

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Lincoln)
County Sewer & Water, LLC for Approval)
of a Rate Increase.)

File No. SR-2013-0321

**POST-HEARING BRIEF OF THE
OFFICE OF THE PUBLIC COUNSEL**

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COMES NOW the Office of the Public Counsel (Public Counsel) and states for its Post-Hearing Brief as follows:

1. Meters/Meter Reading

a. What is the appropriate amount, if any, to include in rates for the purchase, installation, and operation and maintenance of the Company’s automated meters?

It is the Company’s burden to prove that any expenses it requests to be reflected in rates is just and reasonable. Lincoln County Sewer and Water (LCSW or Company) proposes to include the actual cost of the automatic meter reading (AMR) system of 1) Meters: \$32,867; 2) Parts & Installations: \$32,698; 3) Meter Reading Device: \$9,438 and 4) Training: \$1,500 along with relevant depreciation expense and return on investment.¹ LCSW provided no documentation that the costs for an AMR system were necessary or just and reasonable for a utility of its size.²

The evidence shows that the customers are being expected to pick up the cost of an AMR system which exceeds \$80,000 not to mention the additional annual maintenance expense the parties were not aware of until right before the evidentiary hearing.³ The Company tries to

¹ LCSW Ex. 1 & 2.

² LCSW Ex. 1, 2, 3 & 4.

³ LCSW Ex. 1 & 2; Tr. Pg. 108-109.

sidestep the cost issue by attempting to claim that the AMR has many benefits. However, the evidence showed that the only documentation of those benefits the Company could provide was in response to the Missouri Public Service Commission Staff (Staff) Data Request No. 5 which gave an example of a customer who had an average \$60 bill and then suddenly the next month it went up to around \$500 indicating a leakage on his side of the meter.⁴ But, this is not evidence of the benefit of an \$80,000 AMR system because even if a manual read meter was in place, the customer would certainly know there was an issue when their bill turned out to be \$500 one month.⁵ No other documentation of benefit was provided by the Company and this disparity between the large cost and the complete lack of evidence of benefit at the evidentiary hearing meant Staff could not hold to its revised position that the benefits of the AMR outweigh the costs.⁶

Such an extravagant system is rare among regulated utilities and non-existent in a system the size of LCSW. In response to a LCSW Data Request, Staff provided a list of other utilities in Missouri who have added an AMR system.⁷ The response shows that besides Missouri-American Water and Raytown, both of whom are substantially larger than LCSW, the only other regulated system who has even attempted to put in an AMR system, Tri-States Utility, Inc., was recently the subject of an investigation by the Commission and approved for purchase by Missouri-American Water.⁸ Absolutely no evidence of a regulated system of the size of LCSW purchasing an AMR system has been provided. Customers should not have to pay for gold-plating decisions by the utility.

⁴ Tr. Pg. 103-104.

⁵ Tr. Pg. 104.

⁶ Tr. Pg. 103.

⁷ LCSW Ex. 5.

⁸ LCSW Ex. 5, WO-2013-0403; WO-2013-0517

The evidence shows that the Company failed to meet its burden that the costs of the AMR system are just and reasonable to be put in rates. As compared to non-automated meter costs, the excessive costs associated with the AMR system are unnecessary for the provision of safe and adequate water service, and an extravagant investment that customers of such a small utility system should not be asked to bear in rates. Therefore, the Commission should deny the Company's request that the automatic meter costs be included in rates.

b. If the automated meter costs are not included in rates, what amount of non-automated meter purchase, installation, and operation and maintenance costs should be included in rates?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. LCSW provided no specific recommendation as to the amount of non-automated meter purchase, installation, and operation and maintenance costs that should be included in rates if the AMR system costs are not included.

Without documentation from the Company, evidence must be based on the documentation that has been provided. The evidence shows that it is just and reasonable to include \$35,800 in plant and \$1,012 in reserve related to manual read meters as well as \$1,673 in annual depreciation expense and \$2,338 of annual return on investment associated with these meters as shown in the Staff's Direct Testimony Accounting Schedules⁹ for non-automated meter purchase, installation, and operation and maintenance costs in rates.

The evidence shows the Company failed to meet its burden to prove the amount of non-automated meter purchase, installation, and operation and maintenance costs that should be included in rates if the AMR system costs are not included. Therefore if the AMR system costs

⁹ Staff Ex. 2A, 2B, 2C & 2D; Staff Position Statement.

are not included, the Commission should include \$35,800 in plant and \$1,012 in reserve related to manual read meters as well as \$1,673 in annual depreciation expense and \$2,338 of annual return on investment for non-automated meter purchase, installation, and operation and maintenance costs in rates.

c. If the automated meter costs are not included in rates, what amount of meter reading costs should be included in rates?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. LCSW stated that if the Commission does not include the costs associated with the remote-read meters and the meter reading device, as an alternative, meter reading expenses should be calculated at \$2.75/meter/month, based on the bid LCSW received for such services.¹⁰ LCSW provided no documentation as to the reasonableness of the bid nor did it seek more than one bid for these services.¹¹

Without documentation from the Company, evidence must be based on the documentation that has been provided. The evidence shows that \$900 and \$1,296 for the Bennington and Rockport water systems respectively, as shown in Staff's Direct Testimony Accounting Schedules,¹² is just and reasonable for non-automated meter reading costs to be included in rates.

The evidence shows that the Company failed to meet its burden to prove that the meter reading expenses it proposes are just and reasonable. Therefore if the AMR system costs are not included, the Commission should include \$900 and \$1,296 for the Bennington and Rockport water systems respectively for meter reading expenses.

¹⁰ LCSW Ex. 1 & 2.

¹¹ Tr. Pg. 77.

¹² Staff Ex. 2A, 2B, 2C & 2D; Staff Position Statement.

