

Exhibit No.

Issue: Sewer Commodity/Usage Rate

Witness: Gary W. Snadon

Type of Exhibit: Rebuttal Testimony

Sponsoring Party: Emerald Pointe

Case No. SR-2013-0016

Missouri Public Service Commission

Rebuttal Testimony

of

Gary W. Snadon

On Behalf of

Emerald Pointe Utility Company

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STATE OF MISSOURI)
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I, Gary W. Snadon, state that I am the President of Emerald Pointe Utility Company and, that the answers to the questions posed in the attached Rebuttal Testimony are true to the best of my knowledge, information and belief.

Gary W. Snadon

Subscribed and sworn to before me this 11 day of April, 2013.

Lawrence E. Pittman
Notary Public

My Commission Expires: may 10, 2013

(SEAL)

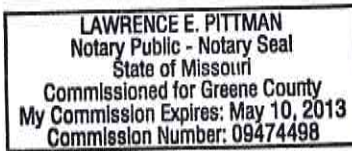


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REBUTTAL TESTIMONY
OF
GARY W. SNADON
EMERALD POINTE UTILITY COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION

WITNESS INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Gary W. Snadon. My business address is 118 State Drive, Hollister,
MO 65672.

**Q. WHAT IS YOUR POSITION WITH EMERALD POINTE UTILITY COMPANY
(EMERALD POINTE)?**

A. I hold the office of President of Emerald Pointe and I am a member of its Board
of Directors.

Q. HOW LONG HAVE YOU BEEN ASSOCIATED WITH EMERALD POINTE?

A. I have been a part of Emerald Pointe since its creation in July of 1995, as I was
one of the original incorporators of the Company.

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I received my Bachelor's degree in Education from the Kansas State College,
Pittsburg, KS in 1962.

1 **Q. PLEASE DESCRIBE YOUR BUSINESS EXPERIENCE.**

2 A. I have been a real estate developer and business owner in Branson, Missouri
3 since approximately 1970.

4 **PURPOSE**

5 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

6 A. I will respond to the Direct Testimony of Missouri Public Service Commission
7 (Commission) Staff witness James A. Busch, as it relates to Staff's proposed
8 sewer commodity/usage rate refund.

9

10 **Q. WILL ANY OTHER COMPANY WITNESSES ADDRESS THIS GENERAL**
11 **TOPIC?**

12 A. Yes. Company witness Dale W. Johansen will provide an analysis of the Staff
13 workpapers associated with Emerald Pointe's last rate case, as it relates to the
14 sewer commodity charge refund issue; Company witness Larry Pittman will
15 describe some of the interaction Emerald Pointe has had over the last several
16 years with the Commission Staff; and, Company witness Bruce D. Menke will
17 provide the Company's position as to customer deposits, late fees, reconnection
18 fees and the application of interest to any refunds that may result.

19

20 **Q. WHAT DOES STAFF WITNESS BUSCH ALLEGE IN REGARD TO THE**
21 **SEWER COMMODITY/USAGE CHARGE ISSUE?**

22 A. Mr. Busch alleges that Emerald Pointe has charged amounts that are
23 inconsistent with its tariffs in regard to Sewer commodity/usage charges.

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Q. WHAT REMEDY DOES MR. BUSCH PROPOSE?

A. He suggests that the amounts identified by Staff be refunded to customers, with interest.

SEWER COMMODITY/USAGE RATES

Q. STAFF WITNESS BUSCH SUGGESTS THAT EMERALD POINTE SHOULD BE DIRECTED TO REFUND PREVIOUSLY COLLECTED SEWER COMMODITY/USAGE CHARGES. WHAT IS STAFF'S BASIS FOR THIS SUGGESTION?

A. Mr. Busch believes that the sewer commodity/usage charge being recovered by Emerald Pointe was not contained in a tariff sheet that was found in the Commission records.

Q. WHAT REFUND DOES STAFF WITNESS BUSCH RECOMMEND BE MADE?

A. Mr. Busch recommends that the Company refund all overcharges, with interest, collected during the past five (5) years. The amount Staff has calculated is \$187,683 of commodity-based fees and \$69,567 of associated interest.

