

Exhibit No.:
Issue: *Rate Case Expense*
Witness: *"Kofi" A. Boateng*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *WR-2006-0425*
Date Testimony Prepared: *December 28, 2006*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

REBUTTAL TESTIMONY

OF

"KOFI" AGYENIM BOATENG

ALGONQUIN WATER RESOURCES OF MISSOURI, LLC

**CASE NOS. WR-2006-0425 & SR-2006-0426
(Consolidated)**

Jefferson City, Missouri
December 2006

1
2
3
4
5
6
7
8
9

TABLE OF CONTENTS
REBUTTAL TESTIMONY
OF
"KOFI" A. BOATENG
ALGONQUIN WATER RESOURCES OF MISSOURI, LLC
CASE NOS. WR-2006-0425 & SR-2006-0426
(Consolidated)

EXECUTIVE 1
RATE CASE EXPENSE 2

1 A. The Staff in this Rebuttal Testimony addresses the issue of rate case expense
2 and tells why it believes Algonquin should not be allowed to recover the rate case expense
3 from ratepayers. Given the size of the Company, the Staff believes that Algonquin should
4 have used the small company rate procedure when it filed this rate case to mitigate the impact
5 of the rate increases on ratepayers. The small company rate procedure would have at least
6 eliminated any consultant and legal fees. Avoiding legal and consultant costs under the small
7 company rate process results in tremendous savings to utility companies and ratepayers. Even
8 without including the rate case expense in Staff's recommendation, the Company's total water
9 revenues and total sewer revenues would both increase by more than 75 percent.

10 **RATE CASE EXPENSE**

11 Q. Please describe the rate case expense proposed by Company witness Loos in
12 this rate case.

13 A. The Company recommends that rate case expense of \$180,000 (\$108,000 for
14 water service and \$72,000 for sewer service) be included in the cost of service. Additionally,
15 the Company is proposing a four-year amortization of this rate case expense.

16 Q. Does the Staff object to the inclusion of rate case expense in this rate case?

17 A. Yes. The Staff objects to including any rate case expense in the rates that will
18 be charged to ratepayers. As indicated in my Direct Testimony, the Staff believes that the
19 Company should have used the small company rate increase procedure initially, before
20 pursuing a formal rate case. If the outcome of the small company rate increase procedure was
21 not acceptable, the Company could then have chosen to file a request using the traditional
22 formal rate case procedures of the Commission. Also, the Staff believes that the filing of this
23 formal rate increase request was premature, since the Company attests to the fact that at the

1 time of its filing it lacked complete and consistent information upon which to base future
2 rates.

3 Q. Why do you believe that the Company should have first used the small
4 company rate increase procedure?

5 A. Undoubtedly, this course of action would have saved the Company, and thus
6 its ratepayers, money regarding rate case expense, particularly relating to consultant and legal
7 fees. The Company's tariff filings seek an increase in annualized sewer operating revenues of
8 approximately \$309,272, or a 241.29% increase over existing revenues, and an increase in
9 annualized water operating revenues of approximately \$584,390, or a 268.55% increase over
10 existing revenues. The rate case expense included in these proposed revenue increases
11 represents 23.28% of the requested sewer service operating revenue increase and 18.48% of
12 the requested water service operating revenue increase.

13 Q. What is the impact on the Company's customers if its proposed rate case
14 expense is included in rates?

15 A. There is a very significant impact to the Company's rate structure relating only
16 to rate case expense if Algonquin's proposed rate case expense amount is included in rates. If
17 the rate case expense of \$180,000 is amortized over four years, as proposed, Algonquin would
18 recover \$45,000 per year. Based on the current number of customers, this would result in
19 each Algonquin customer paying approximately \$3.79 per month for rate case expense during
20 those four years.

21 To put this into perspective, Staff's proposed adjustment to the Company's payroll cost
22 includes an upward adjustment of \$102,995, representing an increase of 238.93% from the
23 test year amount of \$74,132 which results in a total amount of payroll for the Missouri utility

1 properties of \$177,127. The increase in payroll costs alone places a substantial amount of
2 hardship on customers in their ability to cope with utility bills. This negative impact is chiefly
3 driven by the fact that the Company's size is not big enough to absorb significant costs
4 increases. At least, the ratepayers would not be asked to make a monthly payment of \$3.79
5 over the four year period of time for rate case expense, if the Company had filed using the
6 informal rate process. This would have indicated to the ratepayers the Company's desire and
7 efforts in bringing down costs as far as it could, in order not to financially overburden its
8 ratepayers.