2. Billing Program & Billing Expenses

a. What is the appropriate amount to include in rates for the Company's billing program?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. As argued above, the evidence shows that the Company failed to meet its burden that the costs of the AMR system are just and reasonable to be put in rates. As compared to non-automated meter costs, the excessive costs associated with the AMR system are unnecessary for the provision of safe and adequate water service, and an extravagant investment that customers of such a small utility system should not be asked to bear in rates. Similarly, the costs associated with a computer billing software program LCSW acquired to compliment the AMR system should also be disallowed.¹³

The evidence also shows that even if the AMR billing program is not included in rates, no additional expenses for a non-AMR billing system are just and reasonable to be included in rates.¹⁴ Costs for billing are already included in rates. Total customer numbers (both water and sewer) have only increased from 223 since the Company's last cases to 245.¹⁵ It is not logical to expect that an additional billing program is necessary to cover the small amount of additional customers.

The evidence shows that the Company has failed to meet its burden to prove that additional billing program expenses are necessary. Therefore, the Commission should include no additional costs for a billing system above what is included in current rates.

¹³ OPC Ex. 2.

¹⁴ OPC Ex. 2.

¹⁵ OPC Ex. 2.

b. If the billing program is not included in rates, should additional payroll expenses be included for billing and related activities?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. LCSW requests that if the billing program is not included in plant in service, an additional 12 hours/month should be added when annualizing the payroll expense for LCSW office personnel.¹⁶ LCSW provided no support for the additional hours or documentation that its request is just and reasonable.¹⁷

The evidence shows that additional billing labor costs should not be included in rates, as the same bills have to be prepared no matter how the meters are read and LCSW did not provide any support or work papers to show the estimated additional payroll costs are just and reasonable or even how these costs were determined.¹⁸ Total customer numbers (both water and sewer) have only increased from 223 since the Company's last cases to 245.¹⁹ It is not logical to expect that additional billing labor costs are necessary to cover the small amount of additional customers.

The evidence shows that the Company has failed to meet its burden to prove that additional billing labor costs are necessary. Therefore, the Commission should include no additional costs for billing labor above what is included in current rates.

3. Land Ownership and Valuation

a. Should the value of the land on which the Company's facilities are situated be included in rate base for the Company?

¹⁶ LCSW Ex. 1 & 2.

¹⁷ LCSW Ex. 1, 2, 3 & 4.

¹⁸ OPC Ex. 2.

¹⁹ OPC Ex. 2.

The Commission was notified that this issue had been resolved and would not be taken up during the evidentiary hearing.²⁰

b. If so, what is the value of that land?

The Commission was notified that this issue had been resolved and would not be taken up during the evidentiary hearing.²¹

4. Rate Base

a. What are the appropriate beginning balances for the Company's rate base?

It is the Company's burden to prove that its request regarding rate base to reflect in rates is just and reasonable. LCSW claims that the beginning balances reflected in the Company's certificate cases reveals that not all of the costs associated with the original construction of the water and sewer facilities were used in arriving at that rate base.²² LCSW lists some examples of items that it believes have not been included in rate base, but the list is not exhaustive and LCSW provides no numerical rate base calculation based on its claim.²³

The evidence shows that the beginning rate base balances were agreed upon by all parties and ordered by the Commission in LCSW's prior certificate cases, WA-2012-0018 and SA-2012-0019.²⁴ The agreement between the parties, which was approved by the Commission, stated that LCSW shall use a total rate base of \$245,957, as specified by each system in Appendix B attached to the agreement, in establishing its initial plant account balances. The

²⁰ Tr. Pg. 45-46.

²¹ Tr. Pg. 45-46.

²² LCSW Ex. 1.

²³ LCSW Ex. 1.

²⁴ *Order Approving Unanimous Stipulation and Agreement, Approving Transfer of Assets and Granting Certificates of Convenience and Necessity*, WA-2012-0018 & SA-2012-0019, 6/27/2012.

evidence shows that Mr. Johansen admits that the items it now seeks to include in the beginning balances of rate base existed at the time of the certificate case.²⁵ Therefore, it is reasonable to assume that all the items were contemplated when LCSW agreed to the beginning rate base balances in the certificate cases. An agreement between the parties which has been approved by the Commission is a legal agreement in respect to the items it contains. LCSW has provided no evidence that the agreement was unjust and unreasonable and should be set aside. It is not just and reasonable for the Company to now ask the Commission to set aside that agreement without such evidence.

The evidence shows LCSW has not met its burden to prove its claim that the beginning balances reflected in the Company's certificate cases reveals that not all of the costs associated with the original construction of the water and sewer facilities were used in arriving at that rate base. The beginning total rate base balance of \$245,957 was agreed upon by all parties and ordered by the Commission in LCSW's prior certificate cases, WA-2012-0018 and SA-2012-0019. LCSW has provided no evidence that the agreement was unjust and unreasonable and should be set aside. Additionally, the list of examples provided by LCSW is not exhaustive and LCSW provides no numerical rate base calculation based on its claim. Therefore the Commission should deny the Company's unsubstantiated claim and order that the appropriate beginning balances for the Company's rate base is \$245,957 as agreed upon by all parties and ordered by the Commission in LCSW's prior certificate cases, WA-2012-0018 and SA-2012-0019.

5. Capacity Adjustments (Rockport)

²⁵ Tr. Pg. 156.

a. What should be the adjustment to rate base for excess capacity in the Company's Rockport facilities?

It is the Company's burden to prove that any request regarding rate base to be reflected in rates is just and reasonable. LCSW requests the following capacity adjustments in the Rockport facilities: (1) a 40% adjustment related to the well; (2) a 65.55% adjustment related to the water storage tank, and (3) a 65.55% adjustment related to the sewage treatment plant.²⁶ The Company states its belief that any capacity adjustments for those facilities should be based on an analysis of the number of customers that the facilities were designed/permitted to serve and the current number of customers served.²⁷ LCSW provides no documentation as to the reasonableness of its calculation of its proposed capacity adjustments based on customer numbers.

The decision to build the Rockport system at the size it is today was completely the business decision of the subdivision and utility developer. Whenever a company goes in to the Department of Natural Resources to get a permit, it is the company who provides the size of the project to DNR, DNR does not dictate the size of the project to the company.²⁸ The size of the project then determines the sizing requirements necessary for DNR to ensure that the system will be designed to provide proper service. If the designed and built size is too large, there will be extra capacity of service that is not utilized by the customers. It is not just and reasonable for customers to pay for unutilized capacity. The decision for the Commission is to determine how that extra capacity is calculated.²⁹

²⁶ LCSW Ex. 1 & 2.

