

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

In the Matter of the Tariff Filing of)	
Algonquin Water Resources of)	
Missouri, LLC, to Implement a General)	<u>Case No. WR-2006-0425</u>
Rate Increase for Water and Sewer)	
Customers in its Missouri Service)	
Areas.)	

POSITION STATEMENT OFFICE OF THE PUBLIC COUNSEL

COMES NOW the Office of the Public Counsel (Public Counsel) and states its position on the issues in this case as follows:

A. Plant

1. What amount if any, should be reflected as plant-in-service for pre-1993 property?

Algonquin contends in its testimony that adjustments should be made to include pre-1993 property “for which no investment cost is recorded” in the books of Silverleaf Resorts (Silverleaf), the previous owner.

Public Counsel agrees with Staff’s testimony that no such “unrecorded plant” investment exists and that the adjustments Algonquin is proposing is an attempt to recover the full acquisition price it paid to Silverleaf. Public Counsel agrees with Staff’s testimony stating that any plant investment must be supported with adequate evidence, such as invoices, checks, construction contracts, bids, etc. in order to be included in plant-in-service. Public Counsel agrees with Staff’s testimony stating the adjustments proposed by Algonquin are made based on estimates of costs, not actual costs, for unsubstantiated plant and therefore do not have the adequate support to be included as plant-in-service.

Therefore, it is Public Counsel's position that any pre-1993 property which does not have adequate support should not be reflected as plant-in-service.

2. What is the appropriate level of post-1992 plant that should be included as plant-in-service?

Public Counsel agrees with Staff's testimony regarding its determination of the appropriate level of post-1992 plant that should be included as plant-in-service. Public Counsel also agrees with Staff testimony regarding disallowance of plant determined to be contributions in aid of construction (CIAC), excess capacity and construction cost overruns.

Therefore, it is Public Counsel's position that the Commission should adopt Staff's recommendation regarding the appropriate level of post-1992 plant that should be included as plant-in-service.

B. Excess Capacity

1. Do Algonquin's facilities include plant held for future use, which should not be included in plant in service, because they include excess capacity? If so, what is the value of the facilities that should not be included as plant-in-service?

Public Counsel agrees with Staff's testimony that new plant should be sized to provide service to current customers plus an additional amount of plant for additional new customers that will connect within a reasonable time frame. Public Counsel also agrees with Staff's determination that there is currently excess capacity associated with all three of the involved water systems.

Therefore, it is Public Counsel's position that the Staff's determination of excess capacity in all three water systems reflects investment that should not be included in plant-in-service and in which current customers should not bear the financial burden.

C. Construction Cost Overrun

- 1. Were some of the costs of constructing the facilities imprudently incurred? If so, how much should the plant-in-service accounts be reduced?**

Public Counsel agrees with Staff's testimony that Silverleaf's expenditures on the Well No. 2 project at Holiday Hills were not a fair reflection of the necessary and prudent cost of the work received, and that it would not be reasonable to record the project at actual cost in Silverleaf's (now Algonquin's) utility accounts. Public Counsel agrees with Staff's testimony regarding its recommendation of writing off the unnecessary costs and recording the project at the cost that the available evidence indicates Silverleaf would have incurred absent the avoidable delays.

Therefore, it is Public Counsel's position that the Well No. 2 project at Holiday Hills should be recorded at the cost that the available evidence indicates Silverleaf would have incurred absent the avoidable delays.

D. Contributions in Aid of Construction (CIAC)

- 1. What is the amount of contributions in aid of construction that should be used to reduce Algonquin's plant-in-service accounts?**

Office of Public Counsel agrees with Staff's testimony that Silverleaf's (now Algonquin's) tariffs require a customer to pay for the actual cost of extending water distribution mains and sewer collection mains as needed to provide service to that

customer. Public Counsel agrees with Staff's testimony that under the provisions of Silverleaf's tariffs, this treatment applies to all of Silverleaf's utility customers and developers. Public Counsel also agrees with Staff's testimony that despite the fact that Silverleaf, the developer, was required to pay for the main water and sewer lines, this did not increase the investment base of Silverleaf, the utility company.

