff has a motion before the Commission seeking to exclude consideration of the issue based on two grounds. The Commission Staff first contends that recovery of the expense would constitute unlawful retroactive ratemaking. Staff also contends that the expense was not

included in the Company's prefiled direct case and should not be permitted to be raised for the first time during the prehearing conference.

A review of the record reflects that the issue was raised for the first time in oral testimony. A review of that testimony indicates that the involved borrowings were for the purpose of meeting past unrecovered expenses. As pointed out by the Staff in its memorandum filed in support of its motion seeking exclusion of the involved interest, the Missouri Supreme Court previously struck down this Commission's attempt to allow recovery of past fuel expense through a surcharge. The Court relying on Sections 393.270(3) and 393.140(5), RSMo 1978, stated that past expenses "cannot be used to set future rates to recover past losses due to imperfect matching of rates with expenses." State ex rel. Utilities Consumers Council v. Missouri Public Commission, 585 S.W.2d, 41, 59 (Mo. banc 1979). This result is consistent with our decisions in Re Martigney Creek Sewer Company, Case No. SR-83-166, (March 4, 1983) and Re Missouri Cities Water Company, Case No. WR-83-14 et al, (May 2, 1983).

In the Commission's opinion the consideration of the interest on \$79,000 borrowed during 1982 to pay past operating expenses falls within the realm of prohibited retroactive ratemaking.

The Commission further notes the Staff's objection to the inclusion of the issue concerning the \$79,000 borrowing because it was not included in the Company's prefiled direct testimony. In the Commission's opinion the Staff's motion to exclude consideration of the contested interest could properly be granted, however, because of the result reached herein it is unnecessary to rule on the motion.

A third procedural issue is outstanding in the form of the Company's objection to the Staff's Exhibit 12 which purports to be the rebuttal testimony of Staff Witness Nickle concerning the nature or extent of the Company's rate base.

As a part of the Company's case, it included a request for an allowance of water and sewer rate base of up to \$1,916,794. The Staff, in its prefiled case,

proposes a reduction of that rate base to approximately \$41,430. The source of the substantial reduction is the contention, by the Staff, that most of the Company's property is contributed.

Exhibit 12 was filed the day before the hearing. Company has objected to the Exhibit on the basis that it does not constitute legitimate rebuttal testimony.

In the Commission's opinion the Company's objection should be sustained. Exhibit 12 is based substantially on information that has been in the possession of the Commission Staff since a study performed in late 1978 or early 1979. The study was performed for the purpose of establishing the original cost of the Company's property.

The order and notice of hearing issued in this matter on September 28, 1982, describes each party's direct testimony and exhibits to "include all testimony and exhibits asserting and explaining that party's proposed adjustment to the Company's book figures, as well as all testimony and exhibits asserting and supporting that party's proposed rate base..."

In the Commission's opinion all parties, including its Staff, must be bound by the same rules. Since the evidence has been within the Commission Staff's possession for some time, and the reduction to rate base was a part of the Staff's original case, the evidence should have been filed at that time. The Company's objection should be sustained and Exhibit 12, along with all examination and cross-examination thereto is not considered as a part of the instant record.

The Company

The Company is currently engaged in the provision of water service to approximately 750 customers on its central water system and sewer service to approximately 750 customers. The sewer system consists of 300 customers on aerators and 450 on the central system.

The Company was organized as a Missouri corporation in September, 1967, for the purpose of operating the water and sewer system in an area known as Terre Du Lac,

being developed by Terre Du Lac, Inc., (Developer) west of Bonne Terre, Missouri. The Company received a certificate of convenience and necessity authorizing it to operate as a public utility in 1973. At the time the certificate was granted a substantial amount of utility plant was already built. There were approximately 178 homes in the service area, however, the number of customers served at that time is unknown by the Company.

Because of substantial controversy in this case concerning the Company's financing, the Commission has taken note of a portion of its findings in the Report and Order issued in Case No. 17,887 which granted the Company's certificate to render sewer service in December, 1973. The Report and Order states in part as follows:

CAPITAL STRUCTURE: The construction of the sewer system is financed by loans from Fred Weber, Inc., and from the parent corporation, Terre Du Lac, Inc. These two entities have also advanced Applicant materials and labor necessary to install the sewer system."

There is an identical statement contained in Case No. 17,888 authorizing the operation of the water company.

In May of 1975, the Company, along with the developer, was involved in bankruptcy proceedings under Chapter XI of the Bankruptcy Act. As a result of the bankruptcy proceedings, Sensibar Enterprises, Inc., and James O. Kwon purchased capital stock of the developer and the Company. The purchasers had not previously been involved in the ownership or operation of either the developer or the Company.

