BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of St. Louis County Water Company, St. Louis, Missouri, for authority to file tariffs to increase rates for water service provided to customers in the Missouri service area of the company.	))))))	Case No. WR-89-246

APPEARANCES: Richard T. Ciottone, Vice President & General Counsel, and David Abernathy, Assistant General Counsel, 535 North New Ballas Road, St. Louis, Missouri 63141, for St. Louis County Water Company.

Janet L. Sievert, Assistant Public Counsel, P. O. Box 7800, Jefferson City, Missouri 65102, for Office of the Public Counsel.

William K. Haas, Assistant General Counsel, and Robert J. Hack, Assistant General Counsel, P. O. Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

HEARING EXAMINER: Alisa M. Dotson

REPORT AND ORDER

On June 9, 1989, St. Louis County Water Company of St. Louis, Missouri (Company) submitted to this Commission tariffs reflecting increased rates for water service provided to its customers. The proposed tariffs are designed to produce an increase of approximately 17.54 percent ($10.2 million) in charges for water service.

On July 5, 1989, the Commission issued its Suspension Order and Notice of Proceedings. In its order, the Commission established an intervention deadline of August 11, 1989, and a procedural schedule. No applications to intervene were received.

On January 8, 1990, a prehearing conference was convened. The Company, Staff and Public Counsel participated and produced a hearing memorandum

setting forth, among other things, the matters at issue. The hearing memorandum is Exhibit 1.

The matters at issue in this case were heard at the hearing which convened on January 29, and continued through February 1, 1990. Pursuant to the briefing schedule, simultaneous initial briefs were filed March 16, 1990, and simultaneous reply briefs were filed March 30, 1990.

Findings of Fact

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

1. Weather Normalization

Weather normalization is the determination of normal water usage as affected by weather. Staff and Company disagreed on the method to determine normalized usage. Public Counsel did not take a position on this issue.

Company used an annual model proposed by Staff and approved by the Commission in Company's last rate case, Case No. WR-88-5. In that case, the Commission determined that the Staff's regression analysis, without the inclusion of residual variation, should be adopted for use in establishing normal usage for residential, wholesale and commercial classes. Company applied this method on a year-to-year basis on the past ten years.

In this case, Staff proposed a new method to determine normalized usage. Staff's method applies an intra-year model based on quarterly and monthly usage, customer data, monthly meter-reading dates and four sub-groups in each of the classes. Staff applied this model to the time period between January 1986, and June 1989. Staff witness Turner testified Staff rejected the method adopted in Case No. WR-88-5 and developed a new method to capture the effect of summer/winter variation and the increase of non-weather-sensitive

usage. Turner defined non-weather-sensitive usage as the increased use of water due to factors such as the rise of personal income, and the addition of bathrooms and dishwashers.

Company witness Darby criticized Staff's new model because, among other things, it included the variable of non-weather-sensitive usage without support for such an inclusion. He also criticized Staff for applying its model to only a three-year span and choosing a three-year span that had abnormally hot and dry summers.

Staff defended its use of only a three-year span of abnormally hot and dry weather by arguing its selection captured intra-year variations in weather more effectively than Company's year-to-year model. Turner testified the effects of weather variations on usage are more significant season-to-season than year-to-year. Therefore, the fact that the model was based on only three years of information was irrelevant, in Staff's view.

Turner further testified it was acceptable to use three of the hottest and driest years on record because winter usage was below the annual normal and summer usage was above the annual normal. He also testified that the abnormally hot summers were averaged with winter months and the observance of weather conditions in this time period allowed Staff to observe a full range of the most current weather conditions that occurred during the test year.

Turner also testified to Staff's use of the variable of non-weather-sensitive usage. However, he conceded during cross-examination there was no statistical evidence to include this variable in Staff's model and that there was no evidence of increasing non-weather-sensitive usage.

A review of the record shows no evidence was adduced that Staff's model can effectively isolate and track the influence of this variable on usage. The Commission finds the lack of support for the inclusion and influence of this

variable represents a shortcoming in Staff's model. Moreover, the Commission is of the opinion that observance of weather conditions in which Staff conceded there were abnormally low winter usage and abnormally high summer usage cannot produce reliable data to determine normalized usage. The Commission finds that the choice of only a three-year span of abnormally hot and dry summers skews Staff's data. The Commission finds these shortcomings are too serious to accept Staff's determination of normalized usage. In addition, the Company should be accorded reasonable assurance that when it adopts and applies a methodology specifically proposed by Staff and adopted by the Commission, it will not be penalized in its next rate case for not anticipating any action by Staff to modify or reject said methodology. Based on these findings, the Commission has determined Staff's adjustment should not be allowed.