²⁷ LCSW Ex. 1.

²⁸ Tr. Pg. 338.

²⁹ Tr. Pg. 340.

There is no argument that based on usage data, the Rockport system can serve more than the current customers and more than what it is permitted for.³⁰ The evidence shows that the Company's customer number proposal is different than the customer usage method Staff used in the certificate case to develop the initial cost of service.³¹ However, the evidence shows that usage amounts are a better measure of capacity than the number of customers on a system.³² For example, the evidence shows that the output of a production plant relative to customer demand is a better measure of the plant's production capacity than the number of customers the plant is designed to accommodate.³³ Customer numbers require an assumption of how much each specific customer uses where usage data tells you exactly how much is being used no matter how many customers are on the system over a specific timeframe.

The evidence shows LCSW has not met its burden to prove that its proposal that capacity adjustments for the Rockport system should be based on an analysis of the number of customers that the facilities were designed/permitted to serve and the current number of customers served. The evidence shows that customer usage amounts are a better measure of capacity than the number of customers on a system. Therefore, the Company's proposal is not just and reasonable.

6. Plant Held for Future Use

a. Should the capacity adjustment to rate base be recorded as plant held for future use?

It is the Company's burden to prove that any request regarding rate base to be reflected in rates is just and reasonable. LCSW takes the position that the balances identified as plant held

³⁰ Tr. Pg. 337; 347-348.

³¹ Tr. Pg. 336.

³² OPC Ex. 1.

³³ OPC Ex. 1.

for future use should be removed from plant in service before the plant depreciation reserve calculation is done and that failure to do so will result in a certain amount of plant being depreciated before the Company ever has an opportunity to earn either a return of or a return on that depreciated plant through growth in the customer base.³⁴ LCSW provides no calculated value for its position or documentation as to the reasonableness of its request.³⁵

The evidence shows that the amount of capacity adjustments made to rate base should not be recorded in the Uniform System of Accounts (USOA) Account Plant Held for Future Use accounts (105 for sewer and 394 for water), the USOA description of which state that, “Materials and supplies, and meters held in reserve, and normal spare capacity of plant in service shall not be included in this account.”³⁶ However, should the capacity adjustment be included in Plant Held for Future Use, the evidence shows the USOA account directions are clear that these Plant Held for Future Use accounts “shall be maintained in such detail as though the property were in service.”³⁷ Therefore, while depreciation expense would continue to accrue on such accounts, it is just and reasonable that the plant, reserve, and depreciation expense would not be included for regulatory ratemaking until such time as those items of plant become used and useful.

The evidence shows LCSW has not met its burden to prove that its proposal that the balances identified as plant held for future use should be removed from plant in service before the plant depreciation reserve calculation is done is just and reasonable. The gist of this issue is that LCSW does not want plant that is held for future use to be subjected to depreciation calculations until it is actually used and useful. The outcome of the Company’s position is that future customers would be required to pay depreciation on a long-existing piece of equipment as

³⁴ LCSW Ex. 1.

³⁵ LCSW Ex. 1; OPC Ex. 2.

³⁶ Staff Ex. 4.

³⁷ Staff Ex. 4.

if it was new. This is not just and reasonable is contrary to the requirements of the USOA. Therefore, the Commission should deny the Company's proposal.

7. Depreciation Rates

a. What is the appropriate depreciation rate for the Company's submersible pumping equipment account on the Bennington system?

It is the Company's burden to prove that any request regarding depreciation rates to be reflected in rates is just and reasonable. LCSW merely supports the Staff Accounting Schedules³⁸ on this issue and provides no calculations or documentation to prove that it is just and reasonable to include ongoing depreciation expenses for a fully-depreciated submersible pump in rates.³⁹

The evidence shows that the Staff Accounting Schedules and resultant work papers for the Bennington water system reflect an annual depreciation expense for a fully-depreciated submersible pump of \$3,935.60.⁴⁰ The evidence shows that depreciation as defined by the Uniform System of Accounting (USOA) begins during the month or year that a utility starts using plant asset productively to generate revenue and ends when: 1) the utility fully recovers the cost of an asset; 2) when the utility disposes off the asset; or 3) when the utility stops using the asset, and a rate change is authorized.⁴¹

The evidence shows that that LCSW has fully recovered the cost of the submersible pump as of May 30, 2010.⁴² Even Mr. Rice admits that the pumping account where the fully-depreciated pump is recorded is over-accrued in that it has accrued more than it should at this

³⁸ Staff Ex. 11A, 11B, 11C & 11D.

³⁹ LCSW Ex. 1, 2, 3 & 4.

⁴⁰ OPC Ex. 2.

⁴¹ OPC Ex. 2.

⁴² OPC Ex. 2.

point in its life.⁴³ The evidence is clear that ratepayers have already reimbursed the utility for the full cost of the pump and it is not just and reasonable to require customers to provide additional funding for an asset whose cost has been fully recovered. Therefore it is just and reasonable that the depreciation rate for the fully-depreciated pump be set at zero.

The evidence shows LCSW has not met its burden to prove that it is just and reasonable to include ongoing depreciation expense for a fully-depreciated pump in rates. Merely supporting Staff's Accounting Schedules on this issue without providing calculations or documentation does not fulfill the Company's burden of proof. Also, the evidence is clear that ratepayers have already reimbursed the utility for the full cost of the pump and it is not just and reasonable to require customers to provide additional funding for an asset whose cost has been fully recovered. Therefore the Commission should order that the depreciation rate for the fully-depreciated pump be set at zero.

b. Should the Commission order adjustments to the accumulated depreciation for the Bennington submersible pump account?

