

**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

**RATE CASE EXPENSE 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 Rate Case Expense Post-Hearing Brief as follows:

Introduction

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 the following rate case expense:

- Johansen Consulting Services: \$10,106.00
- Brydon, Swearngen & England P.C.: \$26,330.00
- McIlroy and Millan: \$4,147.50
- “Company time” plus expenses: \$25,194.00
- **Total Rate Case Expense: \$65,777.50**

On May 13, 2014, Public Counsel filed an Objection to the Motion filed by LCSW stating that the rate case expense claimed by LCSW was unaudited and unverified and as such was not just and reasonable. Public Counsel also noted that much of the information provided by LCSW in its May 8th filing was 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.

On May 16, 2014, the Staff of the Missouri Public Service Commission (Staff) filed a Response in Opposition to LCSW's Motion. In its Response, Staff requested that the Commission (1) either disallow the claimed Company time and expenses or, alternatively, permit Staff to audit those claimed costs; and (2) include the costs of the Company's attorneys and consultant in revenue requirement and normalize those costs to rates over five years; and grant such other and further relief as the Commission believes is just in the premises.

On May 22, 2014, the Commission issued its Order Setting Hearing on Motion to Establish Rate Case Expense setting a hearing date for June 13, 2014, to consider evidence of rate case expense and to hear the parties' arguments.

On June 19, 2014, the Commission ordered post-hearing briefs on the rate case expense issues presented for Commission determination at the June 13th evidentiary hearing.

Issues for Commission Determination

On June 13, 2014, the Commission heard additional testimony regarding rate case expense. Sections 393.130 and 393.140, RSMo, requires the Commission to ensure that all rates set by the Commission are just and reasonable. The Commission's decision must be based on competent and substantial evidence. *State ex rel. Centropolis Transfer Co. v. Public Service Com.*, 472 S.W.2d 24, 25-26 (Mo. Ct. App. 1971). Section 393.150.2, RSMo, makes it clear that at any hearing involving a requested rate increase the burden of proof to show the proposed increase is just and reasonable rests on the party seeking the rate increase. Therefore, LCSW held the burden to prove that the rate case expense it sought to include in customer rates is just and reasonable.

"The Commission's principle purpose is to serve and protect ratepayers." *State ex rel. Capital City Water Co. v. PSC*, 850 S.W.2d 903, 911 (Mo. App. W.D. 1993). (Citing *State ex*

rel. Crown Coach Co. v. Public Service Commission, 179 S.W.2d 123 (1944).) So, in determining the issues before it, the Commission may seek to balance the needs of the utility with the needs of the customer but its main objective in whatever decision the Commission makes is to protect the customer.

1. What is the appropriate date range for rate case expense?

There must be a start date and there must be an end date. In a rate case, it is important that this decision be made first to avoid unnecessary time and expense auditing costs that are outside a reasonable date range. Therefore, the first issue the Commission must determine in this case is what is the appropriate date range for rate case expense. The evidence shows that the rate case expenses claimed by LCSW had dates ranging from August 19, 2012 to May 6, 2014.¹ However, the evidence shows that not all of those expenses fall within a reasonable date range for inclusion in rates in this case.

To make a reasonable determination on the beginning date for rate case expense, the Commission must look at the circumstances surrounding the filing of this rate case. The evidence shows that this pending rate case was filed on December 4, 2012, using the small company rate case procedure under 4 CSR 240-3.050.² LCSW's rate case was filed in its entirety on December 4, 2012 and was processed immediately by the Commission indicating a waiver of the 60-day Notice of Intended Case Filing requirement under Commission Rule 4 CSR 240-4.020(2) was applied.³ The evidence also shows that because LCSW utilized the small company rate case rule, there were minimal prefiling requirements including a simple letter from company to initiate the case with only an estimate of increase sought by the Company.⁴

¹ LCSW Exhibit No. 1; LCSW Exhibit No. 2; LCSW Exhibit No. 3; LCSW Exhibit No. 4.