9 Q. Is Staff recommending a significant rate increase in this case?

10 A. Yes. The Staff's direct filing made on December 1, 2006, and subsequent
11 revisions to that filing made as a result of further review and matters pointed out by the
12 Company, show the need for a substantial increase in rates for Algonquin's water and sewer
13 customers. This recommended increase does not reflect the rate case expense amounts
14 included in the Company's requests. Even without including the rate case expense in Staff's
15 recommendation, operating revenues would go up by 75.75% for water and 86.23% for sewer.
16 Adding the Company's proposed \$ 27,000 per year amortization for rate case expense amount
17 (\$108,000 over four years) to Staff's recommended water revenue increases would result in an
18 87.81% increase in water revenues. Adding the proposed \$18,000 per year amortization for
19 rate case expense amount (\$72,000 over four years) to Staff's recommended sewer revenue
20 increases would result in a 100.99% increase in sewer revenues.

21 Q. What is the small company rate increase procedure and which utility
22 companies are eligible to make use of this process?

1 A. Because "small" companies generally lack the requisite capital or resources
2 that are available to "large" regulated utility companies, the Commission promulgated rules
3 that provide a procedure whereby small water and sewer companies (and small gas utilities
4 and small steam heating utilities) can request increases in their operating revenues without the
5 tremendous burden of having to file formal rate cases, as is otherwise required by the
6 Commission's rules.

7 For water and sewer companies, these special small company rules permit companies
8 with fewer than eight thousand (8,000) customers to request increases in their operating
9 revenues without following the formal rate case process, which includes, among other things,
10 the filing of multiple rounds of pre-filed written testimony, with the whole process being
11 handled for the companies by legal counsel, and most likely also including the need for the
12 companies to use outside consultants as witnesses. Because of the "informal" nature of the
13 small company rate increase procedure, which avoids expenditures for legal and consulting
14 services, the procedure results in significant savings for the qualifying water and sewer utility
15 companies, and thus their customers.

16 Q. How many of the water and sewer utilities that are subject to the Commission's
17 jurisdiction qualify to use the small company rate increase procedures?

18 A. All but one. Missouri-American Water Company is the only water or sewer
19 utility subject to the Commission's jurisdiction that does not qualify to use this procedure.

20 Q. Have the small company rate increase procedures been successful?

21 A. Yes. The Staff believes that the establishment of this informal rate procedure,
22 which has been in use for many years, has proven to be successful in allowing qualified water
23 and sewer companies to recover increases in their cost of providing service without huge rate

1 case expenses for utilities; thus resulting in lower rates for the utility ratepayers. At least
2 equally important is the fact that Silverleaf Resort, Inc. (Silverleaf), from whom Algonquin
3 acquired this utility property, used this same rate process for its rate increases. The Staff used
4 this same informal process when it filed an earnings complaint against Silverleaf. Even
5 during the earnings complaint, Silverleaf did not have any cause to reject the informal
6 process, which does not, as it is, encourage companies to solicit the service of an attorney or a
7 consultant, because it believed in the informal rate procedure. In addition, it is Staff's belief
8 that Silverleaf fully understood and appreciated the fundamental objectives of this informal
9 process and why it was established, so Silverleaf did not object to its use. Neither did
10 Silverleaf ever file for a rate increase using the formal rate case procedures established by the
11 Commission. Even facing the prospects of a rate reduction in the earnings complaint review
12 conducted by Staff, Algonquin did not seek a formal case. In that case, the Staff's review did
13 not detect an overearnings situation and did not pursue a rate reduction. Thus, the small rate
14 increase case process worked well.