Q. DO YOU BELIEVE THAT EMERALD POINTE WAS CHARGING THE RATES PROVIDED BY THE COMMISSION OR ITS STAFF?

1 A. Yes, I do.

2

3 **Q. WHEN DID EMERALD POINTE'S EXISTING SEWER RATE TARIFF**
4 **SHEET BECOME EFFECTIVE?**

5 A. Emerald Pointe's current sewer rate tariff sheet became effective at the
6 conclusion of Emerald Pointe's last rate case. That rate case was
7 identified by the Commission as Case No. SR-2000-595.

8

9 **Q. HOW WAS CASE NO. SR-2000-595 INITIATED?**

10 A. Emerald Pointe initiated the case using the small company rate case
11 procedure. To do so, the Company sent a letter to the Staff dated May 20,
12 1999, asking for a 10% rate increase to both its base rate and its existing
13 sewer commodity/usage rate. Attached hereto as **Schedule GWS-1** is a
14 copy of Emerald Pointe's sewer rate increase request letter.

15

16 **Q. WHAT WAS EMERALD POINTE'S THEN EXISITNG SEWER**
17 **COMMODITY/USAGE RATE?**

18 A. \$5.83 per 1,000 gallons.

19

20 **Q. WHAT COMMODITY/USAGE RATE DID EMERALD POINTE**
21 **PROPOSE?**

22 A. \$6.41 per 1,000 gallons.

23

1 Q. WAS EMERALD POINTE REPRESENTED BY LEGAL COUNSEL IN
2 CASE NO. SR-2000-595?

3 A. No.

4

5 Q. DID EMERALD POINTE UTILIZE THE SERVICES OF AN OUTSIDE
6 CONSULTANT WITH REGULATED UTILITY RATE EXPERTISE IN
7 CASE NO. SR-2000-595?

8 A. No.

9

10 Q. WAS A NOTICE LETTER CONCERNING THE RATE INCREASE
11 REQUEST SENT TO EMERALD POINTE'S CUSTOMERS?

12 A. Yes. On August 13, 1999, Emerald Pointe sent a letter to its customers
13 identifying proposed increases to both the sewer base rate and the sewer
14 commodity/usage charge. A copy of that letter is attached hereto as
15 Schedule GWS-2.

16

17 Q. DID THE STAFF EVENTUALLY PROPOSE A DISPOSITION
18 AGREEMENT?

19 A. Yes. By letter dated March 7, 2000, from Wendell R. "Randy" Hubbs, the
20 Staff forwarded to me the "rate case settlement 'Agreements' and the
21 proposed tariff sheets" to resolve Emerald Pointe's water and sewer rate
22 cases. Attached hereto as Schedule GWS-3 is a copy of the packet
23 Emerald Pointe received from the Staff.

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Q. WHAT SEWER CUSTOMER CHARGES WERE INCLUDED IN THE STAFF PROPOSAL?

A. The tariff sheet provided by the Staff included the following "Sewer Service Rates":

Monthly Customer Charges (served by a 5/8" water meter)	\$13.63 per month
Monthly Customer Charges (served by a 1" water meter)	\$34.08 per month
Monthly Customer Charges (served by a 2" water meter)	\$109.06 per month

Q. DID THE STAFF PROPOSAL INCLUDE A SEWER COMMODITY/USAGE CHARGE?

A. Yes. The tariff sheet also provided for a "Usage Charge (for all usage > 2,000 gal/month" in the amount of \$3.50 per 1,000 gallons."

Q. WHAT DID YOU DO IN RESPONSE TO THIS LETTER?

A. As directed by the Staff correspondence of March 7, 2000, I reviewed the Staff drafted Schedule of Sewer Rates that included a Usage Charge of \$3.50 per 1000 gallons, I signed the Staff drafted "letter to Mr. Roberts," signed the Staff drafted Agreements and returned the signed Agreements and the tariff sheets directly to Mr. Hubbs. My understanding from a plain reading of Mr. Hubbs' March 7, 2000 letter was that by mailing all of the signed documents to Mr. Hubbs I, on behalf of Emerald Pointe Utility, had filed the Tariff with the Commission.