2. Capitalization of Administrative and General Expenses

This issue is governed by Instruction 20 of the Uniform System of Accounts (USOA) which states that all overhead costs that have a definite relationship to construction shall be capitalized. USOA's definition of overhead costs requires the salaries of people whose work is related to construction to be capitalized in proportion to their activity as it relates to construction.

The Company and Staff disagree on the level of capitalization of the salaries of Company's officers and managers. Company proposed a capitalization level of approximately 28% and Staff proposed a level of approximately 32%. Public Counsel took no position on this issue.

Company witness Kent Turner testified that its capitalization study was performed in 1987 because of the Tax Reform Act of 1986 and pursuant to discussions in Case No. WR-87-2. Company argued since the Staff did not object to the study in the last rate case, its study is acceptable.

Staff's capitalization ratio is based on a composite allocation factor it derived from performing an analysis of all payroll charges for the twelve months ending June 30, 1989. Staff witness Pfleeger testified the only reason Staff did not object to Company's study in the last rate case was because of time limitations. She further testified that once the time limitations were removed, Staff found it had several criticisms of Company's study.

Pfleeger testified Staff is critical of Company's study because it is three years old and, therefore, not reflective of the changes in Company's personnel and level of construction. She further testified of Staff's criticism that the study was performed for income tax purposes and was primarily concerned with the amount of support costs, such as accounting and data processing, being capitalized. Therefore, she asserted, capitalization for ratemaking purposes was not a consideration. Pfleeger further testified Company's study did not evaluate all departments. She also testified that Company's study resulted in the capitalization of the salaries of only five out of ten managers and two of the ten officers.

Finally, she testified that there were facts known to Staff that indicated Company's capitalization rate should be higher. Company's construction expenditures represent over 35% of the total funds required for current operating expenses and construction expenditures in 1988. Staff asserted that a company such as St. Louis County Water that has a large, ongoing construction program necessitating frequent rate increases, must recognize that a portion of the salaries of the employees making decisions about this ongoing construction should be capitalized. Staff argued that the Company's study failed to capitalize the salaries of its president, five of its managers and eight of its officers; people that, according to the Company's policy manual, are involved in reviewing activity related to construction. Staff asserted that

this fact demonstrated the failure of Company's study to identify those persons whose salary should be capitalized.

Both Staff and Company referred to the National Association of Regulatory Utility Commissioners' document entitled "Interpretations of Uniform Systems of Accounts for Electric, Gas and Water Utilities." It states that the determination of payroll charges included in construction overhead shall be based on time cards, and where time cards are not practical, "special studies" shall be made periodically of the time supervisory employees devote to construction costs. This interpretation states where daily time reports are not in effect, periodic studies should be performed at least once a year, and more frequently if construction fluctuates considerably.

The Commission finds this interpretation is reasonable. The Commission finds Company's capitalization study, which is not time-card-based, should have been done at least once a year. In its brief, Company did not deny this but mainly resorted to defending its study by pointing to Staff's lack of objection to it in the last rate case and attacking Staff's method as arbitrary.

The Commission also finds that the Company's study is not current, complete or reflective of its level of construction activity. Therefore, the Commission has determined such an analysis cannot be relied upon for accurate capitalization levels. Thus, the Commission finds the Company has failed to prove the reasonableness of its proposed capitalization level. The Commission further finds that Staff's ratio is reasonable based upon the 35% construction activity level of the Company and inclusion of all officers and managers. Therefore, the Commission finds that the Staff's capitalization level should be adopted. The Commission also finds that Company should be directed to develop a comprehensive and annual study by which it can account for the actual time spent

on construction related matters by officers and managers to conform with Accounting Instruction 20.

3. Unbilled Revenues

The parties agreed with the analysis of this issue presented in Case No. WR-88-5.

