

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

In the Matter of the Request for an)
Increase in Sewer Operating Revenues)
of Emerald Pointe Utility Company.)

Case No. SR-2013-0016

STAFF'S STATEMENT OF POSITIONS ON THE ISSUES

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Statement of Positions on the Issues*, states as follows:

1. Sewer Commodity Charge

- a. Was the Company authorized to collect a sewer commodity charge as a result of Case No. SR-2000-595?
- b. If not, what action should the Commission take?
- c. If the Company is required to return to customers amounts collected through a sewer commodity charge:
 - i. What is the appropriate time period over which the amounts due to customers should be calculated?
 - ii. What, if any, interest should be applied to the amounts to be returned?
 - iii. If an over collection occurred, over what period of time should those amounts be redistributed to customers?

Emerald Pointe was not authorized to collect a sewer commodity charge as a result of Case No. SR-2000-595 because no such rate component was included in its Commission-approved tariff. Therefore, the Commission should order Emerald Pointe to return the unlawfully-collected revenue to its customers, with interest, over 45 months, via bill credits, with checks to former customers. The amount of revenue to return, less interest, should be calculated by summing the unlawfully-collected sewer commodity charge revenue over the last five years. The amount to be returned is \$187,683, with interest at 6% per annum of \$69,567, for a total of \$257,250.

2. Late Fee/Reconnect Fee Overcharges

- a. Should interest be applied to the refund of late fee/reconnect fee overcharges?
 - i. If so, at what rate?
- b. Over what period of time should those amounts be returned to customers?

Emerald Pointe also unlawfully collected late fees of 10% instead of the Commission-approved late fee of 2% or \$3.00, whichever was greater, and was also overcharging its reconnection fee. Therefore, the Commission should order

Emerald Pointe to return the unlawfully-collected revenue to its customers, with interest at 6% per annum, to be refunded by check to current and former customers within 90 days of the Commission's resolution of this case. The amount to be returned is \$4,172 for late charges and \$280 for reconnection charges, with interest of \$1,631 and \$53.65, respectively, for totals of \$5,803 and \$333.65, respectively.

3. Customer Deposits

- a. Over what period of time should deposits be returned to customers?

Emerald Pointe violated its tariff by requiring a \$30 deposit from every water service customer and holding the deposit until the customer left the system. Although Emerald Pointe's customer deposit records are incomplete, Staff has determined that the Commission should order Emerald Pointe to return \$11,730 in water service deposits to its customers, with interest at 6% per annum of \$17,668, for a total of \$29,398, to be refunded by check to current and former customers within 90 days of the Commission's resolution of this case.

4. Hollister Sewage Treatment Expense

- a. What amount of expense related to the sewage treatment performed by the City of Hollister should be recovered in rates?

The amount to be included in rate base for sewage treatment by the City of Hollister is \$75,939 on an annual basis.

5. Legal Fees

- a. What amount of the Company's legal fees should be recovered in rates?

The updated amount of legal fees to be included in revenue requirement is \$772.

6. Rate Case Expense

- a. What are the appropriate expenses to be included as rate expense in this case?

A normalized amount of \$3,912 should be included in revenue requirement, on an annual basis.

7. Capital Structure

- a. Should the capital structure of the Company for ratemaking purposes be 1) a structure that treats the Company as one entity or 2) a structure that considers the water and sewer operations of the Company separately?

Emerald Pointe Utility Company is a Missouri General Business Corporation that provides two distinct utility services, water service and sewer service. It does not have two capital structures because it is only a single corporation. Staff has

therefore used the actual corporate capital structure of Emerald Pointe Utility Company.

8. Rate of Return/Return on Equity

- a. What is the appropriate cost of equity for the Company?
- b. What is the appropriate methodology for estimating small water and sewer companies' rates of return?

Staff used a Return on Equity figure of 13.26%, calculated by adding a 4% risk premium to the three-month average yield on B+ rated 30-year public utility bonds. Emerald Pointe is a small, privately-held public utility with a strong business profile and a highly-leveraged financial profile. Given these facts, Staff considers a ROE of 13.26% to be appropriate for Emerald Pointe.

The appropriate rate of return for small water and sewer companies should be estimated using the methodology developed by Staff in 2010, in which a standard risk premium is added to the average yield-to-maturity of long-term utility bonds. Likewise, Staff's methodology calls for the use of a hypothetical capital structure for cases where the actual leverage exceeds 75%. Staff's methodology results in an accurate estimated rate of return for small water and sewer companies because it considers practical limitations these companies may have in attracting capital on reasonable terms.

9. CIAC Reserve – Customer Fees

- a. What is the appropriate amount of CIAC Reserve to book for customer fees?

On an ongoing basis, it is appropriate to book all connection fees paid by customers to CIAC, that is, Contributions In Aid of Construction, and to book all of the actual costs of meter installation to Plant In Service. Plant In Service is a rate base account and CIAC is an offset to rate base and it is expected that the connection fee and the actual costs of meter installation will effectively balance each other. However, Emerald Pointe failed to properly book all of its actual meter installation costs to Plant In Service in the past, with the result that booking all of the associated connection fees to CIAC will materially understate Emerald Pointe's rate base. Therefore, Staff proposes that the excess past period connection fees be treated as miscellaneous, non-recurring revenue. Because it is non-recurring, there is no ongoing revenue requirement effect.

10. Plant-Related Balance Update Period

- a. Through what period should the plant-related balance be updated?

Plant balances should be updated through February 28, 2013, and no later, because that is the latest date for which Staff is able to consider changes in all relevant factors.

WHEREFORE, Staff prays that the Commission will accept its *Statement of Positions on the Issues*.

Respectfully submitted,

s/ Kevin A. Thompson
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **7th day of May, 2013**, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Kevin A. Thompson