

Exhibit No.: _____
Issue(s): Legal Fee Expense/
Hollister Sewage Treatment Expense/
Sewer Commodity Charge/
Interest Related to Refunds
Witness/Type of Exhibit: Roth/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: SR-2013-0016

SURREBUTTAL TESTIMONY

OF

KERI ROTH

Submitted on Behalf of the Office of the Public Counsel

EMERALD POINTE UTILITY COMPANY

CASE NO. SR-2013-0016

April 29, 2013

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KERI ROTH

EMERALD POINTE UTILITY COMPANY

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**SURREBUTTAL TESTIMONY
OF
KERI ROTH**

**EMERALD POINTE UTILITY COMPANY
CASE NO. SR-2013-0016**

9 **I. INTRODUCTION**

10 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

11 A. Keri Roth, PO Box 2230, Jefferson City, Missouri 65102-2230.

12
13 Q. ARE YOU THE SAME KERI ROTH THAT HAS PREVIOUSLY FILED REBUTTAL
14 TESTIMONY IN THIS CASE?

15 A. Yes.

16
17 **II. PURPOSE OF TESTIMONY**

18 Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

19 A. The purpose of this surrebuttal testimony is to respond to the rebuttal testimony of
20 Emerald Pointe Utility Company witness, Mr. Dale W. Johansen, with regard to legal fee
21 expense, Hollister sewage treatment expense, sewer commodity charge, and interest
22 related to refunds; Emerald Pointe Utility Company witness, Mr. Gary W. Snadon, with

1 regard to sewer commodity charge; and Emerald Pointe Utility Company witness, Mr.
2 Bruce Menke, with regard to interest related to refunds.

3
4 **III. LEGAL FEE EXPENSE**

5 Q. MR. JOHANSEN EXPLAINS IN HIS REBUTTAL TESTIMONY THAT STAFF HAS
6 NOT PROPERLY REFLECTED LEGAL FEES RELATED TO THE COMPANY'S
7 "PIPLINE PROJECT" CERTIFICATE CASE (CASE NO. SA-2012-0362) AND THE
8 COMPANY'S RECENT FINANCE CASE (CASE NO. SF-2013-0346) IN THE COST
9 OF SERVICE CALCULATION. IS THIS CORRECT?

10 A. No, this is not correct. Staff's rate case expense workpaper, that was provided with the
11 direct testimony of MPSC Staff witness, Ms. Leslie Rose, shows \$432.00 in legal fees was
12 included in rate case expense which was related to the Company's certificate case (Case
13 No. SA-2012-0362). The workpaper also shows \$1,296.00 in legal fees was included in
14 rate case expense which was related to the Company's recent finance case (Case No. SF-
15 2013-0346). Public Counsel's review of the documentation regarding the legal fees from
16 both cases indicates that Staff has properly reflected these costs.

1 **IV. HOLLISTER SEWAGE TREATMENT EXPENSE**

2 Q. IS IT PUBLIC COUNSEL'S UNDERSTANDING THAT MR. JOHANSEN IS
3 REQUESTING AN INCREASE IN THE HOLLISTER SEWAGE TREATMENT
4 EXPENSE BY INCREASING VOLUMES BY 20%?

5 A. Yes.

6
7 Q. DOES PUBLIC COUNSEL AGREE WITH MR. JOHANSEN'S REQUEST?

8 A. No. Public Counsel does not agree with Mr. Johansen's request, because the single bill for
9 the month of January 2013 shown in Mr. Johansen's rebuttal testimony as support for his
10 position may not be representative of future costs. Additionally, the rate design
11 mechanism as agreed to by the parties to this case anticipates variable sewer volumes by
12 including a volumetric charge for sewer.

13
14 **V. SEWER COMMODITY CHARGE**

15 Q. IS THERE A SEWER COMMODITY RATE STATED IN THE CURRENT MISSOURI
16 PUBLIC SERVICE COMMISSION (MPSC OR COMMISSION) APPROVED TARIFF?

17 A. No, there is not.

18

1 Q. DID THE COMPANY IMPROPERLY CHARGE ITS CUSTOMERS A SEWER
2 COMMODITY CHARGE?

3 A. Yes, the Company, in violation of its tariff, billed its customers a commodity charge of
4 \$3.50 per thousand gallons of water usage after the base amount of 2,000 gallons. The
5 Company charged this rate from the effective date of the last rate case, May 10, 2000
6 through March 31, 2012.

