

REBUTTAL TESTIMONY

OF

RUSSELL W. TRIPPENSEE

ALGONQUIN WATER RESOURCES OF MISSOURI LLC.

AND

SILVERLEAF RESORT, INC.

CASE NO. WO-2005-0206

1 | **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 | A. Russell W. Trippensee. I reside at 1020 Satinwood Court, Jefferson City, Missouri 65109, and my
3 | business address is P.O. Box 2230, Jefferson City, Missouri 65102.

4 | **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 | A. I am the Chief Utility Accountant for the Missouri Office of the Public Counsel (OPC or Public
6 | Counsel).

7 | **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

8 | A. I attended the University of Missouri at Columbia, from which I received a BSBA degree, major in
9 | Accounting, in December 1977. I attended the 1981 NARUC Annual Regulatory Studies Program
10 | at Michigan State University.

11 | **Q. ARE YOU A CERTIFIED PUBLIC ACCOUNTANT?**

12 | A. Yes, I hold certificate/license number 2004012797 in the State of Missouri.

13 | **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

14 | A. From May through August, 1977, I was employed as an Accounting Intern by the Missouri Public
15 | Service Commission (MPSC or Commission). In January 1978 I was employed by the MPSC as a

1 Public Utility Accountant I. I left the MPSC staff in June 1984 as a Public Utility Accountant III
2 and assumed my present position.

3 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL AFFILIATIONS.**

4 A. I served as the chairman of the Accounting and Tax Committee for the National Association of
5 State Utility Consumer Advocates from 1990-1992 and am currently a member of the committee. I
6 am a member of the Missouri Society of Certified Public Accountants.

7 **Q. PLEASE DESCRIBE YOUR WORK WHILE YOU WERE EMPLOYED BY THE MPSC**
8 **STAFF.**

9 A. Under the direction of the Chief Accountant, I supervised and assisted with audits and examinations
10 of the books and records of public utility companies operating within the State of Missouri with
11 regard to proposed rate increases.

12 **Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES WITH THE OFFICE OF**
13 **THE PUBLIC COUNSEL?**

14 A. I am responsible for the Accounting section of the Office of the Public Counsel and coordinating
15 our activities with the rest of our office and other parties in rate proceedings. I am also responsible
16 for performing audits and examinations of public utilities and presenting the findings to the MPSC
17 on behalf of the public of the State of Missouri.

18 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE THE MPSC?**

19 A. Yes. I filed testimony in the cases listed on Schedule RWT-1 of my testimony on behalf of the
20 Missouri Office of the Public Counsel or MPSC Staff.

1 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

2 A. The purpose of my rebuttal testimony is to address the regulatory policies that are appropriate for
3 the treatment of the acquisition premium that is created by the proposed transaction presented by
4 the applicants for approval by this Commission. I will respond to the direct testimony of the
5 Algonquin Water Resources of Missouri, LLC ("Algonquin") witness, Mr. Michael D. Weber and
6 Silverleaf Resorts, Inc. ("Silverleaf"), witness, Mr. Joe W. Connor. The petitioner's witnesses
7 request Commission approval of the proposed acquisition of certain Missouri jurisdictional assets
8 of Silverleaf Resorts, Inc.

9 Q. WHAT IS THE NATURE OF AND GENERAL OVERVIEW OF THE TRANSACTION
10 PROPOSED BY ALGONQUIN AND SILVERLEAF (JOINTLY THE
11 "APPLICANTS") ?

12 A. Algonquin has agreed to purchase the utility operations of Silverleaf in the states of Missouri,
13 Illinois, and Texas. The total purchase price is \$13.2 million with \$3.8 million being allocated for
14 the purchase of the Missouri operations.