It is the Company's burden to prove that any request regarding depreciation rates to be reflected in rates is just and reasonable. LCSW merely supports the Staff Accounting Schedules⁴⁴ on this issue and provides no calculations or documentation to prove that it is just and reasonable to include ongoing depreciation expenses for a fully-depreciated submersible pump in rates.⁴⁵

The evidence shows that Staff's Accounting Schedules continue to accumulate depreciation expense on the Bennington water system submersible pump even though the

⁴³ Tr. Pg. 233.

⁴⁴ Staff Ex. 11A, 11B, 11C & 11D.

⁴⁵ LCSW Ex. 1, 2, 3 & 4.

accumulation should have ceased at the end of the pump's useful life.⁴⁶ Staff's Accounting Schedules and resultant work papers contain calculations for accumulated depreciation reserve for the fully-depreciated submersible pump that amounted to \$50,548 which Staff consequently subtracted from the total plant in service in the determination of plant in service for the Bennington water system.⁴⁷

The evidence shows that that LCSW has fully recovered the cost of the submersible pump as of May 30, 2010.⁴⁸ Even Mr. Rice admits that the pumping account where the fully-depreciated pump is recorded is over-accrued in that it has accrued more than it should at this point in its life.⁴⁹ However, the evidence shows that Staff updated the accumulated depreciation reserve balance through March 31, 2013, even though the pump was fully-depreciated as of May 30, 2010.⁵⁰ It is not just and reasonable to require customers to provide additional funding for an asset whose cost has been fully recovered. Therefore, the evidence shows that it is just and reasonable to adjust the accumulated reserve balance for the fully-depreciated submersible pump to reflect a balance of \$39,356 instead of the \$50,548 included in Staff's Accounting Schedules.⁵¹

The evidence shows LCSW has not met its burden to prove that it is just and reasonable to include ongoing depreciation expense for a fully-depreciated pump in rates. Merely supporting Staff's Accounting Schedules on this issue without providing calculations or documentation does not fulfill the Company's burden of proof. Also, the evidence is clear that ratepayers have already reimbursed the utility for the full cost of the pump and it is not just and

⁴⁶ Staff Ex. 11A, 11B, 11C & 11D; OPC Ex. 2.

⁴⁷ Staff Ex. 11A, 11B, 11C & 11D; OPC Ex. 2.

⁴⁸ OPC Ex. 2.

⁴⁹ Tr. Pg. 233.

⁵⁰ Ex. 2.

⁵¹ Ex. 2.

reasonable to require customers to provide additional funding for an asset whose cost has been fully recovered. Therefore the Commission should order that the accumulated depreciation reserve balance of the submersible pump should be set at \$39,356.

8. Rate Case Expense

a. What is the appropriate amount of rate case expense to include in the Company's rates?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. Only just and reasonable costs through the filing of post-hearing briefs should be included in this case. But, it seems LCSW expects rate payers to pay for all the additional expenses pertaining to its outside expert, Mr. Johansen, and attorney expenses including those of Mr. Cooper and those of LCSW's second attorney, Mr. Burlison.⁵² While there is merit to the argument for the necessity of an outside expert and an attorney in an evidentiary hearing, there is absolutely no reason why a second attorney was necessary for this case.

There is no evidence that Mr. Burlison provided any substantial legal services in this case. LCSW is a small water and sewer system and the rate increase request was filed under the small company rate case rule. Mr. Burlison didn't even file an entry of appearance until the day before the hearing.⁵³ Even though an invoice was provided where Mr. Burlison charged LCSW for appearing on behalf of the company, the evidence shows Mr. Burlison made no entry of appearance at the local public hearing.⁵⁴

⁵²Tr. Pg. 45.

⁵³Entry of Appearance (11-4-2013); Tr. Pg. 256.

⁵⁴Tr. Vol. 2; Tr. Pg. 256-257.

Despite being present for the entire evidentiary hearing, his services did not cover a single entire issue. Instead Mr. Burlison only questioned one witness on one specific issue - the appropriate level of salary to include in rates.⁵⁵ His questioning of Ms. Hanneken was limited to questions regarding the use a standardized letter sent out to all companies and her desire to make sure that if there were any documentation that had been overlooked in the previous case, that the company had the opportunity to provide those documents to Staff for review and inclusion in this case.⁵⁶ It is hard to know exactly what evidence Mr. Burlison was trying to elicit from Ms. Hanneken, but the gist of her answers was that she was trying to help LCSW provide some type of documentation on which to set just and reasonable rates in this case. Why it took a second attorney to bring this evidence to the Commission's attention is a mystery.

It is unknown why a second attorney was brought in by LCSW. Apparently LCSW saw some benefit from Mr. Burlison being present in this case, but the customers certainly received no benefit. Mr. Burlison's activities were completely duplicative of those provided by Mr. Cooper. Both attorneys sat side by side in the court room - both charging for their services. There was nothing done by Mr. Burlison that could not have been done by Mr. Cooper, especially given the fact that Mr. Cooper routinely appears in similar cases before the Commission while Mr. Burlison does not. Mr. Burlison was not active in the filing of testimony; Mr. Cooper was. As duplicative services, the costs of Mr. Burlison are not just and reasonable to be included as rate case expense.

The Commission should order that only reasonable rate case expense through the filing of post-hearing briefs should be included in this case. The evidence shows LCSW has not met its

⁵⁵ Tr. Pg. 274-285.

⁵⁶ Tr. Pg. 275-285.

burden to prove that the costs of Mr. Burlison are just and reasonable. Therefore, the Commission should not include those costs in the rates paid by customers.

9. Certificate Case Expense

a. What is the appropriate amount of costs related the Company's certificate cases to include in the Company's rates?

LCSW has the burden to prove that its requested amount of cost related to the Company's certificate case to include in rates is just and reasonable. The evidence shows that the testimony filed by LCSW did not specify a specific amount that the company was requesting.⁵⁷ During the evidentiary hearing, Mr. Johansen provided testimony that the amount for this issue was \$4,810 but provided no documentation as to where the amount came from or how that amount is to be proven just and reasonable.⁵⁸ LCSW also provided no breakdown of the certificate case expenses which detailed the time and expenses specifically for seeking the certificate it received as compared to the time and expenses specifically for setting the rates that LCSW has been charging since that certificate case.⁵⁹

It is standard practice in subsequent cases setting rates, no matter how often a company chooses to file for a rate increase, that rate case expense from the previous case where rates are set is dropped.⁶⁰ The evidence shows during the certificate case, initial rates were set for LCSW.⁶¹ Since setting rates is a common and extensive part of a certificate case it is just and

⁵⁷ LCSW Ex. 1, 2, 3 & 4; Tr. Pg. 258.