7
8 Q. WHAT DOES THE COMPANY SEEM TO INDICATE WAS THE REASON FOR
9 THIS ERRONEOUS CHARGE?

10 A. Company witness, Mr. Snadon, states in his rebuttal testimony on page 6, lines 13 – 20:

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

20 It is Public Counsel’s understanding that the Company is attempting to say that Mr. Hubbs
21 provided a different tariff to the Company with the Settlement Agreement than what was
22 approved by the Commission.

23

24 Q. WHO IS MR. HUBBS?

1 A. Mr. Wendell R. Hubbs was the Project Coordinator for the Commission in the Company's
2 last rate case. His supervisor at the time was Mr. Dale W. Johansen, formerly Manager of
3 the Commission Water and Sewer Department.

4
5 Q. WAS THERE ADDITIONAL CORRESPONDENCE BETWEEN STAFF AND
6 COMPANY AFTER THE MARCH 7, 2000 CORRESPONDENCE?

7 A. Yes. Company witness, Mr. Johansen, stated in his rebuttal testimony of page 6, lines 9 –
8 11, that he found:

9 A letter dated March 20, 2000 through which a settlement agreement
10 and related revised tariff sheets were transmitted to the case file (this
11 letter was filed with the Commission on March 23, 2000).

12
13 Q. DID COMPANY WITNESS MR. JOHANSEN HIMSELF SIGN THE MARCH 20, 2000
14 SETTLEMENT AGREEMENT ON BEHALF OF THE STAFF, ALONG WITH MR.
15 GARY SNADON, WHICH WAS FILED WITH THE COMMISSION ON MARCH 23,
16 2000?

17 A. Yes, he did. Please refer to Surrebuttal Schedule KNR-1, attached to this testimony, for a
18 copy of the settlement agreement.

19
20 Q. DOES THE AFOREMENTIONED SETTLEMENT AGREEMENT REPRESENT THE
21 CURRENT TARIFF ON FILE?

1 A. Yes, it does.

2

3 Q. DID THE REVISED TARIFF SHEETS INCLUDED WITH THE MARCH 20, 2000
4 FILING LETTER INCLUDE A SEWER COMMODITY CHARGE?

5 A. As Company witness, Mr. Johansen, stated in his rebuttal testimony on page 7, line 5:

6 No, it did not.

7

8 Q. IS THE COMPANY TARIFF ON FILE WITH THE COMMISSION PUBLICALLY
9 AVAILABLE TO BE VIEWED ON THE COMMISSION WEBSITE, EFIS
10 (ELECTRONIC FILING INFORMATION SYSTEM)?

11 A. Yes, the Company could have, at any time, viewed their Commission approved tariff
12 online, to ensure they were charging customers the correct authorized sewer rates.

13

14 **VI. INTEREST RELATED TO REFUNDS**

15 Q. WHAT INTEREST RATE IS STAFF AND PUBLIC COUNSEL USING TO
16 CALCULATE INTEREST ON REFUNDS RELATED TO CUSTOMER DEPOSITS,
17 LATE FEES, RECONNECTION FEES, AND SEWER COMMODITY CHARGE?

18 A. Staff and Public Counsel are using 6% to calculate interest on the refunds.

19

1 Q. DOES THE COMPANY AGREE WITH THE ADDITION OF 6% INTEREST ON
2 REFUNDS RELATING TO LATE FEES, RECONNECTION FEES, AND SEWER
3 COMMODITY OVER-CHARGES?

4 A. No. Company witness, Mr. Johansen, explains in his rebuttal testimony that Commission
5 Rule 4 CSR 240-13.025 does not require interest be added to any overcharges that would
6 be due back to customers. Also, Company witness, Mr. Bruce Menke, explains in his
7 rebuttal testimony that the Company's current tariff does not state an interest rate related to
8 any charges other than customer deposits.

9
10 Q. WHY DOES PUBLIC COUNSEL BELIEVE INTEREST SHOULD BE ADDED TO
11 LATE FEE, RECONNECTION FEE, AND SEWER COMMODITY CHARGE
12 REFUNDS?