15 There is no dispute among the parties that the \$3.8 million acquisition price will create an
16 acquisition premium. A dispute does exist as to the quantification of the acquisition premium. The
17 Staff estimates the acquisition premium to be between \$720,000 and \$2,345,600. These estimates
18 are based on Staff estimates of the utility rate based being between \$3,080,000 and \$1,454,400.
19 The applicants and the Staff have not reached agreement on numerous issues regarding the financial
20 records of Silverleaf and the rate base that is established by those records.

1 Q. WHAT IS PUBLIC COUNSEL'S POSITION WITH RESPECT TO THE
2 APPLICATION FOR ALGONQUIN TO PURCHASE SILVERLEAF?

3 A. Public Counsel's recommendation is that the Commission should order that the acquisition
4 premium shall not be collected from the ratepayers in either a direct or indirect manner upon
5 consummation of this proposed purchase. Further, it is Public Counsel's position that absent a
6 order specifically excluding the acquisition premium from collection from ratepayers, the
7 Commission must identify the current utility rate base and resulting acquisition premium effect on
8 potential rate impacts in order to determine if this purchase is detrimental to the public interest.

9 Q. WHY DOES PUBLIC COUNSEL RECOMMEND THAT THE ACQUISITION
10 PREMIUM NOT BE RECOVERED FROM RATEPAYERS?

11 A. An acquisition premium does not represent a contribution of capital that provides any new asset that
12 is used and useful in the provision of utility services to customers. It merely represents a purchase
13 of the legal interest in the existing properties that are providing utility service. The premium paid
14 provides no additional benefit to Missouri ratepayers; therefore to allow a utility to recover the
15 acquisition premium through current or future rates unjustly harms the consumers.

16 The acquisition premium is in fact additional earnings (i.e. gain on the sale) for the seller (in this
17 case, Silverleaf). The seller will not even be providing utility services to existing customers
18 subsequent to the sale and thus it cannot even be argued that the earnings would be reinvested in
19 utility properties to serve Missourians. The earnings will simply be a windfall for the seller.

20 Q. HAS THIS COMMISSION PREVIOUSLY APPROVED ANY UTILITY'S REQUEST
21 FOR RECOVERY OF AN ACQUISITION PREMIUM?

1 A. No. It is my understanding that the Commission has denied all requests for rate recovery of all
2 acquisition premiums presented to it.

3 Q. **WHAT IS THE HISTORICAL BACKGROUND FOR THE POSITION THAT NET**
4 **ORIGINAL COST SHOULD BE USED AS THE BASIS FOR SETTING RATES?**

5 A. Abuses occurred in the 1920's and 1930's creating the need to adopt the original cost method for
6 setting rates. Utilities were acquiring other utility properties for amounts in excess of net book
7 value. This valuation and transfer in excess of book value (i.e., positive acquisition adjustment)
8 created an inflated rate base, which resulted in higher rates to existing customers. These customers
9 were paying higher rates based on the **exact** same property that had been providing them utility
10 service prior to the acquisition when in fact nothing had changed except for the valuation of the
11 properties transferred. It was and is unreasonable to charge customers higher rates for the same
12 utility property simply because the utility providing the service was acquired by another company.
13 Thus, the concept of using the original cost of the property when first devoted to public service
14 came to be widely accepted. This principle has served to protect ratepayers from utilities who
15 would buy properties at inflated prices and then seek revaluation of the properties at higher levels in
16 order to produce greater profits. Absent this protection the potential for abuse through acquisitions
17 and mergers is the same as it was prior to implementation of the original cost concept.

18 Q. **DOES THE FACT THAT A TRANSACTION APPEARS TO BE AT "ARMS-**
19 **LENGTH" CHANGE PUBLIC COUNSEL'S POSITION?**

20 A. No. The value to the ratepayer with respect to the property providing utility service has not
21 changed simply because the owner of the property has changed. The seller and buyer in the

1 transaction are representing the interests of their respective owners. The ratepayer should not have
2 to pay more because an agreement between the buyer and seller.