Elements of Cost of Service

The Company's authorized rates should be generally based on its revenue requirements. The term "revenue requirements" is frequently used interchangeably with cost of service. As an element of its revenue requirements, the Company is authorized to recover all of its reasonable and necessary operating expenses, including depreciation and taxes. In addition, the Company is entitled to earn a reasonable rate of return on the value of its property used in public service. It is necessary, therefore, to establish the value of the Company's property and to

establish a reasonable return to be applied to the value of its property, or rate base, which, when added to the allowable operating expenses, results in the total revenue requirement of the Company. By calculating the Company's reasonable level of earnings, it is possible to mathematically calculate the existence and extent of any deficiency between the present earnings and any additional revenue requirements to be allowed in any rate proceeding. These calculations are only possible if the necessary information is furnished in the form of competent and substantial evidence during the course of the proceeding.

Test Year

Generally evidence is presented in a rate proceeding based on a test year. The purpose of using a test year is to create or construct a reasonably expected level of earnings, expenses and investment during the future period for which the rates, to be determined herein, will be in effect. All of the aspects of the test year operations may be adjusted upward or downward to exclude unusual or unreasonable items, or include unusual items, by amortization or otherwise, in order to arrive at a proper allowable level of all of the elements of the Company's operations. For the purposes of this case the parties have generally agreed to employ financial data for a 12-month period ending September 30, 1982.

Net Operating Income

There have been various proposals to adjust the Company's net operating income. Any adjustments to operating revenues and expenses found to be proper, generally, represent a reduction or addition to the Company's net operating income.

A. Excess Water Pumped

The Commission's Staff proposes to adjust the Company's operating expenses by an amount of \$1,832, representing the charges for electric service used in pumping significant amounts of excess water. The Public Counsel and Property Owners support the Staff's adjustment.

The Staff proposes to disallow the expenses associated with pumping more than 20 percent above the amount of water billed to customers. Twenty percent is the maximum amount of unaccounted for water to be allowed according to the recommendations of the American Water Works Association. The Staff has proposed to allow the 20 percent maximum because the Company has a high ratio of mains to customers. The 750 customers are scattered over approximately 56 miles of distribution mains.

The Company offered no evidence other than the total amount of its electric bill and did not cross-examine the Staff's witnesses on this issue.

The Commission finds the disallowance of the expenses for the high ratio of unaccounted for is reasonable and proper and the Company's operating expense should be reduced by that amount.

B. Wages For Company Transition Expenses

The Commission Staff and Property Owners agree with the Company that test year expenses of approximately \$500 for each utility should be allowed to cover any temporary employee used to handle ratepayer inquiries related to recent extraordinary rate changes. Public Counsel opposes the inclusion of the labor expense for two reasons. Public Counsel contends that the expense has been incurred primarily as a result of the Company's request for extraordinary rate relief and its inclusion should turn on a determination of whether the Company's request is meritorious. The Public Counsel also points out that the expense is not recurring in nature and it cannot be determined that the expense will continue during the period when the rates to be set will be in effect.

The proposed expense was determined by computing four hours per day for a six month period, then amortizing that total over the same two year period during which the Staff proposes amortizing the rate case expense.

The Commission finds the inclusion in rates of the extraordinary labor expense should be permitted for the reasons provided by Staff, Property Owners and Company.

C. Rate Case Expense

In the Hearing Memorandum the Staff and the Company agreed that the Company should be allowed additional rate case expenses to cover the hearing related costs. The amount of the expense was to be determined at the hearing. Public Counsel and the Property Owners took no position on the issue but reserved the right to cross-examine any witnesses on the matter.

The Staff's original case only covered expenses related to a case that was settled as opposed to one which went to hearing. Staff's filing related to expenses that had been actually invoiced at the time of the Staff's audit. In the Staff's opinion the reasonable expenses, consisting primarily of legal and accounting professional fees are in the amount of \$1,285 for each utility. Staff's total proposed rate case expense is based on a two-year amortization.

The Public Counsel and Property Owners did not cross-examine the Staff's witnesses on the subject and did not offer any additional evidence. The Commission finds the Staff's proposal is reasonably included in the Company's test year operating expenses.

The Commission is of the opinion that a reasonable level of rate case expense should properly be allowed as an expense for ratemaking purposes. A proper allowance is a reasonable level on a normalized basis. Since the Staff's proposal most nearly approaches that position, it will be adopted for the purposes of this case. For future presentations the parties should recommend a reasonable normalized level of rate case expense.

Rate Base

The most significant issue presented is whether all or part of the Company's rate base should be considered as contributions in aid of construction received from the developer or included in the cost of lot sales by the developer and its predecessors.