Therefore, it is Public Counsel's position that any customer or developer, including Silverleaf, the developer, payment for water and sewer mains was a contribution in aid of construction.

E. Depreciation Rates

1. What depreciation rates should be applied to the various elements of Algonquin's plant-in-service?

Public Counsel agrees with Staff's testimony regarding its recommendation for depreciation rates and average service lives for water and sewer (wastewater) plant accounts for Algonquin.

Therefore, it is Public Counsel's position that the Commission should adopt Staff's recommended depreciation rates and average service lives to be applied to the various elements of Algonquin's plant-in-service.

F. Capital Structure

1. What capital structure should the Commission apply to Algonquin's investment in determining the proper rate of return on Algonquin's rate base?

Public Counsel agrees with Staff's testimony using a hypothetical capital structure based on a selection of comparable companies, as of December 31, 2005. Algonquin, in

its testimony, relies on the consolidated capital structure of its parent company, Algonquin Power, for ratemaking purposes. Public Counsel agrees with Staff's testimony that the reliance on Algonquin Power's consolidated capital structure for ratemaking purposes is inappropriate because it is not based on Algonquin's own capital structure and Algonquin Power is a Canadian company which is not organized as a typical publicly traded water utility corporation.

Therefore, it is Public Counsel's position that the Commission should apply Staff's hypothetical capital structure based on a selection of comparable companies, as of December 31, 2005, for the determination of the proper rate of return on Algonquin's rate base.

G. Return on Equity

1. What return on equity should the Commission apply to Algonquin's investment in determining the proper rate of return on Algonquin's rate base?

Public Counsel agrees with Staff's testimony recommending a return on equity in the range of 8.06 percent to 9.06 percent to be applied to Algonquin's rate base.

Algonquin, in its testimony, relies on higher growth rates and uses a historical book value dividend yield. Public Counsel agrees with Staff's testimony that the Commission should not give any weight to Algonquin's high growth rates as it appears it chose different time periods to arrive at a wide growth rate range. Public Counsel also agrees with Staff's testimony that Algonquin's use of a historical book value dividend yield is inappropriate because this is not what investors expect to receive in the future, and it is not supported by any financial literature Staff is aware of.

Therefore, it is Public Counsel's position that the Commission should apply Staff's recommended return on equity in the range of 8.06 percent to 9.06 percent to Algonquin's rate base.

H. Payroll Expense

- 1. What is the appropriate level of payroll expense that Algonquin should be allowed to recover in its rates?**

Public Counsel takes no position on this issue.

I. Rate Case Expense

- 1. Should the Commission allow Algonquin to recover in its rates any allowance for the rate case expenses that it incurred in presenting this case to the Commission? If so, how much rate case expense did Algonquin prudently incur, and over how many years should the rate case expense be amortized?**

Public Counsel agrees with Staff's testimony objecting to Algonquin including any rate case expense in the rates that will be charged to the ratepayers. Public Counsel agrees with Staff's testimony that Algonquin should have pursued the small company rate increase procedure before filing a formal rate case. Public Counsel also agrees with Staff's testimony that the filing of this formal rate increase request was premature given the fact that very little Algonquin-specific data for the test year existed on which to set rates at the time of the Company's filing.

Therefore, it is Public Counsel's position that no rate case expense incurred in presenting this case to the Commission should be charged to the ratepayers.

J. Rate Design

- 1. Should the Commission's order establish separate rates for each of Algonquin's three service territories, or should the Commission's order establish a unified rate for water service to Algonquin's service to Ozark Mountain and Holiday Hill service territories?**

Public Counsel takes no position on this issue.

K. Rate Mitigation

- 1. Should any increase in rates be phased in, or be otherwise mitigated?
If so, how?**

Algonquin, in its testimony, proposes a two step phase in of their proposed rate increase. While Public Counsel agrees with the Staff's testimony regarding proposed rates, Public Counsel also agrees with Algonquin that mitigating a rate increase is necessary to avoid rate shock and other adverse effects a rate increase would have on the ratepayers, especially when rates increase by over 10%.

Therefore it is Public Counsel's position that the effect on the ratepayers of rate increases over 10% should be mitigated by phasing in the rate increase over time.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By:_____

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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 17th day of January 2007:

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