⁵⁸ Tr. Pg. 196-198.

⁵⁹ LCSW Ex. 1, 2, 3 & 4.

⁶⁰ Tr. Pg. 197.

⁶¹ Tr. Pg. 197.

reasonable to equate the certificate case expense to rate case expense given the circumstances of that case.⁶²

LCSW did not meet its burden to prove that the inclusion of \$4,810 in certificate case expense in current rates is just and reasonable. It is reasonable to assume that, as setting initial rates such as those set for LCSW in its certificate case is a complex process, much of the time in a certificate case is spent on developing what those rates will be. It is standard practice in subsequent cases setting rates that rate case expense from the previous case where rates are set is dropped. Therefore, it is just and reasonable to drop the rate case expense from the certificate case in the current rate case.

10. Office Rent/Office Utilities

a. What is the appropriate amount of expense to include in rates for the Company's office space, including rent and utilities?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. LCSW claims that the current rate of \$11,400 per year it pays for office rent is just and reasonable. However, LCSW provides no documentation as to the reasonableness of its current rent.⁶³

Just because LCSW may currently be charged that amount there is no evidence to prove that it is a just and reasonable amount. This is not a situation where rent has been set in an arm's length transaction between two independent parties. Though it cannot be seen in a review of the lease, the evidence shows that Mr. Kallash controls the building he "rents" to LCSW.⁶⁴ In fact,

⁶² Tr. Pg. 197, 258-259.

⁶³ LCSW Ex. 1, 2, 3 & 4.

⁶⁴ Tr. Pg. 299-300.

the evidence shows Mr. Kallash himself sets the rent that he (as owner of LCSW) is now asking ratepayers to pay for in their rates.⁶⁵

To refute this, Mr. Kallash tries to point to a contract for deed dated January 1, 2009, stating that it proves he sold the property to another person.⁶⁶ However, the evidence shows the deed is not recorded,⁶⁷ the sale of the buyer's condo on which the contract is conditioned has not occurred,⁶⁸ and of the \$152,900 purchase price, Mr. Kallash can only claim the buyer has paid about \$8,000 through the nearly five years since the date on the contract.⁶⁹ Given the evidence, it is not logical to believe that Mr. Kallash no longer owns the office property and has no say in the amount of rent that is charged to LCSW.

Logically, it is just and reasonable to require that the amount of office rent and office utilities included in rates reflect the market rates in the area near the utility systems. Based on Mr. Addo's analysis of the market for rental rates per square foot for similar office rental properties in centrally located Troy, Missouri, the evidence shows that it is just and reasonable for LCSW to recover an annualized rent of \$5,227.92.⁷⁰ The evidence also shows it is just and reasonable that annual office utilities of \$900 for electricity expenses, \$180 for water expenses and \$180 for sewer costs assessed to commercial properties in Troy, Missouri, should be included in LCSW's cost of service.⁷¹

The evidence shows LCSW has not met its burden to prove that the current rate of \$11,400 per year it pays for office rent is just and reasonable. The evidence shows that the amount of rent currently charged to LCSW does not reflect the market rate in the area and has

⁶⁵ Tr. Pg. 300.

⁶⁶ LCSW Ex. 4.

⁶⁷ Tr. Pg. 315-316.

⁶⁸ Tr. Pg. 316.

⁶⁹ Tr. Pg. 321.

⁷⁰ OPC Ex. 2; Tr. Pg. 246-248.

⁷¹ OPC Ex. 2.

not been set in an arm's length transaction between two independent parties. Therefore, it is just and reasonable that the Commission deny the Company's request and order an annualized rent of \$5,227.92 along with an annual amount of \$900 for electricity expenses, \$180 for water expenses and \$180 for sewer costs be included in rates.

11. Property/Liability Insurance

a. What is the appropriate amount of expense to include in rates for property or liability insurance?

The Commission was notified that this issue had been resolved and would not be taken up during the evidentiary hearing.⁷²

12. Income Taxes

a. Is it appropriate to include income tax expense in the Company's cost of service?

It is the Company's burden to prove that any expense it requests to be put into rates is just and reasonable. The evidence shows that LCSW has provided no specific amount of income tax expense that is just and reasonable to be included in rates, nor has it provided any evidence that LCSW has any income tax burden at all.⁷³

In fact, LCSW cannot provide any such evidence to the Commission. The evidence shows that as a consequence of being formed as a Limited Liability Company (LLC), LCSW does not pay income taxes.⁷⁴ The choice to be a LLC is entirely upon Mr. and Mrs. Kallash.

⁷² Tr. Pg. 45-46.

⁷³ LCSW Ex. 1, 2, 3 & 4.

⁷⁴ Tr. Pg. 204, 266-267, 269-270.

They are the owners or member of LCSW.⁷⁵ While any profit or loss of LCSW is recorded on their personal tax return, this profit or loss will be offset by the tax results for any other businesses owned by Mr. and Mrs. Kallash that may also be recorded on their personal tax return.⁷⁶ As an LLC, Mr. and Mrs. Kallash also enjoy many other benefits including as the name suggests limited liability for claims against LCSW.

The evidence shows LCSW has not met its burden to prove that income tax expense should be included in rates. The evidence shows that, as an LLC, LCSW has no income tax burden at all. Therefore, it is just and reasonable that no income tax be included in LCSW's cost of service.

13. Salaries – Dennis and Toni Kallash

a. What is the appropriate level of salary to include in rates for Dennis Kallash?