13 A. Public Counsel recommends interest be added to the refunds, because the Company had
14 free use of customer provided funds, which were collected in violation of the Company's
15 current tariff, from the effective date of the last rate case through March 31, 2012. The
16 time value of money, which is the central concept in finance theory, is the value of money
17 figuring in a given amount of interest earned or inflation accrued over a given amount of
18 time. The ultimate principle suggests that a certain amount of money today has different
19 buying power than the same amount of money in the future. This notion exists both

1 because there is an opportunity to earn interest on the money and because inflation will
2 drive prices up, thus changing the “value” of money. It makes absolute sense that the
3 refund of the overcharges should include interest since those monies could have earned a
4 return and increased in value for the customer had it not been inappropriately confiscated
5 by the utility. Public Counsel believes the 6% interest rate recommended is a reasonable
6 rate as it is in line with the interest rate allowed on customer deposits.

7
8 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

9 A. Yes, it does.

Randy

Emerald Pointe Utility Company

Corporate Offices
111 East Main
Branson, Missouri 65616

March 20, 2000

FILED²

MAR 23 2000

Missouri Public
Service Commission

~~RECEIVED²~~

~~MAR 23 2000~~

~~Records
Public Service Commission~~

SR-2000-595

Mr. Dale Hardy Roberts
Secretary to the Commission
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

RE: **Emerald Pointe Utility Company**
Small Company Rate Increase Request
Mo. PSC Tariff File No. 9900916 (Sewer)

Dear Mr. Roberts:

I am enclosing for filing with the Commission an original and three copies of a revised tariff sheet that includes rate and language changes reflecting an agreement between the Emerald Pointe Utility Company (Company) and the Commission Staff (Staff) on the above subject. The Company initiated the subject rate increase request in May 1999, under the Commission's small company rate increase procedure, and the request was assigned the above-referenced file number.

Additionally, consistent with the Commission's small company rate increase procedure, I am enclosing an Agreement Regarding Disposition of Small Company Rate Increase Request (Agreement). This Agreement reflects a "settlement" between the Company and the Staff regarding all matters related to the Company's sewer service rate increase request.

The Agreement calls for, and the revised tariff sheet contains, customer rates intended to produce an increase of \$2,500 (an approximate 8.7% increase) in the Company's annual operating revenues for its sewer operations. The Agreement also calls for the implementation of a "late payment charge" and of a "bad check charge" of \$15 per insufficient funds check. The Agreement is between the Company and the Staff; therefore, the enclosed tariff sheets bear an effective date that is greater than 45 days from the issue date.

Also, please note that the Company has consented to the extension of the time period beyond 150 days from the date the letter initiation the procedure was filed with the Commission.

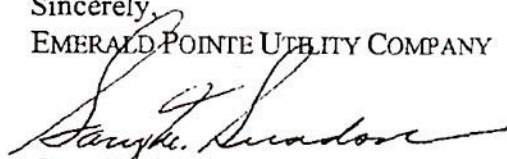
Schedule E - 1

199900916

It is my understanding that the Staff will be providing additional information about the Company's rate increase request and the related Staff audit and investigation, for filing in the case papers following the creation of a formal docket.

Please contact me at your convenience if you need anything further.

Sincerely,
EMERALD POINTE UTILITY COMPANY



Gary W. Snadon
President

enclosures

copies (w/enclosures):
Wendell R. Hubbs - PSC Staff
Office of the Public Counsel - Shannon Cook

Schedule E - 2

Agreement Regarding Disposition of
Small Company Rate Increase Request

Emerald Pointe Utility Company

Tariff File No. 9900916 (Sewer)

Emerald Pointe Utility Company (Company) initiated the small company rate increase request (Request) for sewer service that is the subject of the above-referenced Commission "file" through its submittal of letters to the Commission's Executive Secretary. The Company submitted its Request under the provisions of Commission rule 4 CSR 240-2.200, Small Company Rate Increase Procedure (the informal rate case procedure). The dates the Company's letters were received at the Commission's offices were May 24, 1999 and May 25, 1999. In its Request, the Company represented that it was asking for Commission approval of customer rates intended to generate an increase of \$2,500 in its total annual sewer service operating revenues. The Company provides sewer service to approximately 124 customers.