² Request for Increase in Sewer System Operating System, 12-4-2012.

³ Request for Increase in Sewer System Operating System, 12-4-2012; Case Activity Timeline, 12-10-2012.

⁴ 4 CSR 240-3.050;

Therefore, no pre-case filing direct testimony preparation was required, there was no need for financial analysis before filing and no requirement for attorney engagement discussion. Very little was required other than a letter drafted and emailed to the Commission for filing on the very same day.

This is borne out by the testimony of the witness for LCSW. The evidence shows that LCSW witness Mr. Kallash, when asked about the expenses claimed for 2012, made the following statement quite clearly under oath: “I will state I did not work on this rate case in ’12.”⁵ The evidence also shows that he basically stated that every date on LCSW Exhibit No. 4 that claimed rate case expense in 2012 was probably a typo.⁶ Therefore, not even LCSW’s own witness is actually supporting rate case expense before the December 4, 2012 filing date.

To make a just and reasonable determination on the end date for rate case expense, the Commission must look to the evidence that was before it when this issue was originally taken up by the Commission. The evidence shows that there was agreement among the parties that the cut-off date for rate case expense would be centered on November 26, 2013, the date post-hearing briefs were filed. In its post-hearing brief, LCSW states: “In the Emerald Pointe case, the Commission used a cut-off date that was one week after the filing of post-hearing briefs. LCSW requests that a similar approach be used in this case, which would result in a cut-off date for rate case expenses of November 29, 2013, based on the original due date for the brief, or December 3, 2013, now that the brief is due on November 26, 2013.”⁷ So, the evidence is clear that the Company itself asked that rate case expense after November 29, 2013, not be included in rates in this case.

⁵ Tr. 441.

⁶ Tr. 440-441.

⁷ Lincoln County Sewer & Water, LLC's Brief, pg. 29-30; citing Tr. 194.

Similarly, in its post-hearing brief, the “Facts” listed by Staff on this issue include: “The full amount of Lincoln County’s rate case expenses are not yet known because all invoices have not yet been tendered and paid. The Company has requested a cut-off date one week after post-hearing briefs are filed.”⁸ Staff goes on to state: “In the present case, the full amount of the Company’s rate case expenses is not yet known and the Company has requested a cut-off date one week after post-hearing briefs are filed. Staff agrees with that proposal.”⁹ So, the evidence is clear that Staff agreed that rate case expense after November 29, 2013, should not be included in rates in this case.

Believing the issue to be settled among the parties, Public Counsel offered no argument in its post-hearing brief against the Company’s proposal.¹⁰ In the recent rate case expense evidentiary hearing Public Counsel witness Mr. Addo continued this position when he found a reasonable cut-off date for rate case expense to be centered on November 26, 2013, the date post-hearing briefs were filed. Public Counsel will not quibble with the Company’s request of November 29, 2013, as the actual end date.

So the evidence is clear that neither Staff nor Public Counsel had an objection to the Company’s own request that rate case expense end on November 29, 2013. It is not just and reasonable for LCSW to change its position regarding the cut-off date for rate case expense six months later and attempt to go back on its agreement with the other parties and its very specific request to the Commission. As will be argued below, the so-called evidence provided by LCSW is unauditible and added nothing more to the case than what was already provided (or should have been provided) by LCSW’s own rate case expense end date of November 29, 2013.

⁸ Staff’s Brief, pg. 30; citing Tr. 3:194.

⁹ Staff’s Brief, pg. 30; citing Tr. 3.

¹⁰ Post-Hearing Brief of the Office of the Public Counsel, pg. 15-16.

It is not just and reasonable that LCSW get a second bite at the apple, incurring additional rate case expense for no other reason than to attempt to add rate case expense. The questionable decision to unreasonably prolong this case was Mr. Kallash's alone - for reasons only he knows. But, the decision to do so is not just and reasonable for LCSW and it certainly is not just and reasonable for the customers. There must be a start date and there must be an end date. Therefore, the Commission should find that the reasonable date range for inclusion of rate case expense is from the filing date of this case, December 4, 2012, until LCSW's own requested end date for rate case expense of November 29, 2013.