15 Q. If companies use the small company rate increase procedure, are they bound by
16 the results of Staff's findings?

17 A. No, they are not. Companies can, and often do, challenge the findings from
18 Staff's audit. All audit findings and recommendations are discussed with the companies, and
19 changes are frequently made to the Staff's revenue requirement calculations as the result of
20 these discussions. Also, if an agreement on a company's revenue increase request cannot be
21 reached between the company and Staff, the Company has the option of submitting a "formal"
22 rate increase request. Another alternative that is also available upon agreement between the

1 company, the Staff and the Office of the Public Counsel is for hearings to be held regarding
2 major issues upon which agreement cannot be reached.

3 Q. Would being required to follow the standard rate case filing process result in
4 rate case expenses that by themselves would place a disproportionate burden on the customers
5 of small water and sewer customers?

6 A. Yes, this would be the case. The rate case expense in and of itself, regardless
7 of any other cost-of-service item, would lead to a substantial rate increase to customers of
8 small utilities. To avoid this unacceptable result, companies meeting the requirements submit
9 their rate increase requests in this manner through the use of the informal rate increase
10 process.

11 Q. Was Algonquin required under the Commission's rules to file a formal rate
12 case?

13 A. As far as I can tell, the Company was under no obligation to file for a rate
14 increase request through the formal rate case procedure. The Commission rules do not require
15 a water or sewer company the size of Algonquin to seek rate increase case through the formal
16 process for the obvious reasons alluded to earlier. Algonquin had a choice to file its rate
17 increase case informally, in order to minimize the impact of any rate increase that might
18 result; but it chose the path to significantly increase the pain to its customers.

19 Q. Regarding the Commission rules, is there anything in them that requires small
20 companies to use the small company procedure prior to filing a formal case?

21 A. As far as I know, there is no provision in the Commission's rules that requires
22 small companies to use this small company procedure before filing a formal case. But it
23 would have been prudent cost saving for the Company, and a benefit to ratepayers also, where

1 uncontested issues would have been resolved without the necessity of employing the services
2 of an attorney or a consultant. Remember, rates are going to be high already with the
3 238.93% surge in payroll cost from \$74,132 to \$177,127. Staff has reflected other cost
4 increases in its recommendation, such as plant additions and corporate allocated costs. To
5 add further costs for rate case expense which could have been avoided just adds insult to
6 injury.

7 Q. Are there other reasons that the Staff is opposed to the recovery of Algonquin's
8 estimated rate case expense?

9 A. Yes. The Staff believes this rate case was prematurely filed. When the
10 Company filed this rate case, very little actual Algonquin-specific information for the test
11 year existed on which to set rates. The vast majority of the test year information provided by
12 the Company related to Silverleaf's operations. In fact, ten and one-half months of the test
13 year data came from Silverleaf, with the remaining one and one-half months coming from
14 Algonquin.

15 The impact of this lack of Company-specific test year data is that Algonquin's
16 consultant had to devote many hours of his time to the process of gathering the necessary data
17 from Silverleaf, which the Company admits was neither complete enough nor consistent
18 enough to set rates. The Silverleaf information then had to be "merged" with the Algonquin
19 information just to complete the test year, which is used as a starting point for all the analyses
20 and adjustments. The timing of Algonquin's filing itself in relation to when the acquisition
21 was completed caused significant amounts of time to be spent on this case, to sort out and
22 merge the costs of the predecessor owner with the costs of the current owner. This process
23 contributes to a high level of rate case expense. Staff is opposed to any recovery of rate case

1 expense that occurred merely because the Company wanted to file a case as soon as it could
2 after the sale transaction closed.

3 Q. Did the Company have to update its case after it filed?

4 A. Yes. As part of discussions with the parties during the early prehearing
5 conference, the Company agreed to update its original filing because it recognized that the
6 records and resulting cost information of the two "merged" companies were inadequate.
7 Thus, Algonquin provided an update to its original case on October 31, 2006, (two weeks
8 prior to the date the Staff was originally scheduled to file its Direct Testimony), which
9 incorporated a full twelve months of operations by Algonquin. Using the 12 months ending
10 September 30, 2005, as the test year, as originally filed by the Company, the updated case
11 reflected the actual information from Algonquin's operations through September 30, 2006.
12 This further added to Algonquin's cost of processing this rate increase request.

13 Q. Is there any other reason the Staff believes this case was prematurely filed and
14 thus that the Company, and not the ratepayers, should be asked to pay for those costs?

