

**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

**THE OFFICE OF THE PUBLIC COUNSEL’S OBJECTION TO MOTION
TO ESTABLISH RATE CASE EXPENSE**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Objection to Motion to Establish Rate Case Expense states as follows:

1. On May 8, 2014, Lincoln County Sewer & Water, LLC (LCSW or Company) filed a Motion to Establish Rate Case Expense and For Expedited Treatment seeking recovery of \$65,777.50 in rate case expense for the above stated case. The total amount sought by LCSW includes fees for consulting services, legal services provided by two attorneys, as well as \$25,194.00 for “Company time” plus expenses going back to August 2012. In its Motion, LCSW says it seeks the Commission’s order establishing an amount of rate case expense to use in the setting of rates, so that the process of working toward the filing of tariff sheets in compliance with the Commission’s Report and Order can proceed.
2. Public Counsel now states that while some rate case expense may be reasonable for this case, it objects to the Motion filed by LCSW.
3. The rate case expense claimed by LCSW is unaudited and unverified and as such is not just and reasonable. Much of the information provided by LCSW in its May 8th filing is being provided to the Commission and the parties for the first time even though the dates for claimed activities were long before the evidentiary hearing and in some cases long before the rate case was even filed. In the Report and Order, the Commission stated: “Because the costs are

unknown, there is no evidence before the Commission that would allow the Commission to specifically resolve the issue of “the appropriate amount of rate case expense to include in rates”.¹ Throughout the rate case and the evidentiary hearing, the parties tried and failed to get documentation of the time company personnel spent on the utility. It is interesting to note that now, long after the evidentiary hearing LCSW can provide what it states is a detailed accounting of the time spent by its personnel throughout and even prior to this rate case. If the activities were performed before the evidentiary hearing there is no reason why documentation could not have been provided as evidence at the hearing. It is not just and reasonable for LCSW to try to produce evidence long after the hearing when there is no opportunity for the parties to audit, verify or even question that evidence.

4. The Commission has been provided nothing on which it can ensure that the costs are just and reasonable. The rate case expense claimed by LCSW is at best merely a listing of unverifiable dates, generic activities and unverifiable amounts. For the claimed “Company time” in Appendix D, only dates and hours have been provided. No details have been included as to the activities included in those hours. No timesheets have been provided. Also, no verification has been provided that the hours were not already included in the normal salary of the Company personnel. The company seems to expect the Commission to take it at its word without any proof. This is not just and reasonable.

5. The amount of money LCSW claims to have spent is also excessive for such a small company and should not be approved by the Commission. LCSW’s claim is for nearly \$66,000 in rate case expense. LCSW is a small water and sewer company providing water and sewer services to 122 customers.² Therefore, each customer is being asked to pay approximately \$540

¹ Report & Order, pg. 23.

² Report & Order, pg. 5.

just for rate case expense. While some may argue this dollar amount is small, every dollar is important to the customer. Also, it is important to understand that the overall impact on the customers' rates of this issue alone as compared to the rest of the case is staggering.

6. To put this in perspective, Public Counsel would note that the only issue that comes close to the proposed costs for rate case expense is the addition of a new automated meter reading (AMR) system covering every water customer in LCSW's service area. In the Report and Order, the Commission determined that the amount to be included in rates, with regard to the automated meters, installation, equipment and training is \$76,503.³ Since the AMR system has a ten year life span, the annual amount to be recovered in rates is actually \$7,650.30. On the other hand, LCSW requests that the approximately \$66,000 of rate case expense be recovered over 3 years, which would essentially require an additional \$22,000 per year to be collected in rates. Assuming 122 customers, the AMR system would require payment of \$5.23 per month per customer while the proposed rate case expense would require payment of \$15.03 per month per customer. As such, the rate impact of the proposed rate case expense alone is almost three times that of the AMR system. This is excessive and is not just and reasonable.

7. Also, the additional \$22,000 per year for rate case expense would continue to be collected in rates until the Company's next rate case. LCSW may have requested that the rate case expense be recovered over 3 years, but there is no guarantee that LCSW will return for a rate case in 3 years so rates can be readjusted. In fact, experience shows that many small companies do not return for rate cases within 3 years. The thought of continuing to collect an additional \$22,000 per year in rates free and clear versus giving that money up would be a strong disincentive for LCSW to seek a rate case after 3 years. So, LCSW's Motion means rates would be extremely high just due to rate case expense with no guarantee that the Company would return

³ Report & Order, pg. 10.

for a new rate case once the rate case expense has been recovered. This is not just and reasonable.

8. Additionally, it is not just and reasonable for the customers to foot such an excessive rate case expense bill due to LCSW's self-serving desire to have an evidentiary hearing. The small company rate case rules offer multiple opportunities to negotiate settlement or to limit the number of issues that are actually taken to hearing. LCSW shunned several attempts by Staff and Public Counsel to come to a negotiated settlement and limit the amount of rate case expense in this case. Many of the issues before the Commission at the evidentiary hearing were lost by LCSW because LCSW had no records on which it could rely to meet its burden of proof. LCSW knew the records did not exist, but LCSW still went forward with what ultimately turned out to be a losing battle for several of the issues. It is not just and reasonable for the customers to bear such excessive costs alone. LCSW should also bear some of the costs of its decisions.

9. Therefore, Public Counsel objects to LCSW's Motion to establish rate case expense and requests that the Commission deny LCSW's Motion and require LCSW to meet its burden to prove that any rate case expense to be included in rates is just and reasonable.

WHEREFORE, Public Counsel respectfully submits its objection.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 13th day of May 2014:

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