> The Tax Reform Act of 1986 (TRA) requires that utility companies pay taxes on unbilled revenue. Unbilled revenue represents the revenue owed by customers to the utility for services already rendered but not yet billed and paid. The TRA permits a 4-year phase-in to ameliorate the effect of this change upon utility companies which previously elected to pay taxes only on billed revenue. Utility companies in this category which bill quarterly, including the company in this case, were required to pay taxes in 1987 and will be required to pay taxes in the following 3 years on 12 months and 3 weeks of revenue (1/4th of a 3-month quarter).
>
> Company wishes to include in its cost of service the expense associated with this adjustment. *Re St. Louis County Water Company, 29 Mo. PSC (N.S.) 425, 446 (1988).*

Company argued that it must pay income tax on 12 months and three weeks of revenue in the test year and in the forthcoming year. Therefore, rates must recover more than tax on only 12 months of revenue in each year. Company's rates are not, in fact, set on sales and deliveries to the system, as the Commission found in Case No. WR-88-5.

Public Counsel and Staff argued that, for ratemaking purposes, there should not be an adjustment to the cost of service for taxes associated with amortization of annual net change in the unbilled revenues. They also argued that the requirement that unbilled revenue be included in actual tax liability has no impact on the amount of annualized revenues on which ratemaking income tax expense is based.

Company conceded in its brief that much of the testimony from all parties is a recitation of the analyses and opinions offered in Case No. WR-88-5. Company did not argue different facts but proposed to persuade the Commission with two contrary decisions from one other state utility commission.

The Commission has reviewed these decisions. The Commission is of the opinion that the Pennsylvania Commission misinterpreted the Tax Reform Act of 1986 as creating an additional tax liability rather than merely eliminating the timing difference between recognition of revenue for ratemaking and tax purposes. Therefore, the Commission finds the Pennsylvania decisions are inapplicable.

Based on this finding, the Commission finds further that no evidence has been produced to alter the Commission's treatment of unbilled revenue. Company should not be allowed to recover an adjustment to its cost of service for taxes associated with unbilled revenues.

4. Continental Service Agreement

Company is one of four subsidiary operating water companies owned by Continental Water Company. Company stated that for reasons of efficiency, Continental has undertaken to provide certain administrative services for its subsidiaries, including Company. Company pays Continental for these services under an allocation designed to be, what the Company termed, "practical." Company conceded the ratio does not correspond precisely to the ratios of time Continental spent on matters unique to St. Louis County Water Company, but argued that Staff's adjustment was insufficient to help it cover total payments of over $250,000 for services provided by its parent company.

The only evidence the Company offers on this issue is documentation of the bills presented to Company and the amounts tendered. The Commission finds that these facts are proof of payment, not of the more important issue of cost.

What has not been proven is the cost incurred by Continental Water Company in providing services to St. Louis County Water Company. Only when Continental Water Company's costs are analyzed can it be determined whether amounts charged to St. Louis County Water Company under the service agreement

are reasonable. Continental Water Company's cost cannot be determined without auditing its books. Since Continental has refused to allow such an audit, the reasonableness of its charges cannot be determined .

Company stated its share of the allocated costs under the Service Agreement is based on how many customers it has rather than how much time Continental devotes to it. Company conceded, in its brief, that unless Continental starts keeping time sheets, it will never know how much time its parent devotes to it. The Commission finds it unreasonable to apportion costs without a basis in time spent.

Company asserted that it was receiving full value for the services provided by Continental, but such an assertion must be supported by evidence which evaluates Continental's cost. The Commission finds there is no evidence for this assertion. Based on these findings, the Commission finds the record lacks support for Company's proposed expense. The Commission further finds that Staff's adjustment is reasonable.

5. Phantom Stock

This plan was explained in Company's last rate case:

> Phantom Stock is a fictitious share of stock in Company's parent company, Continental Water Company (CWC), awarded to key employees of Company as additional compensation. The plan provides that a share of phantom stock, when awarded, is equal to the consolidated book value of CWC but the employees gain no vested interest in the shares for five years and receive payments of the stock ten years after the award. If the employee leaves the Company voluntarily, he forfeits all non-vested shares. *Re St. Louis County Water Company, 29 Mo. PSC (N.S.) 425, 442 (1988).*

Company argued it should recover all the expenses associated with phantom stock in its cost of service. Company contended it was a deferred compensation program which benefitted its ratepayers by enabling Company to keep key employees without an immediate salary increase.

Staff argued the expenses associated with phantom stock should not be included in Company's cost-of-service. Staff contended the amounts being paid under the plan do not benefit Company's ratepayers because the amount paid is based on the consolidated earnings of CWC, not Company.