15 A. Yes. Historically, the Commission has set future rates based upon complete
16 and consistent information of a utility company's actual operations over a period of time.
17 However, in this rate case there was neither company-specific test year data nor complete or
18 consistent information.

19 In fact, Mr. Larry W. Loos, representing Algonquin, identified this as a problem in his
20 Direct Testimony on page 14, lines 9 through 22, wherein he stated:

21 When I began this engagement, I expected that any information that
22 originated within Silverleaf would be **incomplete and likely**
23 **inconsistent**. I do not normally encounter these kind of problems when
24 dealing with mature utility systems and operators.

25 As I will subsequently demonstrate, **I was correct in my initial**
26 **assessment**. Algonquin has operated the systems for only about six

1 months. The records it "inherited" from Silverleaf leave a great deal to
2 be desired.

3 **Further, I believe it important to recognize the implications on**
4 **utility operations and records when the largest customer, the**
5 **operator, the developer, and the owner are one in the same. While**
6 **Algonquin does not provide service to itself, Algonquin inherited**
7 **records from an owner that did.**

8 *(emphasis added)*

9 The above statements from Mr. Loos suggest strongly to the Staff that the filing of this
10 rate case using Silverleaf's operational costs as the basis to set rates was absolutely not the
11 right decision. It is clear to the Staff that Mr. Loos, the Company's principal witness in this
12 case did not have any reason to trust the data "originating" from Silverleaf. As a result, the
13 Company clearly should have waited to file its rate increase request until it had enough
14 operating history to justify the request; that is, until the time when the Company and Mr. Loos
15 believed there was complete and consistent operating history upon which to base a future rate
16 increase.

17 Q. Are there any more statements from Mr. Loos that suggest to the Staff that this
18 formal rate case should not have been filed?

19 A. Yes. Mr. Loos stated the following on pages 13 through 14, of his Direct
20 Testimony:

21 Q. **Do you consider Silverleaf to have been a public utility?**

22 A. I understand and agree that most of the property sold to
23 Algonquin falls under the legal definition of a public utility. Not
24 withstanding this legal definition, I do not consider Silverleaf a public
25 utility from an operational standpoint. Silverleaf is in the timeshare and
26 resort development business. The corporate culture at Silverleaf in no
27 way resembles the corporate culture of utilities I have worked with.

28 Q. **Does Silverleaf's corporate culture have a bearing on this**
29 **case?**

1 A. Yes, it does. The biggest impact on Algonquin relates to the
2 manner in which systems developed over time and in record keeping. I
3 expect utilities to maintain records and follow certain accounting
4 conventions that are not normally followed by non-utility entities. In
5 many respects, Silverleaf likely viewed the utility property not much
6 differently than the swimming pool(s) at the resort. A utility such as
7 Algonquin on the other hand has an entirely different culture.

8 As evidenced by the above testimony, Algonquin clearly believes that the available
9 records regarding utility operations presented a problem. Yet the vast majority of those costs
10 from Silverleaf were the starting basis of analyses and review. This suspect cost from
11 Silverleaf was the starting point of all adjustments made in this case by either the Company or
12 Staff. Thus, the Staff wonders why, if Algonquin believes that Silverleaf was not in the
13 operation of a true utility and did not maintain adequate records, Algonquin would use
14 Silverleaf's operational cost as a basis to set future utility rates.

15 Additionally, on pages 29 and 30, of his Direct Testimony, Mr. Loos talked about the
16 challenges inherent in not relying on the Company's own readily available data for rate case
17 purposes.

18 **Q. What test period do you propose to use in this case?**

19 A. I propose to rely on the twelve month period ended September
20 30, 2005 as the test period in this case.

21 **Q. Are there challenges in using the twelve month period ended**
22 **September 30, 2005 as the test period?**

23 A. Yes, there are. Some challenges include:

- 24 1) This is the first rate case filed by Algonquin in Missouri.
- 25 2) This is the first full rate case filed in connection with this property.
- 26 3) Since Algonquin started operating the systems in August 2005,
27 operating expense is not available to Algonquin.
- 28 4) There are a number of perceived deficiencies or limitations
29 associated with operating data maintained by Silverleaf. However, this
30 is the only data available.