LCSW is requesting a salary for Mr. Kallash of \$42.68/hour (adjusted to include the payroll taxes the Company would be paying if he was paid as a direct employee) and that a monthly average of 57 hours should be used (not including consideration of water testing time issue).⁷⁷ The company provided no documentation as to the reasonableness of the rate or hours used.

The amount of time Mr. Kallash worked cannot be verified. The Company failed to provide detailed timesheets to prove the amount of hours spent on utility issues.⁷⁸ So, it seems the Company provided mere guesses as to how much time was spent. Also the inclusion of

⁷⁵ Tr. Pg. 271.

⁷⁶ Tr. Pg. 267.

⁷⁷ LCSW Ex. 1 & 2.

⁷⁸ OPC Ex. 2; Tr. Pg. 274, 275, 276, 278, 283, 286-287.

payroll tax is unreasonable in that Mr. Kallash is not an employee and LCSW pays no payroll tax for him.⁷⁹ Therefore, the information provided by the Company is not acceptable to determine the salary level and time spent for Mr. Kallash.

The evidence shows that since its last cases in 2012, LCSW has not had any major change in its operations except for a small increase customer numbers.⁸⁰ Total customer numbers (both water and sewer) increased from 223 since the Company's last cases to 245 as a result, indicating a customer increase factor of 1.0987 (254 divided by 223) applied to the current salary for Mr. Kallash would be reasonable.⁸¹ Therefore, based on a lack of detailed timesheets, no major changes in its operations and only a small increase in customer numbers since its last cases in 2012, the evidence shows that it is just and reasonable that LCSW should be allowed to recover an annualized salary of \$8,240 for Mr. Kallash.⁸²

The evidence shows LCSW has not met its burden to prove that its request of a salary for Mr. Kallash of \$42.68/hour and that a monthly average of 57 hours should be used (not including consideration of the water testing time issue) is just and reasonable. The company provided no documentation as to the reasonableness of the rate or hours used. The Company failed to provide detailed timesheets to prove the amount of hours spent on utility issues. Therefore, the Commission should deny the Company's request and order that LCSW should be allowed to recover an annualized salary of \$8,240 for Mr. Kallash.

b. What is the appropriate level of salary to include in rates for Toni Kallash?

⁷⁹ Tr. Pg. 253.

⁸⁰ OPC Ex. 2.

⁸¹ OPC Ex. 2.

⁸² OPC Ex. 2.

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. LCSW is requesting a salary for Ms. Kallash of \$16.51/hour (adjusted to include the payroll taxes the Company would be paying if she was paid as a direct employee) and that a monthly average of 87 hours should be used (not including consideration of the billing expenses issue discussed previously).⁸³ The company provided no documentation as to the reasonableness of the rate or hours used.

The amount of time Ms. Kallash worked cannot be verified. The Company failed to provide detailed timesheets to prove the amount of hours spent on utility issues.⁸⁴ So, it seems the Company provided mere guesses as to how much time was spent. The evidence shows there is a huge disparity between pre and post rate case filing hours recorded by Mrs. Kallash even though the operations of LCSW remained the same.⁸⁵ Also, a review of the hours booked by Mrs. Kallash in March, 2013, indicates that she spent between 3 to 7 hours at the bank almost every day throughout the month.⁸⁶ Also the inclusion of payroll tax is unreasonable in that Ms. Kallash is not an employee and LCSW pays no payroll tax for her.⁸⁷ Therefore, the information provided by the Company is not acceptable to determine the salary level and time spent for Ms. Kallash.

The evidence shows that since its last cases in 2012, LCSW has not had any major change in its operations except for a small increase customer numbers.⁸⁸ Total customer numbers (both water and sewer) increased from 223 since the Company's last cases to 245 as a result, indicating a customer increase factor of 1.0987 (254 divided by 223) applied to the current

⁸³ LCSW Ex. 1 & 2.

⁸⁴ OPC Ex. 2; Tr. Pg. 274, 275, 276, 278, 283, 286-287.

⁸⁵ OPC Ex. 2.

⁸⁶ OPC Ex. 2.

⁸⁷ Tr. Pg. 253.

⁸⁸ OPC Ex. 2.

salary for Ms. Kallash would be reasonable.⁸⁹ Therefore, based on a lack of detailed timesheets, no major changes in its operations and only a small increase in customer numbers since its last cases in 2012, the evidence shows that it is just and reasonable that LCSW should be allowed to recover an annualized salary of \$6,592 for Mrs. Kallash.⁹⁰

The evidence shows LCSW has not met its burden to prove that its request of a salary for Ms. Kallash of \$16.51/hour and that a monthly average of 87 hours should be used (not including consideration of the billing expenses issue discussed previously) is just and reasonable. The company provided no documentation as to the reasonableness of the rate or hours used. The Company failed to provide detailed timesheets to prove the amount of hours spent on utility issues. Therefore, the Commission should deny the Company's request and order that LCSW should be allowed to recover an annualized salary of \$6,592 for Mrs. Kallash.

14. Mileage

a. What is the appropriate amount of expense to include in rates for vehicle mileage?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. In his Surrebuttal testimony, Mr. Johansen states that LCSW is requesting annual vehicle mileage expense in the amount of \$504 for Ms. Kallash and \$2,572 for Mr. Kallash.⁹¹ No documentation regarding how the numbers were calculated or evidence regarding the reasonableness of these numbers was provided by LCSW.⁹²

⁸⁹ OPC Ex. 2.

⁹⁰ OPC Ex. 2.

⁹¹ LCSW Ex. 2.

⁹² LCSW Ex. 1, 2 & 3.

The evidence shows that the parties were not provided sufficient documentation to verify the proposal from the company.⁹³ Without sufficient documentation, calculations for this expense had to be based on the limited data that was available to the parties. Therefore, the evidence shows that the annual amount for vehicle mileage included in the Revised – Post Surrebuttal Staff Accounting Schedules of \$1,931 based on available data is just and reasonable.⁹⁴

The evidence shows LCSW has not met its burden to prove that its proposal for annual vehicle mileage is just and reasonable. The Company has not provided sufficient documentation so a calculation based on available data is just and reasonable in this case. Therefore, the Commission should deny the Company's proposal and order that \$1,931 for annual vehicle mileage should be included in rates.