3 **Q. PLEASE EXPLAIN HOW THE ACQUISITION PREMIUM IS A DETRIMENT TO**
4 **THE PUBLIC INTEREST**

5 A. It is the Public Counsel's opinion that Commission authorization of the transaction creates the
6 acquisition adjustment and would validate the possible future recovery of the premium.
7 detriment to ratepayers occurs if this acquisition premium is not immediately precluded from the
8 possibility of rate recovery. The detriment occurs because ratepayers are put at risk **now** of paying
9 for the premium in future rates. A simple analogy would be that a dollar from future ratepayers still
10 has a current present value so that the allocation of the ratepayers' resources, in this case money,
11 must be addressed now by the customers in order to be able to pay the possible higher rates later.

12 **Q. IF THE COMMISSION CHOOSES NOT TO ORDER THAT THE ACQUISITION**
13 **PREMIUM NOT BE COLLECTED FROM RATEPAYERS IN THE FUTURE,**
14 **DOES PUBLIC COUNSEL BELIEVE THE VALUE OF THE ACQUISITION**
15 **PREMIUM MUST BE DETERMINED IN THIS CASE?**

16 A. Public Counsel believes that increased costs to ratepayers with respect to paying a return "on" and
17 "of" rate base that includes an acquisition premium is a detriment to ratepayers. In order to evaluate
18 and quantify the effect (i.e. cost) on ratepayers, the acquisition premium would need to be
19 quantified. In order for the Commission to make a finding that there is no detriment (i.e. cost to
20 ratepayers) to the transaction, the quantification of the cost associated with the acquisition premium
21 must be made.

1 In other words, if the Commission does not make a determination of the amount of the acquisition
2 premium and whether it will be allowed in future rates, then the Commission cannot evaluate its
3 effect on ratepayers. And if the Commission cannot evaluate its effect on ratepayers, the
4 Commission cannot reach a conclusion about whether the transaction is detrimental to the public
5 interest.

6 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

7 **A. Yes.**

Rebuttal Testimony
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Missouri Power & Light Company, Steam Dept., Case No. HR-82-179
Missouri Power & Light Company, Electric Dept., Case No. ER-82-180
Missouri Edison Company, Electric Dept., Case No. ER-79-120
Southwestern Bell Telephone Company, Case No. TR-79-213
Doniphan Telephone Company, Case No. TR-80-15
Empire District Electric Company, Case No. ER-83-43
Missouri Power & Light Company, Gas Dept., Case No. GR-82-181
Missouri Public Service Company, Electric Dept., Case No. ER-81-85
Missouri Water Company, Case No. WR-81-363
Osage Natural Gas Company, Case No. GR-82-127
Missouri Utilities Company, Electric Dept., Case No. ER-82-246
Missouri Utilities Company, Gas Dept., Case No. GR-82-247
Missouri Utilitites Company, Water Dept., Case No. WR-82-248
Laclede Gas Company, Case No. GR-83-233
Great River Gas Company, Case No. GR-85-136 (OPC)
Northeast Missouri Rural Telephone Company, Case No. TR-85-23 (OPC)
United Telephone Company, Case No. TR-85-179 (OPC)
Kansas City Power & Light Company, Case No. ER-85-128 (OPC)
Arkansas Power & Light Company, Case No. ER-85-265 (OPC)
KPL/Gas Service Company, GR-86-76 (OPC)
Missouri Cities Water Company, Case Nos. WR-86-111, SR-86-112 (OPC)
Union Electric Company, Case No. EC-87-115 (OPC)
Union Electric Company, Case No. GR-87-62 (OPC)
St. Joseph Light and Power Company, Case Nos. GR-88-115, HR-88-116 (OPC)
St. Louis County Water Company, Case No. WR-88-5 (OPC)
West Elm Place Corporation, Case No. SO-88-140 (OPC)
United Telephone Long Distance Company, Case No. TA-88-260 (OPC)
Southwestern Bell Telephone Company, Case No. TC-89-14, et al. (OPC)
Osage Utilities, Inc., Case No. WM-89-93 (OPC)
GTE North Incorporated, Case Nos. TR-89-182, TR-89-238, TC-90-75 (OPC)
Contel of Missouri, Inc., Case No. TR-89-196 (OPC)
The Kansas Power and Light Company, Case No. GR-90-50 (OPC)
Southwestern Bell Telephone Company, Case No. TO-89-56 (OPC)
Capital City Water Company, Case No. WR-90-118 (OPC)
Laclede Gas Company, Case No. GR-90-120 (OPC)