The Company has presented several rate base alternatives, primarily through the testimony of its president. According to the Company president there have been bona fide loans from the developer to the Company since the inception of the Company. The president stated that the Company, on its books, carried the plant as an asset and note payable and the developer's books carried the amount as an account receivable from the Company.

The Commission's Staff performed an audit in late 1978 or early 1979 showing the total original cost of the plant to be \$1,996,383 as of December 31, 1978. The Staff informed the Company that most of the plant should be contributed and requested certain changes in the annual reports. On its 1978 annual report the Company reflected contributions at the beginning of the year as \$400,630 and \$2,179,760 at the year end, a net increase of \$1,779,130.

Neither the Company's president nor its accountant were sophisticated in utility matters and did not understand the significance of the request. The request was complied with in an effort to cooperate with the Commission Staff, but no corresponding change was made on the Company's books and records. After three years the Company became aware of the meaning of contributed plant and did not reflect the large amount of contributions on its 1981 annual report.

The Company's initial proposed rate base is \$1,916,794 as of September 30, 1982, as portrayed in the president's Exhibit 4A. Although the president contended that the rate base was extracted from the books and records, it was conceded a number of times that the starting point was actually the Staff's figures in the 1978 audit.

As an alternative the president proposed a computation of investments since January 1, 1979, based on the Commission's Sewer Authority Order No. 23, dated May 1, 1979, which states in part:

(1) That all contributions in aid of construction received by the Company as connection charges shall be maintained in a separate bank account and the funds therein shall be used only for the construction or replacement of sewer plant, unless an expenditure for a different purpose is authorized by this Commission, and the Company, within thirty (30) days from the effective date of this order, shall display to the Commission

evidence of the creation of the account.

(2) That the Company shall, to the extent of its financial ability, initiate and adhere to the schedule for construction of water and sewer plant attached hereto as Appendix 1.

(3) That the Company shall maintain a reasonable inventory of materials and supplies necessary for emergency repairs of customer-owned individual aeration treatment plants, and shall make reasonable charges for labor and material used in such repairs requested by its customers. The Company shall also, as frequently as necessary, pump accumulated sludges from aerators owned by customers paying the use rate.

The Company's president contends that, in response to the Sewer Authority Order, \$733,244 was invested in utility plant with connection fees escrowed in the sum of \$68,846.

Rate base testimony was also furnished by an independent public accountant purporting to base his testimony on the books and records of the Company. The accountant's exhibit also employed the Staff's 1978 audit as the foundation to which plant costs through 1981 were added. The accountant's testimony conflicts with the testimony of the president and establishes the net plant for water to be \$579,993 and net plant for sewer to be \$967,397 for a total of \$1,547,390.

The accountant had not seen the president's evidence and conceded on cross-examination that he did not know if the president's figures superseded his figures or made them irrelevant.

The Company's president also appears to present an alternative based on a generally accepted allowance of \$100 of investment per customer. A figure of \$601,400 was arrived at by taking \$100 times the 3,959 water units and 2,055 sewer units in the development. This calculation was based on a letter from a Commission Staff member that expressed the opinion that it is reasonable for a water or sewer utility to invest approximately \$100 in plant per customer of the system. The president's testimony seems to overlook the fact that the Staff member's advice also suggested that it is up to the Company to prove how much it has actually invested in its water and sewer system. That alternative of the president also appears to be in

error in that it calculated the allowable investment based on the number of lots and not on the number of customers. Although it may be reasonable to calculate the plant on that basis, it would be necessary, at present, to consider the excess plant as held for future use. Under those conditions plant would only be placed in rate base when a customer is connected.

The figure of \$601,400 is also similar in nature to the authority sought in the Company's pending Case No. WF-82-193, wherein the Company is seeking permission to execute a note in that amount and a purchase agreement for the purpose of buying the system. Thus, it can be seen that the Company, in related proceedings, is contending that the plant has already been financed, and at the same time is seeking permission to purchase the same plant.

The Property Owners contend that the plant has been contributed as a result of representations by salesmen employed by the developer and its predecessor. Several lot owners testified concerning oral promises that, except for the \$200 connection fee, water and sewer service would always be furnished at no cost. Some of the Property Owners' witnesses were real estate brokers and former employees of the developer. The Property Owners' witnesses contend that the oral representations concerning utility service was the same under the present and former management.