1

2 **Q. DID YOU FILE ANY OF THESE MATERIALS WITH THE COMMISSION?**

3 A. Yes. I believe I filed these materials with the Commission, since I
4 complied with Mr. Hubbs' March 7, 2000 letter by mailing the signed
5 documents. No further action on my part was required to file the rate case
6 settlement and the Tariff sheets. If the facts were otherwise, I would have
7 expected there to be correspondence in the Commission's files advising
8 me that a different Tariff had been prepared than the one I was asked to
9 approve on March 7, 2000. To date my attorneys and I have been
10 provided nothing from the Commission's files showing a different Tariff
11 without the usage charge of \$3.50 per 1000 gallons was ever delivered to
12 me for approval and filing.

13

14 **Q. DID EMERALD POINTE RECEIVE A FILED, STAMPED COPY OF THE**
15 **TARIFF SHEET?**

16 A. No.

17

18 **Q. AFTER THE CONCLUSION OF THE RATE CASE, DID EMERALD**
19 **POINTE CHARGE A COMMODITY OR "USAGE CHARGE"**
20 **ASSOCIATED WITH ITS SEWER SERVICES?**

21 A. Yes. Emerald Pointe reduced its commodity charge from the \$5.83 per
22 1,000 gallons it charged prior to the rate case, to the \$3.50 per 1,000
23 gallons reflected in the tariff sheet provided by Staff. Emerald Pointe

1 continued to charge the \$3.50 per 1,000 gallon sewer usage charge until
2 May 1, 2012.

3
4 **Q. WHY DID EMERALD POINTE STOP THE USAGE CHARGE AS OF**
5 **MAY 1, 2012?**

6 A. My attorneys discovered that an Emerald Pointe tariff sheet reflecting no
7 commodity or usage charge was being maintained by the Commission
8 during preparations for this rate case. After bringing this to the attention of
9 the Commission Staff, Emerald Pointe agreed to discontinue that charge
10 until the conclusion of this case.

11
12 **Q. WERE YOU SURPRISED TO FIND THAT THE COMMISSION HAD A**
13 **TARIFF THAT DID NOT REFLECT A SEWER COMMODITY/USAGE**
14 **CHARGE?**

15 A. Yes. Emerald Pointe had a commodity/usage charge prior to Case No.
16 SR-2000-595, Emerald Pointe proposed a continuation of that charge in
17 Case No. SR-2000-595 and the tariff sheet prepared by and provided to
18 me by the Staff in that case carried a sewer commodity/usage charge of
19 \$3.50 per 1,000 gallons. I was unaware that there was a sewer rate sheet
20 in existence that did not include a sewer commodity/usage rate.

21
22 **Q. DID EMERALD POINTE'S BILLS ALWAYS REFLECT SEPARATE**
23 **CUSTOMER CHARGES AND USAGE CHARGES FOR SEWER?**

1 A. Yes, they did.

2

3 **Q. DID EMERALD POINTE'S ANNUAL REPORTS FILED BETWEEN MAY**
4 **2000 AND MAY 2012 SUGGEST THAT THE COMPANY WAS OVER**
5 **EARNING?**

6 A. I do not believe that they do. However, Company witness Johansen will
7 address this analysis in his rebuttal testimony.

8

9 **Q. WHO ARE THE SOLE SHAREHOLDERS OF EMERALD POINTE?**

10 A. I am, along with my wife.

11

12 **Q. FROM MAY 2000 UNTIL THE DATE OF THIS TESTIMONY, HAVE YOU**
13 **OR YOUR WIFE RECEIVED ANY DIVIDENDS FROM EMERALD**
14 **POINTE?**

15 A. No.

16

17 **Q. HAVE YOU OR YOUR WIFE EVER BEEN PAID A SALARY BY**
18 **EMERALD POINTE?**

19 A. No.

20

21 **Q. FROM MAY 2000 UNTIL THE DATE OF THIS TESTIMONY, HAS**
22 **EMERALD POINTE BEEN ABLE TO SUPPORT ITSELF BASED UPON**
23 **ITS WATER AND SEWER REVENUES?**

1 A. No.

2

3 **Q. WHAT HAS BEEN REQUIRED TO CONTINUE ITS OPERATIONS?**

4 A. I have had to subsidize the Company by an infusion of cash

5

6 **Q. WHAT IMPACT WOULD THE STAFF'S PROPOSED REFUND HAVE**
7 **ON THE OPERATIONS OF EMERALD POINTE?**

8 A. In order to continue its operations, I would either have to voluntarily
9 provide the money to the Company, or Emerald Pointe would be required
10 to file for bankruptcy protection.

11

12 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

13 A. Yes, it does.