15. Testing

a. What is the appropriate amount of expense to include in rates for water testing?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. LCSW is requesting an incremental expense specifically for water testing over and above what is covered elsewhere.⁹⁵ Specifically, LCSW is requesting that water testing labor expense in Staff's accounting schedules be increased by \$1,504 on an annual basis. Mr. Johansen stated that to determine the amount requested he used an incremental amount of time of two hours per trip for work not accounted for elsewhere.⁹⁶ Mr. Johansen stated he based this

⁹³ Tr. Pg. 254, 286-287.

⁹⁴ Staff Ex. 11A, 11B, 11C & 11D.

⁹⁵ Tr. Pg. 207.

⁹⁶ Tr. Pg. 207.

estimation on his experience and discussions with Mr. Kallash.⁹⁷ No documentation was provided to support the incremental time used by Mr. Johansen nor did Mr. Johansen provide documentation that any additional cost has not been covered elsewhere in the determination of the salary for Mr. Kallash.

The evidence shows that the amount of water testing labor expense included in the Revised – Post Surrebuttal Staff Accounting Schedules is \$360 based on Staff’s best estimate of the costs associated with a reasonable number of water testing trips for this Company is just and reasonable.⁹⁸ The evidence shows that LCSW has not provided adequate documentation to support the additional costs LCSW is proposing to include in its cost of service.⁹⁹ The evidence also shows that additional time for Mr. Kallash to perform the functions of water testing has already been reflected in the parties’ salary estimations for Mr. Kallash.¹⁰⁰

The evidence shows LCSW has not met its burden to prove that its request to increase water testing labor expense by \$1,504 on an annual basis is just and reasonable. The evidence shows that LCSW has not provided documentation to support the additional costs and has not proven that any additional cost has not been reflected in the salary estimations for Mr. Kallash. Therefore, LCSW’s request for additional water testing labor expense should be denied.

16. Sludge Hauling

a. What is the appropriate amount of expense to include in rates for sludge hauling?

⁹⁷ Tr. Pg. 207-208.

⁹⁸ Staff Ex. 11A, 11B, 11C & 11D; Staff Position Stmt.

⁹⁹ OPC Ex. 2; Staff Ex. 8,

¹⁰⁰ Tr. Pg. 288.

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. At the hearing, Mr. Johansen testified that LCSW is requesting an additional \$1,225 reflecting the difference between the \$2,780 three-year average cost calculated by Staff versus the most recent year's cost of \$4,005.¹⁰¹ Mr. Johansen stated that LCSW is also contemplating a change in the way it does its sledge hauling and there will be an associated change in the cost for this item.¹⁰² At the hearing, Mr. Johansen also testified that LCSW is requesting an additional \$4,895 for this contemplated change in operations.¹⁰³ LCSW provided no documentation as to the reasonableness of its request.¹⁰⁴

The evidence shows that for one of the years that the Staff included in their three-year average, there was no sludge hauling for one of the plants at all.¹⁰⁵ The evidence shows LCSW wasn't required to haul sludge from the plant that year because it has the ability to hold the sludge at the plant until it is necessary to have it pumped and hauled.¹⁰⁶ Using the most recent year's costs as suggested by the Company would hide the fact that sludge hauling is not necessarily an annual expense for LCSW.

Additionally, the evidence shows that LCSW has not provided any detailed documentation on sludge hauling beyond a check register.¹⁰⁷ The evidence shows the only documentation that was provided regarding the contemplated change in the way LCSW does its sledge hauling was a letter from the company's contract operator suggesting that such a program be put in place.¹⁰⁸ Even Mr. Johansen had no evidence that this change had been put into place

¹⁰¹ Tr. Pg. 209.

¹⁰² Tr. Pg. 208.

¹⁰³ Tr. Pg. 209.

¹⁰⁴ LCSW Ex. 1, 2, 3, & 4.

¹⁰⁵ Tr. Pg. 210.

¹⁰⁶ Tr. Pg. 210.

¹⁰⁷ Tr. Pg. 294.

¹⁰⁸ Tr. Pg. 294.

beyond a mere statement of Mr. Kallash that it had.¹⁰⁹ There was also no evidence regarding the associated change in the cost for this item. The test year for this case was the twelve-months ending December 31, 2012, updated through March 31, 2013.¹¹⁰ The evidence shows that while Mr. Johansen provided some calculations on how he arrived at the figures that he put in his testimony, there was no support behind those calculations nor was there any evidence that these costs were incurred during the test year or the update period.¹¹¹

The evidence shows LCSW has not met its burden to prove that the amount of expense it proposes to include in rates for sludge hauling is just and reasonable. The evidence shows the Company's use of the most recent year's costs hides the fact that during one of the past three years there was no sludge hauling for one of the plants at all. The evidence also shows that LCSW has provided no evidence that it has actually made a change in the way it does its sludge hauling or that there were additional costs for these changes incurred during the test year or the update period. Therefore, the Company's request for additional sludge hauling expenses should be denied.

17. Office Supplies and Postage (Mailing of Consumer Confidence Report)

a. What is the appropriate amount of expense to include in rates for office supplies and postage in regard to the mailing of the Consumer Confidence Report?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. LCSW is requesting that additional office supplies and postage be added in rates for the mailing of the Department of Natural Resources (DNR) Consumer Confidence Report (CCR).

¹⁰⁹ Tr. Pg. 209.

¹¹⁰ Staff Ex.1.

¹¹¹ Tr. Pg. 294-295.

The evidence shows that the Department of Natural Resources (DNR) does not require small company owners to mail the Consumer Confidential Report (CCR) to customers but the company must make the CCR available to them.¹¹² It is the company's decision which method is chosen.¹¹³ LCSW witness Mr. Johansen agrees that if the company chooses to incur a cost to send the CCR to the customers, it should do so in the most economical way.¹¹⁴ Logically, the most economical way of providing a CCR through the mail would be with the normal monthly billing.