The Company presented exhibits consisting of copies of the deeds of the testifying property owners. A representative deed covering the property owned by one of the testifying property owners recites as follows:

UTILITIES COVENANT

The Purchaser, for himself, his successors and assigns understands and agrees that at the present time sewage disposal is by means of individual disposal units, however, in the future some form of central sewer plant and distribution lines will be installed, and at such time as said central system becomes available to the lot or lots mentioned herein, Purchaser, for himself, his successors and assigns, will pay such charges in connection with said system as are assessed uniformly against all other lots at Terre Du Lac. Connection charge for sewer is \$200.00.

In consideration of a water connection charge of \$200, the Seller or its assigns, at the same time and while water mains are being

installed, agrees to make a connection from said mains to Purchaser's lot line.

The Purchaser contracts and agrees to pay the water and sewer connection charge and agrees to pay a minimum water and sewer use charge when the water and sewer system is installed.

It is understood and agreed by the Seller, its successors and assigns and by the Purchaser, his heirs, and assigns, that where more than one lot is purchased and said lots are contiguous, only one water connection fee will be charged, provided that only a one family residential building is placed on said contiguous lots, and that should more than one residential building be placed on said lots, then separate connection and use fees shall be charged for each such one family residential unit. It is further agreed that in the event of sale or conveyance of one or more of said lots, in the event water service has not been installed or contracted for on said lot or lots, the Grantee shall be required to pay the water connection charge and to connect to the water system and make such water use payments as are being charged by the Seller or its assigns at the time of conveyance.

It is understood and agreed that all sums and charges due as provided for in this covenant shall be and become liens against the real property described herein, which liens shall be enforceable by foreclosure or otherwise.

Although not offered in evidence, the Property Owners were allowed to inspect copies of the reports required by the Department of Housing and Urban Development (HUD) required for interstate land sales. The HUD reports do not contain any representations that water and sewer service will be furnished at no cost.

Some of the Property Owners' witnesses conceded that the deeds and covenants and restrictions should be relied on more than oral representations concerning land sales.

The Property Owners brief contends that the purpose of the testimony was simply to show that the two corporations operated as one entity and that the management of both of the entities was identical.

The Staff's proposed adjusted rate base is \$42,866 for water and \$12,864 for sewer plant. A portion of the Staff's analysis is based on the Company's annual reports and related books up to 1980. The controversy related to the Staff audit and contents of the annual reports for 1978, 1979 and 1980 has been discussed earlier in

this Report and Order. The Staff accountant also based his analysis on additions as provided for in the Company's tariffs. The Staff accountant was hampered in his work because formal Company books were virtually nonexistent. For that reason the Staff exhibits were based only on nine months of 1982. That is the period of time for which books were available and identifiable that could be audited.

The part of the Staff's determination that a portion of the plant is contributed is based on a probable misinterpretation of the Company's extension rules. The Staff witness is of the opinion that the extension rule does not specify at whose cost the extension will be constructed although the Company's Rule 10, Sheet 25 states, "The Company will install additional plant facilities and will extend sewer mains". Company's water tariff contains a similar extension rule. The Commission Staff witness felt that that language meant that the customer was going to pay for extensions.

The Commission has been presented with a virtual smorgasbord of potential rate bases, none of which appears realistic or reasonable. The original cost of the plant has largely been established by Staff effort but original cost is not synonymous with rate base on which a return should be allowed. One of the real determinations is the genuine origin of the funds used to construct the plant. Another question which may be pertinent, but unresolved here, is how much of the plant is supported by legitimate loans.

The Company contends that the rate base is supported by bona fide loans evidenced by proper promissory notes. No such notes were exhibited and there has been no authority sought, until 1981, even to execute such a note. The unconsolidated Case No. WF-82-159 was filed on December 22, 1981, and seeks as a portion of the authority the approval of the execution of a note in the amount of \$400,000, partially for the purpose of acquiring property.

The books and records referred to by the Company were not made available to the Commission's Staff, thus an audit of only nine months in 1982.

If there were bona fide loans existing in 1975, the discharge and bankruptcy of the Company and the developer must have had some effect on those obligations. The record is vague and almost silent in that respect.

It is also believed that the rate base, commencing in 1975, may be properly based on the legitimate capital expenditures exchanged for the stock of the Company. None of the parties have addressed the amount of value or equity exchanged at that time by the present stockholders.

The Property Owners seek a determination that all plant was contributed. A belief that free water and sewer service can be provided in perpetuity is unrealistic. There is little doubt that the Company is far from financially healthy. To adopt an unreasonable attitude concerning the Company's plant and place its existence or operation in doubt is certainly not in the interest of the homeowners. The absence of a working utility will diminish, or eliminate, the Property Owners investment value, as well as that of the developer.