Staff did not allege the total compensation package received by Company managers including phantom stock was excessive. There is no dispute as to the reasonableness of the amount of salary once the award amounts are added. The only dispute is how the plan benefits the ratepayers. The Commission finds that the plan allows the Company to recognize and reward highly competent personnel without immediate cost to the ratepayers. The Commission also finds that because interest does not vest in the stock for five years, such personnel are encouraged to stay with the Company. The result is expert and experienced management. Such management cannot but benefit ratepayers. Therefore, the Commission finds the expense of phantom stock should be allowed in Company's cost of service.

6. Pension Costs

Company and Staff disagreed on how much Company would incur in pension costs in the forthcoming year. Company argued that Staff had not properly calculated ERISA pension costs but instead used the last test year figures based on employee levels and rates of pay from December 1, to November 30, 1989. Company also argued that, generally, if payroll costs go up, as Company's did, then pension costs, which are tied to levels of compensation, will also rise.

Staff opposed Company adjusting its pension costs for payroll increases while Company ignored other factors which, historically, have offset such increases (e.g., interest rates and how funds perform).

The Commission finds that Company should have established the absence of offsetting factors. The Commission has, therefore, determined Company

proposed pension costs should not be allowed. Because it finds the record supports Staff's estimate, the Commission has determined it is reasonable and should be adopted.

7. Supplemental Pension Costs

Company witness Turner testified that this plan was necessary to attract management employees whose age prohibits them from completing the 40 years of service necessary to qualify for the maximum 50% pension benefits. Company argued it needed to recover expense accruals associated with its Supplemental Pension Plan.

Staff stated it proposed to eliminate the recovery of expense accruals from cost of service because the plan amounted to an unfunded, unsecured promise to pay money in the future since the plan could be terminated at any time and Company would just pocket the fund. Staff witness Ashpaugh testified that Staff's position is that the Company's request amounted to asking ratepayers to pay an expense before it is incurred.

Commission policy is to reject recovery of expenses in rates unless it is sufficiently certain that such expenses will actually be incurred. *Re Missouri Cities Water, 26 Mo. PSC (N.S.) 1 (1983).* The evidence shows it is within Company's discretion to end the plan at any time. The Commission, therefore, finds that it is not sufficiently certain that the expense accrual will be a continuing expense for Company. Therefore, the Commission determines that the expense accrual for the Company's supplemental pension plan should not be covered in its cost of service.

To date, only one person had vested under the plan. All parties agree that payments to this individual will be fixed and ongoing costs to Company as long as he lives. The Commission also finds that while the continuation of the

plan itself is uncertain and purely discretionary, payments to vested individuals are not.

Staff witness Ashpaugh testified that while the recovery of these payments was not an issue between Staff and Company, Staff would also object to recovery of these payments. Staff's basis for this objection is based on its objection to the plan itself as "discriminatory" under the Internal Revenue Code. The Staff asserted it is "discriminatory" because the plan is only open to officers and, therefore, the IRS would not give the Company a tax deduction for the accruals under the plan.

The Commission finds that the "discriminatory" nature of the plan and its inability to qualify as a tax deduction is not persuasive in determining whether the fixed cost of payments to a vested individual should be recovered. The Commission determines that the payments to vested individuals under this plan should be recovered in Company's cost of service.

8. Employee Meals

Company provides meals to its employees when employees are asked to attend Company meetings during non-working hours. Company and Staff disagreed on much of this expense.

Company argued meetings are necessary and, because some are training, they are even required by law. Company witness Tinkey testified that if meals are not provided to Company employees as incentive to attend off-duty meetings, the only other alternative would cost ratepayers even more money. The Company also argued that to hold meetings during business hours would cause a loss of productivity.

Staff argued Company's defense of the program is not supported by the evidence. Staff stated Company's argument of lost productivity ignores the productivity of an employee learning to do his or her job more efficiently.

Staff witness Ruppel stated that Staff had not received any documentation supporting Company's argument that employee meals are a cost-effective way of obtaining employee training in that it could obtain 4000 or so hours of training for the $20,000 it costs in meals versus the straight pay that would cost $90,000.

The record shows that documentation supporting Company's argument was available to Staff but Staff failed to request it. Moreover, the Commission finds that requiring the training to take place during working hours would be disruptive and may interfere with Company's ability to handle its workload. Upon cross-examination, Staff could not offer any reasonable alternatives. Therefore, the Commission finds the record supports Company's proposed expense for employee meals.