2. What costs are reasonable to include as rate case expense?

Regarding the issue of what costs to include in rates for rate case expense, the Report and Order issued by the Commission on April 2, 2014, 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". However, the underlying question is whether the costs associated with the participation of Mr. Burlison should be included in rate case expense. Because we view Mr. Burlison's participation in this case as reasonable, it is reasonable that his costs shall be included in rates.¹¹

The statement by the Commission is absolutely correct – without evidence there can be no determination. LCSW held the burden to provide evidence to prove what costs should be included in rates. It is clear from the Report and Order that at the time of the evidentiary hearing, LCSW did not meet its burden to prove the appropriate amount of rate case expense to be included in rates.

LCSW's attempt to now add to the evidentiary record approximately six months after the close of evidence in the evidentiary hearing is unreasonable. It is especially egregious when what LCSW attempts to add to the record is either documentation it could have provided in the

¹¹ Report & Order, pg. 23.

original evidentiary hearing but for some reason did not, or is “evidence” that is incomprehensible and utterly unauditible. It is not just and reasonable that rate case expense continue to be incurred without a modicum of evidence.

Public Counsel does agree that a certain amount of rate case expense may be just and reasonable to include in rates.¹² Public Counsel held that position back when the original evidentiary hearing was held. However, costs that are to be included in rates must be proven to be just and reasonable. To that end, Public Counsel witness William Addo throughout the entire case performed an audit of LCSW and each of the specific costs claimed by LCSW. Mr. Addo’s audit included a review of any information that was made available at the time of the June 13, 2014, hearing.¹³

Johansen Consulting Services, Brydon, Swearngen & England P.C. and McIlroy & Millan¹⁴

Documentation was provided by LCSW for the rate case expenses claimed for Johansen Consulting Services,¹⁵ Brydon, Swearngen & England P.C.¹⁶ and McIlroy & Millan.¹⁷ The evidence shows that Mr. Addo found the documentation provided for those expenses to be auditible.¹⁸ However, Mr. Addo found some of the costs to be outside the reasonable date range.¹⁹ As argued above, it is not just and reasonable to include costs outside the reasonable date range of December 4, 2012 through November 26, 2013. Therefore, the evidence shows that Mr. Addo’s audit found the amount of reasonable rate case expense to include in rates for

¹² Tr. 509-528; OPC Exhibit No. 1; OPC Exhibit No. 2.

¹³ Id.

¹⁴ Public Counsel maintains its position that as the services of LCSW’s second attorney, Mr. Burlison, was unnecessary and duplicative, the costs of McIlroy and Millan are not just and reasonable to be included as rate case expense. However, Public Counsel offers the following determination of reasonable rate case expense based on the spirit of the Commission’s Report and Order. Public Counsel in no way waives the arguments presented in its May 1, 2014, Application for Rehearing which is still pending before the Commission.

¹⁵ LCSW Exhibit No. 3.

¹⁶ LCSW Exhibit No. 1.

¹⁷ LCSW Exhibit No. 2.

¹⁸ Tr. 511.

¹⁹ Id.

these costs to be \$9,146.00 for Johansen Consulting Services, \$24,690.00 for Brydon, Swearingen & England, P.C. and \$3,220.00 for McIlroy & Millan.²⁰

Only verifiable rate case expense should be included in rates and LCSW holds the burden to provide that verifiable evidence. Therefore, the Commission should allow rate case expense costs of \$9,146.00 for Johansen Consulting Services, \$24,690.00 for Brydon, Swearingen & England, P.C. and \$3,220.00 for McIlroy & Millan. All other charges for these entities should be denied as outside the reasonable date range.

Company Time & Expenses

1. Fitch & Associates Costs

LCSW provided an invoice dated October 31, 2013, in the amount of \$570.79 for Fitch & Associates which included \$327.79 for ink cartridges and \$243.00 to “run 486 copies at \$0.50 per copy”.²¹ The evidence shows the costs are not reasonable and should not be included in rates.