Even though the Commission may be unpersuaded by any of the respective positions, some partial resolution of the dilemma is required. At least on a temporary basis, the Company should be allowed to earn a return on the Staff's proposed rate base. The Commission does not infer an acceptance of the Staff's position. It is merely the most reasonable identifiable position proposed by any of the parties. If the Commission must reach a decision based upon the confused state of this record it must rule against the party which has the burden of proof, i.e., the Company. Either by more coherent proof or by a rational negotiation of the parties a rate base may be selected at a later time which might be more consistent with reality.

Rate of Return

There has been no capital structure presented in the conventional sense. Unfortunately the instant record reflects a very unconventional case involving a very unconventional company. All parties have agreed to Staff's recommended fair rate of

return for Terre Du Lac Utilities Corporation in the amount of 13.75 percent. The Staff witness, who was not cross-examined in this matter, indicates in his testimony that the 13.75 percent figure is the cost of all of the utility's outstanding debt, and the utility is financed almost entirely with debt. Although the Commission has not found that the original cost rate base proposed by the Staff is fair and reasonable, for the purposes of this case, 13.75 percent shall be applied to arrive at the Company's net operating income requirement of \$5,894 for water service and \$1,768 for sewer service.

Additional Revenue Requirement

As a result of the adjustments hereinbefore discussed, the Commission finds the Company's reasonably adjusted net income for water operations during the test period to be a loss of \$11,961. The corresponding figure for sewer service is a loss of \$5,300. When comparing those figures with the net operating income requirement the additional revenue requirement as a result of this case is \$17,855 for water service and \$7,068 for sewer service. Since the Company has no income tax obligation that additional net income requirement is identical to the increase in gross revenues to be allowed in this matter.

Rate Design

All parties have agreed to the Staff's proposed rate design. The increased revenues resulting from this case shall be distributed according to the rate design portrayed on Appendix A, attached hereto.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions:

The Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1978. The Company's tariffs, which were the subject matter of this proceeding, were suspended pursuant to the authority vested in this Commission by Section 393.150, RSMo 1978.

The burden of proof to show that the proposed increased rates are just and reasonable is upon the company.

Orders of this Commission must be based upon competent and substantial evidence upon the whole record.

When the company has not sustained the burden of proof, the Commission may not supplement the Company's proof.

When the record is vague, confusing and contradictory the Commission may not resort to speculation or guesswork to attempt to attain a result.

The Commission, after notice and hearing, may order a change in the rate, charge, or rental, in any regulation or practice affecting the rate, charge or rental, and it may determine and prescribe the lawful rate, charge or rental and the lawful regulation or practice affecting the rate, charge or rental thereafter to be observed.

The Commission may consider all facts, which in its judgment, have any bearing upon a proper determination of the price to be charged with due regard, among other things, to a reasonable average return upon the capital actually expended into the necessity of making reservation out of income for surplus and contingencies.

Any evidence received without objection which has probative value shall be considered along with other evidence in the case. Evidence which is not of such quality to be persuasive of the fact to be established may be rejected even if not objected to or controverted.

When the Company's existing rates and charges are insufficient to yield reasonable compensation for service rendered or to recover its cost of service the Company should be allowed to file new tariffs to more nearly recover the cost of rendering service.

Although there is no requirement that a test year, or any other specific procedure, be used, a test year is commonly utilized in an attempt to measure a period of normal operations, to which reasonable adjustments may be made to permit

the establishment of a reasonable estimate of conditions during the period of time in which the rates will be in effect.

No individual allowance is improper if it has not contributed to an ultimate rate level that is in excess of that which is fair and reasonable.

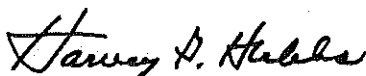
It is, therefore,

ORDERED: 1. That the proposed revised water and sewer tariffs filed by Terre Du Lac Utilities Corporation of Bonne Terre, Missouri, and herein suspended, are hereby disapproved and the Company is authorized to file in lieu thereof, for approval of this Commission, tariffs designed to increase gross water and sewer revenues, above the interim rates in effect, by approximately \$17,855 and \$7,068 respectively on an annual basis, exclusive of gross receipts and franchise taxes.

ORDERED: 2. That the tariffs to be filed herein shall embody the rate design herein found to be reasonable and proper and the increased rates herein authorized may be charged for service rendered on and after the effective date of this Report and Order.

ORDERED: 3. That this Report and Order shall become effective on the 1st day of August, 1983.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

Shapleigh, Chm., Fraas, and
Musgrave, CC., Concur and
certify compliance with the provisions
of Section 536.080, RSMo 1978.
Dority, C., Not Participating.

Dated at Jefferson City, Missouri,
this 8th day of July, 1983.