9. Webster Groves Tariff D

In Case No. WR-87-2, a tariff was proposed by the Company to alleviate problems regarding peak time excessive water consumption by Kirkwood and Webster Groves. It provides for a regular rate to be charged to Webster Groves for water consumption and for two alternative rates which are applicable only in the event Webster Groves' usage exceeds a specific ratio of its base load during certain periods of time as set forth in the tariff. On June 24, 1989, Webster Groves exceeded the usage limit set forth in paragraph two of the tariff. The violation was the result of Webster Groves' employee's miscalculation of water usage. This was allegedly due to the lack of capacity of the calculator used by the employee to hold all numbers necessary to properly calculate water usage. Public Counsel argued that since the tariff cannot be waived, its penalty provision should be enforced whether usage was inadvertent or not. Company and Staff did not take a position on this issue.

Company witness Tinkey testified the tariff at issue was designed to discourage Webster Groves from taking water from Company at its peak time. He also testified that it was not Company's peak time when the incident occurred. Moreover, there is no evidence that Company incurred any cost because of the incident and all parties agree the usage was inadvertent.

After a review of the record, the Commission finds the tariff was not designed to penalize Webster Groves for the situation reflected in the record. The Commission also finds that because it did not cost Company, the ratepayers will not be harmed if the penalty is not collected. Based on these findings, the Commission has determined Public Counsel's adjustment should be disallowed.

10. Rate of Return

Parties agreed that Company's capital structure consists of 45.91% common stock equity, 0.12% preferred stock equity and 53.97% of long-term debt. The parties agreed to Staff's mid-range figure of 10.89% for Company's cost of capital and 13.05% for its cost of equity. The Commission finds this is reasonable and should be adopted for purposes of this case.

11. Rate Base - Revenue Requirement

Company filed rates to meet a proposed revenue requirement of $10.2 million. At the prehearing conference, the parties negotiated this figure to $5.9 million. Based on the issues as decided herein, the Commission finds the revenue requirement is $3,624,225. This calculation is based on the figure provided in Appendix 1 to Exhibit 1, the Hearing Memorandum. Based on the determination of revenue requirement, the Commission has determined rate base is $158,382,833.

12. Rate Design

Company and Staff agreed on rate design. Therefore, Company and Staff agreed that the prefiled testimony of Wess A. Henderson and John Ackerman as it

relates to rate design, may be accepted into evidence without cross-examination. Public Counsel was not in total agreement with Company's rate design method, but did not oppose its use in this case. The rate design is addressed by Staff witnesses in Exhibits 2, 3 and 50.

The Commission finds the agreed upon rate design reasonable and adopts it for purposes of this case.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1986, as amended.

Company's tariffs herein were suspended pursuant to authority vested in this Commission by Section 393.150, RSMo 1986, as amended, which places upon Company the burden of proof to show that the proposed increase in rates is just and reasonable.

Pursuant to Section 393.270(4), RSMo 1986, as amended, the Commission may consider all facts which in its judgment have any bearing upon a proper determination of the price to be charged for water service with due regard, among other things, to a reasonable average return upon capital actually expended.

Based upon the revenue requirement found reasonable herein the Commission concludes that St. Louis County Water Company shall be allowed to file revised tariffs designed to increase revenues exclusive of gross receipts and franchise taxes by $3,624,225 on an annual basis.

It is, therefore,

ORDERED: 1. That pursuant to the findings and conclusions in this Report and Order the proposed tariffs filed by St. Louis County Water Company of

St. Louis, Missouri, in this case are disapproved hereby and St. Louis County Water Company is authorized to file in lieu thereof, for the approval of this Commission, tariffs designed to increase gross revenues exclusive of gross receipts and franchise taxes by the amount of $3,624,225 on an annual basis over the currently effective rates.

ORDERED: 2. That the tariffs authorized herein shall reflect the rate design agreed to by the parties.

ORDERED: 3. That the tariffs to be filed pursuant to this Report and Order shall become effective for service rendered on and after May 7, 1990.

ORDERED: 4. That St. Louis County Water Company is hereby directed to develop a comprehensive and periodic study by which it can account for the actual time spent on construction-related matters by officers and managers to conform with Accounting Instruction 20.

ORDERED: 5. That any objections not heretofore ruled upon are overruled hereby and any outstanding motions are denied hereby.

ORDERED: 6. That this Report and Order shall become effective on the 7th day of May, 1990.

BY THE COMMISSION

Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Mueller, Rauch,
and Letsch-Roderique, CC., concur
and certify compliance with the
provisions of Section 536.080, RSMo 1986.
McClure, C., dissents with separate
opinion and certifies compliance
with the provisions of Section
536.080, RSMo 1986.