The evidence shows that experts for both Staff and Public Counsel found the documentation provided for those expenses claimed for Fitch & Associates to be unauditible.²² All that was provided was simply an invoice with a statement of overall costs – no receipts, descriptions or dates for the individual transactions was provided.²³ The evidence shows LCSW did not include an explanation of what the ink cartridges were for, how many ink cartridges were purchased or even what the copying was for.²⁴ Without this information, there is no way to determine whether these costs are just and reasonable rate case expense.

²⁰ OPC Exhibit No. 2.

²¹ LCSW Exhibit No. 4.

²² Tr. 480.

²³ LCSW Exhibit No. 4; Tr. 480 & 512.

²⁴ Tr. 476-477, 480 & 512.

The evidence also shows that Fitch & Associates is owned by Mr. Kallash so he was billing himself and setting the costs he would charge himself.²⁵ The claimed cost of fifty cents per copy claimed by LCSW is excessive especially given the evidence that the particular office supply store that Lincoln County Sewer & Water has used on occasion, BD Office Supply, charges only seven cents per copy.²⁶ Additionally, copy costs normally include ink costs. The evidence shows that when the ink costs are added to the coping costs for the 468 copies, the cost per page would actually be about one dollar and twenty cents per copy.²⁷ This figure is even more unreasonable given the seven cents per copy of the commercial copy center. Also, no explanation was provided as to why LCSW's own copier and printer could not have been used to produce the copies, especially when two cartridges for LCSW's own printer cost only \$47.66.²⁸ As a result, the evidence shows the costs Mr. Kallash billed himself through Fitch & Associates are excessive and not just and reasonable.

Only verifiable rate case expense should be included in rates and LCSW holds the burden to provide that verifiable evidence. Because the costs claimed for Fitch & Associates were not sufficiently documented and verified as just and reasonable, those costs should be denied.

2. Ink cartridge Costs

LCSW claimed \$48 for ink cartridges.²⁹ While the receipt provided by LCSW could be audited, the information that was provided was not sufficient to prove that the costs were just and reasonable to be included as rate case expense.³⁰ LCSW provided no documentation as to what the ink was used for.³¹ Without such documentation it could not be verified that these ink

²⁵ Tr. 476.

²⁶ Id.

²⁷ Tr. 513.

²⁸ Tr. 512; LCSW Exhibit No. 4.

²⁹ LCSW Exhibit No. 4.

³⁰ Tr. 515.

³¹ Tr. 515.

cartridges were not already included in rates as part of normal office supplies.³² Therefore, there is no way to determine whether these costs are just and reasonable rate case expense.

Only verifiable rate case expense should be included in rates and LCSW holds the burden to provide that verifiable evidence. Because no ink cartridge costs were sufficiently documented and verified as just and reasonable, the ink cartridge costs claimed by LCSW should be denied.

3. Hotel Costs

LCSW claimed \$467 for hotel and meals connected with the evidentiary hearing.³³ The claim did not separate out the costs but individual receipts for hotel costs of \$119.31 for Mr. Kallash and hotel costs of \$119.31 for Mr. Burlison were included.³⁴

The evidence shows that Mr. Addo found the documentation provided for those expenses to be auditable.³⁵ The evidence also shows the hotel costs for Mr. Kallash to attend the evidentiary hearing were just and reasonable.³⁶ However, the evidence shows the hotel costs for Mr. Burlison were not shown to be just and reasonable.³⁷ Besides Public Counsel's position that costs for a second attorney are unreasonable, LCSW provides no explanation why these costs were incurred by LCSW instead of Mr. Burlison.³⁸ No contractual agreement between LCSW and Mr. Burlison was provided which would prove that LCSW was obligated to reimburse him his hotel costs.³⁹ Without such documentation, LCSW failed to prove that the costs for Mr. Burlison's hotel should be borne by the customers.

³² Tr. 487, 515.

³³ LCSW Exhibit No. 4.