1 Q. Regarding the deficiencies in the data, how do you develop
2 test period amounts?

3 A. I start with operating data which was reported by Silverleaf
4 during the 10½ month period ended August 15, 2005. I add operating
5 data reported by Algonquin for the 1½ month period beginning August
6 15 to determine amounts applicable to the twelve month period ended
7 September 30. I adjust this data to reflect typical proforma rate case
8 adjustments as well as rely on other available information to reflect
9 anticipated costs under Algonquin operation.

10 Using "anticipated costs under Algonquin operation" to set rates in my judgment was
11 not a prudent thing to undertake. From all that Mr. Loos described in his Direct Testimony,
12 the Staff does not have any reason to believe that it was necessary for Algonquin to file any
13 rate case, let alone a pro-forma rate case, for the very reasons put forward by Mr. Loos.

14 Q. Should the Company have used in-house personnel to assemble the test year
15 cost information for this case?

16 A. Yes. Having Mr. Loos devote numerous hours to do this added to the costs of
17 developing the rate cases that Algonquin filed. The Company, when it acquired the former
18 Silverleaf properties, held itself out as a utility operator unlike Silverleaf. Hence, the
19 Company should have had its in-house staff assemble the test year costs and plant records,
20 instead of hiring a consultant who billed his time at an hourly rate. This would have saved
21 significant amounts from being charged for rate case expense.

22 Q. Are there other reasons you believe the high cost of the rate case expense
23 proposed by Algonquin is unwarranted?

24 A. Yes. The Staff does not believe that the Commission should encourage small
25 utility companies to retain high-cost consultants to come before it only to describe the
26 Company's history or give background information on the operational activities of the
27 companies. Without any prejudice to Mr. Loos and the work he performed for Algonquin,

1 Staff points out that about nine or more pages out of his total 37-page Direct Testimony were
2 very much devoted to talking about the background of Silverleaf and its facilities, such as
3 swimming pools, five-hole golf course, etc., as well as Algonquin's background information.

4 The Staff believes that this background information about Silverleaf's resorts and
5 Algonquin should have been provided in direct testimony of an employee of the Company,
6 instead of retaining a consultant like Black & Veatch to handle that at a high cost to the
7 Company and its ratepayers.

8 Q. Are there specific examples of background information in Mr. Loos' direct
9 testimony the Staff believes should have been provided by the Company's employees?

10 A. Yes. There are several specific items of background information about
11 Silverleaf and Algonquin, that the Staff believes, given the cost implication of a consultant on
12 a small company like Algonquin, should have been handled by an employee.

13 For instance, on pages 7 and 8, Mr. Loos states:

14 In Schedule LWL-1, I have included layouts of each of the three
15 resorts. I obtained these layouts from Silverleaf. Silverleaf uses these
16 to show guests where they will be staying.

17 At pages 11 and 12, he wrote:

18 Timber Creek does not have attractions such as Branson and Silver
19 Dollar City. There is a small onsite lake for fishing as well as a small
20 (short) five-hole golf course. Limited nature (hiking) trails are on site."

21
22 "Timber Creek is located near DeSoto, and has the distinction of being
23 the only "drive to resort" of the three. Silverleaf develops two types of
24 resorts: "drive to resorts" are resort properties located near large
25 metropolitan areas (St. Louis). Their close proximity to major urban
26 areas is intended to attract people to "conveniently get away" from the
27 city.

1 As I indicated before, this kind of assignment is not what should be entrusted to high-
2 cost outside consultants since it adds substantial costs to the rate case process, which in turn
3 places a disproportionate burden on ratepayers. In fact, this kind of assignment does not in
4 any way, shape or form benefit ratepayers, hence they should not be called upon to reimburse
5 any company that incurs such costs.

6 Q. Has Staff reviewed the agreement and scope of work of the consultant hired by
7 Algonquin in this rate case?

8 A. No. Staff requested this information in Data Request No.42, but to date
9 Algonquin has refused to provide this information for Staff's review. While it is not the
10 primary reason why Staff believes the consultant costs should not be allowed rate recovery in
11 this rate case, it is another reason why these costs have been excluded.

12 Q. Does this conclude your rebuttal testimony?

13 A. Yes, it does.