Upon review and acceptance of the Company's Request, the Commission's Records Department assigned Tariff File No. 9900916 to the Request for purposes of identification and tracking. The Records Department then forwarded the Request to the Commission's Water & Sewer Department for processing under the informal rate case procedure.

Pursuant to the provisions of the informal rate case procedure, the Staff of the Commission (Staff) initiated an audit of the Company's books and records and an inspection of the Company's system and the operation thereof.

Based upon the results of the Staff's audit, the Company and the Staff hereby state their agreement that: (1) an increase of \$2,500 (approximately 7.5%) in the Company's annual sewer revenues is reasonable; (2) the implementation of a "late payment charge" is reasonable; and (3) the implementation of a "bad check charge" of \$15 per insufficient fund check is reasonable.

The Company and Staff also agree that the Company will keep their books and records in accordance with the Uniform System of Accounts for

Schedule E - 3

Emerald Pointe Utility Company - File No. 9900916 Sewer
Small Company Rate Procedure "Agreement"

Class C and D Sewer Utilities as prescribed by the National Association of Regulatory Utility Commissioners (NARUC), this includes using the Staff's calculation of plant, depreciation reserve and contributions in aid of construction ending balances. The Company also agrees that it will maintain its books and records for their water operations and sewer operations separately.

Additionally, the Company acknowledges that the Staff will file additional information about the details of its audit with the Commission following the creation of a formal docket.

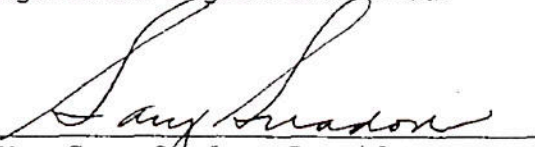
This Agreement is only between the Company and the Staff. However, the Office of the Public Counsel (OPC) has verbally notified the Staff that it does not oppose the increase.

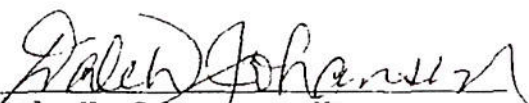
Lastly, the Company and the Staff ask the Commission to note that no action need be taken on the Company's tariff sheet until after the Staff files its formal recommendation for approval of the tariff sheet. That filing will take place soon after filing of this Agreement and the revised tariff sheet.

Other than the specific conditions agreed to by the Company, this agreement is a compromise that has resulted from extensive negotiations between Staff and the Company and no party has agreed to any particular ratemaking principal (except those items specifically stated in this agreement) in arriving at the dollar amount.

This Agreement is effective as of the 10th day of March, 2000.

Agreement Signed and Dated:


Mr. Gary Shadon, President
Emerald Pointe Utility Company


Dale W. Johansen - Manager
Water and Sewer Department
Public Service Commission Staff

P. S. C. MO. No. 1

1st Revised

Sheet No. 4

Cancelling P. S. C. MO. No. 1

Original

Sheet No. 4

Emerald Point Utility Company For **Missouri Service Area**

Name of Issuing Company

Community, Town or City

RULES GOVERNING
RENDERING OF **SEWER SERVICE** +

SCHEDULE OF SEWER RATES

Availability: *

Available to any customer located in the Company's certificated service territory.

Sewer Service Rates:

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

Monthly Minimum Bill: * Equals the applicable Monthly Customer Charge
The minimum monthly billing shall be billed customers based on this Charge.

Taxes: *

Any applicable Federal, State or local taxes computed on a billing basis shall be added as separate items in rendering each bill.

Late Payment Charge: *

Billings will be made and distributed at monthly intervals. Bills will be rendered net, bearing the last date on which payment will then be considered delinquent. The period after which the payment is considered delinquent is 21 days after rendition of the bill. A charge of \$3.00 or two percent (2%) per month times the unpaid balance, whichever is greater, will be added to delinquent amounts.

Bad Check Charge: *

A bad check charge of \$15 per check will be paid on all checks returned from the bank for insufficient funds.

* Indicates new rate or text

+ Indicates change

Date of Issue 3/23/00

Date Effective 5/10/00

Issued By: Gary W. Snadon, President

111 East Main, Branson, MO 65616

Name of Officer

Title

Address

Schedule E - 5

Surrebuttal Schedule KNR-1-5