³⁴ Id.

³⁵ Tr. 511.

³⁶ Tr. 513.

³⁷ Tr. 514.

³⁸ Id.

³⁹ Tr. 515.

Only verifiable rate case expense should be included in rates and LCSW holds the burden to provide that verifiable evidence. Therefore, the Commission should allow rate case expense of \$119.31 as reasonable hotel costs. All other claimed hotel costs should be denied.

4. Meal Costs

LCSW claimed \$467 for hotel and meals connected with the evidentiary hearing.⁴⁰ The claim did not separate out the exact meal costs claimed by LCSW.⁴¹

The evidence shows that the meal costs claimed by LCSW could not be audited.⁴² The evidence shows that the only documentation that was presented by LCSW that can be interpreted to be meal costs was a credit card statement which had two entries for Doubletree Hotel F&B Jefferson City – one for \$162.35 on 11-4, and the second for \$26.00 on 11-5 – and an entry for JPfennys on High Jefferson City for \$40 on 11-5.⁴³ No evidence was presented by LCSW as to who the meal costs were for, whether or not the costs were just put on one credit card and reimbursed by other parties, or whether the costs were reasonable costs for customers to pay.⁴⁴ Mr. Kallash was the only company witness required to appear at the evidentiary hearing, so many of the costs are excessive for just one person.⁴⁵

Public Counsel will agree that there may be some meal costs for Mr. Kallash that are just and reasonable to include in rates. But, proper documentation must be provided in order to verify the costs are just and reasonable. Given his inability to perform an audit on the mileage costs claimed by LCSW, Mr. Addo offered evidence on what costs should be included as rate case expense for meals for Mr. Kallash during the evidentiary hearing.⁴⁶ The evidence shows

⁴⁰ LCSW Exhibit No. 4.

⁴¹ Id.

⁴² Tr. 515.

⁴³ LCSW Exhibit No. 4; Tr. 516.

⁴⁴ Tr. 516-517.

⁴⁵ Tr. 517.

⁴⁶ Tr. 516.

that the reasonable amount of rate case expense to include for meals for Mr. Kallash is \$46.00.⁴⁷ This is reasonably based on Mr. Addo's use of the federal General Administrative Service (GSA) web site and the federal CONUS rates for Jefferson City, MO which allow \$8.00 per breakfast, \$12.00 for lunch, and \$26.00 for dinner.⁴⁸

Only verifiable rate case expense should be included in rates and LCSW holds the burden to provide that verifiable evidence. As a result, the Commission should allow rate case expense of \$46.00 as reasonable meal costs. All other claimed meal costs should be denied.

5. Mileage

LCSW claimed \$438 for mileage.⁴⁹ But, the evidence shows that the mileage costs claimed by LCSW could not be audited.⁵⁰ All that was provided was a list of activities and a total amount of \$438. The entries have no documentation of the dates the costs occurred, there is no documentation of the amount of mileage for each trip and there is no documentation of the reimbursement rate.⁵¹ Additionally, some of the entries seem to be unreasonable. For example, the document claims mileage costs for attending the local public hearing.⁵² However, the Commission is quite aware that the local public hearing was held in Troy, MO – the very same city where the utility office is located⁵³ and where Mr. Kallash lives. So, the Commission should question why, and how much, mileage is being claimed for the local public hearing.

Public Counsel will agree that there may be some mileage costs that are just and reasonable to include in rates. But, proper documentation must be provided in order to verify the costs are just and reasonable. Given his inability to perform an audit on the mileage costs

⁴⁷ Tr. 517.

⁴⁸ Id.

⁴⁹ LCSW Exhibit No. 4

⁵⁰ Tr. 517.

⁵¹ Id.; LCSW Exhibit No 4.

⁵² LCSW Exhibit 4.