Dated at Jefferson City, Missouri,
on this 27th day of April, 1990.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of St. Louis County Water Company, St. Louis, Missouri, for authority to file tariffs to increase rates for water service provided to customers in the Missouri service area of the company.	)))))	Case No. WR-89-246

DISSENTING OPINION OF COMMISSIONER KENNETH McCLURE

I respectfully dissent from the majority opinion in this case involving the St. Louis County Water Company (Company). The only area in which I disagree with the majority relates to employee meals. The Commission, in its Report And Order, is deviating from its past practice by including certain employee meals as an allowable expense chargeable to the ratepayer. Although Commission decisions do not necessarily rely upon or establish precedent, in my opinion it will be difficult to refuse to allow similar expenses in the future should they be requested by other companies appearing before the Commission. As a result, I fear that an ill-advised precedent is being set.

The dollar amount associated with this issue ($19,736) is so small that, taken by itself, it is hardly worth discussing in a rate case of this magnitude. In that regard, I fault both the Company and Staff for litigating such a miniscule item. However, the principle which it represents is, in my opinion, one of major proportions with substantial potential for abuse if allowed to proceed. This is the basis for my dissent. In addition, the Commission risks sending a signal that issues which have been decided consistently in the past may now be relitigated. Such a signal could prove to be burdensome to the Commission.

In the prior case involving the St. Louis County Water Company, the Commission dealt specifically with this matter. The Commission found that meal expenses benefitted the Company's employees and "should not be included in the cost of providing service since there is no convincing evidence of direct benefit to ratepayers."

Re St. Louis County Water Company, 29 Mo. P.S.C. (N.S.) 425, 436 (1988). In the present case, I can find no evidence in the record which would justify altering the previous conclusion.

Company witness Tinkey stated that meetings for which meals are provided and the employee classes which attend include the following:

1. Manager's Monthly Meetings
   Company officers, managers, and the public relations consultant. (Tinkey Rebuttal, page 5).

2. Service Building Supervisor's Meetings
   Vice Presidents of Distribution and Engineering with their managers and supervisors. (Tinkey Rebuttal, page 6).

3. Plant Supervisory Meetings
   Vice President of Production with his managers, supervisors, plant engineers and laboratory personnel. (Tinkey Rebuttal, page 7).

4. Office Supervisor's Meetings
   Vice President of Administration with his managers and supervisors. (Tinkey Rebuttal, page 8).

5. Safety Committee Meetings
   Nine or ten Company managers and supervisors. (Tinkey Rebuttal, page 8).

6. Training Dinners
   Approximately 130 to 140 supervisors. (Tinkey Rebuttal, page 8).

The types of people attending these meetings are, in many cases, senior level management, including Company officers, vice presidents, managers and supervisors. Mr. Tinkey pointed out that "the only compensation for any of these meetings are the meals furnished." (Tinkey Rebuttal, page 9). However, the Company would not be required to pay overtime if the costs of the meals were disallowed. Staff witness Ruppel referred to the Continental Water Company General Policy Manual in which department heads, managers and professionals are not paid overtime. (Ruppel Surrebuttal).

Meetings of the type described by Mr. Tinkey are similar to those expected of any large firm. It is certainly the Company's prerogative to have these meetings after normal working hours if it chooses to do so. That is the Company's decision to

make. However, senior management level employees should not have to be enticed into attending such meetings by the serving of a meal provided at ratepayer expense. The potential for abuse is too strong. Mr. Ruppel testified that one-half of the time at the training dinners was spent on refreshments, dinner and a break. (Ruppel Surrebuttal). Such meal expenses are properly an obligation of the shareholder.

The Company stated that it could not continue to conduct employee education as a shareholder expense. (Tinkey Rebuttal, page 14). In reality, though, the total amount in dispute is less than $20,000 out of a total request of several million dollars. Should the Company desire to discontinue its current practice of providing meals for after-hour meetings, it is difficult to conceive that such a small amount would be the justification for a major change in the manner in which the Company conducts its business.

Finally, the Company testified that "if the Commission somehow thinks these meetings are recreational, entertaining or some sort of fringe benefit, they could not be more mistaken." (Tinkey Rebuttal, page 14). While no such conclusion has been drawn, the potential for abusing such a practice is great enough to prevent me from concurring that the associated expenses should be charged to the Company's ratepayers.

Respectfully submitted,

Kenneth McClure
Commissioner

Dated at Jefferson City, Missouri,
on this 27th day of April, 1990.