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Southwestern Bell Telephone Company, Case No. TR-90-98 (OPC)
Empire District Electric Company, Case No. ER-90-138 (OPC)
Associated Natural Gas Company, Case No. GR-90-152 (OPC)
Southwestern Bell Telephone Company, Case No. TO-91-163
Union Electric Company, Case No. ED-91-122
Missouri Public Service, Case Nos. EO-91-358 and EO-91-360
The Kansas Power and Light Company, Case No. GR-91-291
Southwestern Bell Telephone Co., Case No. TO-91-163
Union Electric Company, EM-92-225 and EM-92-253
Southwestern Bell Telephone Company, TO-93-116
Missouri Public Service Company, ER-93-37, (January, 1993)
Southwestern Bell Telephone Company, TO-93-192, TC-93-224
Saint Louis County Water Company, WR-93-204
United Telephone Company of Missouri, TR-93-181
Raytown Water Company, WR-94-300
Empire District Electric Company, ER-94-174
Raytown Water Company, WR-94-211
Missouri Gas Energy, GR-94-343
Capital City Water Company, WR-94-297
Southwestern Bell Telephone Company, TR-94-364
Missouri Gas Energy, GR-95-33
St. Louis County Water Company, WR-95-145
Missouri Gas Energy, GO-94-318
Alltel Telephone Company of Missouri, TM-95-87
Southwestern Bell Telephone Company, TR-96-28
Steelville Telephone Exchange, Inc., TR-96-123
Union Electric Company, EM-96-149
Imperial Utilites Corporation, SC-96-247
Laclede Gas Company, GR-96-193
Missouri Gas Energy, GR-96-285
St. Louis County Water Company, WR-96-263
Village Water and Sewer Company, Inc. WM-96-454
Empire District Electric Company, ER-97-82
UtiliCorp d/b/a Missouri Public Service Company, GR-95-273
Associated Natural Gas, GR-97-272

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Missouri Public Service, ER-97-394, ET-98-103
Missouri Gas Energy, GR-98-140
St. Louis County Water, WO-98-223
United Water Missouri, WA-98-187
Kansas City Power & Light/Western Resources, Inc. EM-97-515
St. Joseph Light & Power Company, HR-99-245
St. Joseph Light & Power Company, GR-99-246
St. Joseph Light & Power Company, ER-99-247
AmerenUE, EO-96-14, (prepared statement)
Missouri American Water Company, WR-2000-281
Missouri American Water Company, SR-2000-282
UtiliCorp United Inc./St. Joseph Light & Power Company, EM-2000-292
UtiliCorp United Inc./Empire District Electric Company, EM-2000-369
St. Joseph Light & Power Company, EO-2000-845
St. Louis County Water Company, WR-2000-844
Union Electric Company, EO-2001-245
Laclede Gas Company, GM-2001-342
Empire District Electric Company, ER-2001-299
Missouri-American Water Company, et. al., WM-2001-309
AmerenUE, EC-2002-152, GC-2002-153
UtiliCorp United Inc., ER-2001-672
Aquila, Inc., GO-2002-175
AmerenUE, ER-2002-001
Laclede Gas Company, GA-2002-429
AmerenUE, GR-2003-0517
Algonquin Water Resources of Missouri & Silverleaf Resort, Inc. WO-2005-0206