Mr. Johansen argues that if the timing of providing a CCR does not fall within a billing cycle, they would have to provide that notice separately.¹¹⁵ This argument has no merit. In the first place, there is no evidence that the Company has ever faced the timing of providing a CCR not coinciding with the timing of a monthly bill.¹¹⁶ So, Mr. Johansen is arguing for additional funds to be put into rates today just in case LCSW faces this situation in the future. Even he agrees this is not something that is known and measurable today as to the need of this expense in the future.¹¹⁷ Additionally, Mr. Johansen seems to be missing the point of DNR's requirement. Since the evidence shows that all that is required is that the company make the CCR available, LCSW could certainly make the CCR available in the timeframe required by DNR and then mail a copy to the customers with the next billing cycle if it so chooses. No special mailing is required by DNR. Therefore, the evidence shows costs for additional mailings of the CCR will not be a necessary expense in the future.

¹¹² Tr. Pg. 211.

¹¹³ Tr. Pg. 211.

¹¹⁴ Tr. Pg. 211.

¹¹⁵ Tr. Pg. 212.

¹¹⁶ Tr. Pg. 212-213.

¹¹⁷ Tr. Pg. 212-213.

The evidence shows LCSW has not met its burden to prove that additional office supplies and postage should be added in rates for the mailing of the CCR to customers. The evidence shows that no special mailing is required by DNR. If LCSW makes the decision to mail the CCR to the customers, it is reasonable to expect that the mailing be timed to coincide with the normal mailing of bills. Therefore the Company's request for additional office supplies and postage for a separate CCR mailing to customers should be denied.

18. Late Fees

a. What is the appropriate amount of revenue to include in rates for late fees?

It is the Company's burden to prove that any revenues it requests to be reflected in rates is just and reasonable. LCSW argues that the calculation of late fee revenues should reflect some recent and upcoming changes relating to 14 customer accounts.¹¹⁸ LCSW provides no specific documentation regarding the reasonableness of its request.¹¹⁹

The evidence shows that rates in Missouri are based on a historical test year.¹²⁰ However, the changes proposed by LCSW are not within the historical test year and some have not even occurred yet. The test year for this case was the twelve-months ending December 31, 2012, updated through March 31, 2013.¹²¹ The matching principle dictates that if changes are considered in numbers past the point when all related factors for rates have been considered, all the related factors should also be updated.¹²² In order to include the proposed annualized late fee revenues in rates, it would be necessary to see how changes in customer levels have affected the

¹¹⁸ Tr. Pg. 214.

¹¹⁹ LCSW Ex. 1, 2, 3 & 4.

¹²⁰ Tr. Pg. 214.

¹²¹ Staff Ex.1.

¹²² Tr. Pg. 21-215.

company's overall late fee revenues.¹²³ Any decision to update numbers past the test year would require that the change in those numbers first be material.¹²⁴ However, the evidence shows that LCSW has not quantified how these recent and upcoming customer changes have affected the company's historical late fees revenues and does not know if that amount would even be material.¹²⁵ LCSW has not even provided the information necessary to update the related numbers in Staff's calculations in order to match the proposed changes with any other changes.¹²⁶ Also, Company witness Johansen admits the matching principle cannot be adhered to given the documentation provided by the Company.

The evidence shows LCSW has not met its burden to prove that the calculation of late fee revenues should reflect some recent and upcoming changes relating to 14 customer accounts. Therefore, it is just and reasonable that the calculation of late fee revenues should not reflect the recent and upcoming changes relating to 14 customer accounts.

19. Telephone and Internet

a. What is the appropriate amount of expense to include in rates for telephone and internet usage?

It is the Company's burden to prove that any expenses it requests to be reflected in rates is just and reasonable. LCSW requests that the actual cost of its telephone/internet landline "bundle" of \$95/month and the related monthly charges, surcharges, taxes and fees of

¹²³ Tr. Pg. 214.

¹²⁴ Tr. Pg. 215.

¹²⁵ Tr. Pg. 215.

¹²⁶ Tr. Pg. 215-216.

\$33.65/month be used in determining its cost of service.¹²⁷ LCSW did not provide documentation that these costs are just and reasonable.¹²⁸

The evidence shows that the Company did not provide any support as to how it determined the \$95 monthly cost it used to calculate the annualized telephone/internet cost.¹²⁹ Nor did LCSW provide documentation as to what is included in the “bundle” of services it currently purchases.¹³⁰ However, the evidence shows that, based on information obtained from the Company’s service providers, the Company has the option of purchasing a \$1,452 basic phone service plan for small businesses.¹³¹ Given the presence of the basic service plant, the unlimited business bundle service plan LCSW currently uses is an excessive expense the customers should not have to bear in rates.

The evidence shows LCSW has not met its burden to prove that the expense of its telephone/internet landline “bundle” of \$95/month and the related monthly charges, surcharges, taxes and fees of \$33.65/month is just and reasonable. LCSW did not provide documentation that these costs are just and reasonable and there is a much cheaper basic service plan available. Therefore the Commission should order that the appropriate amount of expense for telephone and internet usage is \$1,452.

20. Electricity Expense (Operations)

a. What is the appropriate amount of expense to include in rates for electricity related to the Rockport well and sewage treatment plant?

¹²⁷ LCSW Ex. 1 & 2.

¹²⁸ LCSW Ex. 1, 2, 3 & 4.

¹²⁹ OPC Ex. 2.

¹³⁰ Tr. Pg. 311.

¹³¹ Staff Ex. 1 & 8; Tr. Pg. 310-311.

The Commission was notified that this issue had been resolved and would not be taken up during the evidentiary hearing.¹³²

21. EMSU Staff Recommendations

a. Should the Company continue to implement the recommendations of Staff's EMSU unit regarding time sheets, vehicle logs, estimation procedures, after-hours availability, and distribution of customer rights information?

The Commission was notified that this issue had been resolved and would not be taken up during the evidentiary hearing.¹³³

Respectfully submitted,

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¹³² Tr. Pg. 46-47, 313.

¹³³ Tr. Pg. 45-46, 224-225.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 26th day of November 2013:

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