⁵³ Tr. 476.

claimed by LCSW, Mr. Addo offered evidence on what costs should be included as rate case expense for mileage based on the only trip that has been adequately documented by LCSW – the evidentiary hearing at which Mr. Kallash was a witness.⁵⁴ The evidence shows that the reasonable amount of rate case expense for Mr. Kallash’s trip to Jefferson City for the evidentiary hearing is \$110.85.⁵⁵ This is reasonably based on the distance from Mr. Kallash’s office in Troy, MO to the building where the evidentiary hearing was held plus an allowance of six extra miles for driving around while in town multiplied by the \$0.56 per mile IRS rate at that time.⁵⁶

Only verifiable rate case expense should be included in rates and LCSW holds the burden to provide that verifiable evidence. Because the evidence shows only \$110.85 of mileage costs was documented and could be verified as just and reasonable, the remaining mileage costs claimed by LCSW should be denied.

6. Dennis, Toni & Patty Time Costs

LCSW claimed \$13,300 (532 hrs @ \$25/hr) for Dennis Kallash time, \$10,030 (501.5 hrs @ \$20/hr) for Toni Kallash time and \$340 (17 hrs @ \$20/hr) for Patty time.⁵⁷

The evidence shows the company time presented at the hearing by LCSW as rate case expense was unauditible.⁵⁸ For Mr. Kallash and Mrs. Kallash, a generic listing of dates and hours was provided for each ranging from August 19, 2012 to October 31, 2013 as well as a single statement of hours each worked between and November 1, 2013 and May 6, 2014. Patty (who was noted as a Fitch & Associates office person) was listed as having worked 8 hours on

⁵⁴ Tr. 518

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ LCSW Exhibit No. 4.

⁵⁸ Tr. 470-475, 518-519; LCSW Exhibit No. 4.

January 21, 2014 and 9 hours on October 3, 2014 (presumably October 3, 2013).⁵⁹ No descriptions of the time spent were provided.⁶⁰

Throughout the case, adequate timesheets on which to base an audit were requested and not received.⁶¹ Time that was noted by Staff throughout the case did not match the filing by LCSW at the rate case expense hearing.⁶² Without proper timesheets an analysis cannot be made of the reasonableness of the claimed costs and verification cannot be made that the time has not already been included in the salary amounts approved by the Commission in the Report and Order.

No evidence was presented as to why this information was not provided throughout the case despite specific data requests to LCSW from Public Counsel and Staff.⁶³ Additionally, much of the rate case expense claimed as company time is outside the reasonable date range for rate case expense.⁶⁴ The evidence also shows that Mr. Kallash basically stated that every date on LCSW Exhibit No. 4 that claimed rate case expense in 2012 was probably a typo.⁶⁵ However, he provided no evidence of what the correct dates for those expenses actually were.

Additionally, the evidence shows that not all of the claimed costs are for LCSW personnel. Patty is not employee of LCSW but is an employee of Fitch & Associates.⁶⁶ Mr. Kallash claims costs for her as a under company expenses even though he also claimed that part of her costs are included in the fifty cents per copy in the Fitch & Associates bill.⁶⁷ Mr. Kallash attempted to explain this apparent double-counting by stating that the time claimed under

⁵⁹ LCSW Exhibit No. 4.

⁶⁰ Id.

⁶¹ Tr. 463.

⁶² Tr. 463-470.

⁶³ Tr. 500, 520-521.

⁶⁴ LCSW Exhibit No. 4.

⁶⁵ Tr. 440-441.

⁶⁶ Tr. 452.

⁶⁷ Tr. 452-453.

company expenses was a totally different time that had nothing to do with the copies.⁶⁸ However, Mr. Kallash admitted there were no dates provided for when the copies happened on the Fitch & Associates invoice to prove that his assertion was true.⁶⁹ As a result, none of the costs presented by LCSW at the rate case expense hearing can be audited or verified as just and reasonable rate case expense.

Only verifiable rate case expense should be included in rates and LCSW holds the burden to provide that verifiable evidence. Because the evidence shows none of the costs for company time could be audited or verified, the company time costs requested by LCSW should be denied.

7. Overall Company Time & Expenses

Even though the evidence shows that the company time costs requested by LCSW should be denied, Public Counsel will agree that there may be some company time costs that are just and reasonable to include in rates as rate case expense. But, proper documentation must be provided in order to verify the costs are just and reasonable.

Given his inability to perform an audit on the company time costs claimed by LCSW, Mr. Addo offered evidence on what costs should be included as rate case expense for company time and expenses based on information which was adequately documented by LCSW.⁷⁰ Throughout the case, Public Counsel requested information on which to base its testimony regarding rate case expense.⁷¹ From this information, Mr. Addo prepared an exhibit indicating what rate case expense documentation had been provided by LCSW at the time of rebuttal testimony, surrebuttal testimony, the hearing date, at the post-hearing date and that which was provided only

⁶⁸ Tr. 453.

⁶⁹ Id.

⁷⁰ OPC Exhibit No. 1.

⁷¹ Tr. 521.

after the post-hearing briefs.⁷² Based on Mr. Addo's audit of the company time and expense information that was presented, the evidence shows the reasonable amount of company time and expense costs to include in rates is \$2,606.16.⁷³

Reasonable Overall Rate Case Expense

Only verifiable rate case expense should be included in rates and LCSW holds the burden to provide that verifiable evidence. Given the argument above, the evidence shows reasonable rate case expense costs of \$9,146.00 for Johansen Consulting Services, \$24,690.00 for Brydon, Swearngen & England, P.C., \$3,220.00 for McIlroy & Millan, and \$2,606.16 for Company time and expenses for a total reasonable rate case expense of \$39,662.16.

3. What is the appropriate mechanism to recover rate case expense in rates?

The evidence shows the reasonable amount of rate case expense in this case to be \$39,662.16.⁷⁴ The amount of rate case expense is unbelievably large especially for a small utility like LCSW which only has 123 customers.⁷⁵ Therefore, it is imperative that the Commission keep the customer's protection in the forefront of the decision on how this amount of money is to be recovered.

The evidence shows that a five year normalization is a reasonable balance between the needs of the utility and the needs of the customer.⁷⁶ The evidence shows that small utilities do not return for rate case procedures as often as larger utilities.⁷⁷ Normalization is appropriate for non-recurring costs such as rate case expense to be recovered over a period of time.⁷⁸ Amortization is a mechanism for writing off the costs of financial instruments like loans and

⁷² OPC Exhibit No. 1; Tr. 521-523.

⁷³ OPC Exhibit No. 1; OPC Exhibit No. 2.

⁷⁴ OPC Exhibit No. 2.

⁷⁵ Tr. 540.

⁷⁶ Tr. 526-528.

⁷⁷ Tr. 526.

⁷⁸ Id.

mortgages over a period of time until the final dollar is recorded.⁷⁹ Rate case expense is not a financial instrument with a set period of time for recovery; therefore, rate case expense is not reasonably amortized.⁸⁰

Given the large amount of rate case expense as well as the other costs approved by the Commission in its Report and Order, rate shock is a valid concern for the customers of LCSW. Even at a five year normalization of the costs, \$7,932.43 will have to be collected through rates – meaning each customer will have to pay an additional \$64.48 per year or \$5.37 per month just for rate case expense alone. If the costs were to be normalized over three years, the per month cost to the customer would be nearly \$9.00 just for rate case expense. The increased burden on the customer is not reasonable.

Also, rate case expense is almost always normalized by the Commission. In his opening statement, Staff’s attorney stated that Staff would be willing “to amortize, in this case -- this very unusual case -- over five years with a tracker.” Staff’s at-hearing suggestion of a tracker for these costs has no correlating evidence of what that tracker would entail or whether that tracker would be in the best interest of either LCSW or its customers.⁸¹ Therefore, the Commission should deny Staff’s suggested tracker as well as the Company’s requested amortization. The Commission should instead order that the rate case expense be normalized over 5 years.

⁷⁹ Tr. 527.

⁸⁰ Id.

⁸¹ Tr. 527-528.

Respectfully submitted,

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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 30th day of June 2014:

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