

In the matter of the tariff filing of)
Algonquin Water Resources of Missouri,)
LLC to implement a general rate increase)
for water and sewer service provided to)
customers in its Missouri service areas.)

COMES NOW the Staff of the Missouri Public Service Commission and submits the following Proposed Findings of Fact and Conclusions of Law.

PROPOSED FINDINGS OF FACT

1. Ascension Resorts, Ltd. (“Ascension”) was a developer of resort real estate in Missouri in the early 1980s.
2. Ascension began developing the Ozark Mountain Resort near Kimberling City in 1982. Ozark Mountain is a mixed-use development, including timeshare and condominium units as well as certain amenities.
3. Ascension constructed and installed certain water and sewer facilities at the Ozark Mountain Resort to serve the people who lived or visited there. However, Ascension was not then a regulated utility, did not hold a certificate from the Missouri Public Service Commission, and did not sell water or sewer services.
4. Ascension began developing the Holiday Hills Resort near Branson in 1984. Holiday Hills is a mixed-use development, including timeshare and condominium units as well as single-family housing, a small hotel, a golf course, and certain other amenities.

5. Ascension constructed and installed certain water and sewer facilities at the Holiday Hills Resort to serve the people who lived or visited there. However, Ascension was not then a regulated utility, did not hold a certificate from the Missouri Public Service Commission, and did not sell water or sewer services.

6. Ascension came before the Commission for the first time when it filed Case No. WA-94-60, seeking authorization to provide water and sewer service to Holiday Hills. In that case, the Staff selected 1993 as the test year and made its first assessment of Ascension's rate base and of the cost of service at Holiday Hills. On January 26, 1994, the Commission issued a certificate of convenience and necessity, authorizing Ascension to provide water and sewer service to Holiday Hills.

7. Ascension came before the Commission again when it filed Case No. WA-94-246, seeking authorization to provide water and sewer service to Ozark Mountain. In that case, the Staff selected 1993 as the test year and made its first assessment of Ascension's rate base for investment owned in 1993 and all prior years and of the cost of service at Ozark Mountain. On July 1, 1994, the Commission issued a certificate of convenience and necessity in Case No. WA-94-246, authorizing Ascension to provide water and sewer service to Ozark Mountain.

8. Silverleaf Resorts, Inc. ("Silverleaf") is the successor to Ascension.

9. Silverleaf filed a small company rate increase case with the Commission in April 1997, by which it sought to increase its annual operating revenues for the water and sewer service that it provided to Holiday Hills and Ozark Mountain, in the total amount of \$326,810.

10. However, the small company rate increase case could not be processed immediately, because Ascension then still held the certificate of convenience and necessity from the Commission. On July 30, 1997, at Staff's request, Ascension and Silverleaf filed a joint application with the Commission in Case No. WM-98-46, seeking approval of their merger. The Commission approved this merger on November 26, 1997. By the terms of this order, Ascension's certificate of convenience and necessity was canceled and Silverleaf obtained a certificate of convenience and necessity to provide water and sewer service to Holiday Hills and Ozark Mountain.

11. The Staff then completed the processing of Silverleaf's small company rate increase request, using 1997 as the test year. The Staff acknowledged that utility plant had been in service at both Holiday Hills and Ozark Mountain as far back as 1984, and Staff made a thorough review of Silverleaf's investment in utility plant. The Staff determined that a majority of the utility plant in service at both Holiday Hills and Ozark Mountain should be classified as contributed under the provisions of the tariffs.

12. The Staff and Silverleaf reached an agreement that allowed Silverleaf to increase its annual operating revenues by \$66,416, which was based in part on the Staff's calculation of Silverleaf's rate base. The Commission approved the agreement, but did not make any specific findings regarding the value of Silverleaf's rate base. The resulting change in Silverleaf's rates became effective on September 4, 1998.

13. Silverleaf began developing the Timber Creek Resort near DeSoto in 1998. Timber Creek consists solely of timeshare units, but does also have an area for recreational vehicles and camping, and there is also a short golf course and hiking trails.

14. Silverleaf obtained a certificate of convenience and necessity to provide water and sewer service to Timber Creek. The tariffs that the Commission approved for Silverleaf provided for water mains and sewer lines to be charged to the developer who necessitated the installation of such lines, and provided that plant installed becomes utility property contributed by the developer, at no expense to the utility company. Silverleaf completed construction of water and sewer facilities to serve Timber Creek in 2001.

15. Silverleaf filed a new small company rate increase request in August 2000, seeking an increase in its rates for water and sewer service operating revenues at Holiday Hills, Ozark Mountain, and Timber Creek. The Staff updated the plant account balances that were determined in the previous case. The Staff also determined the accounts to which the additions should be classified, by applying Silverleaf's tariff regarding the extensions of mains and sewers, and updated Silverleaf's depreciation reserve. The Staff eventually determined that Silverleaf was overearning, so no rate increase was granted. However, the Staff's file on Silverleaf's request was not closed.

16. Based on its conclusion that Silverleaf was overearning, the Staff subsequently initiated an investigation of Silverleaf's water and sewer earnings in Case Nos. WC-2002-1040 and SC-2002-1039. The Staff audited Silverleaf's utility books and records, using a test year ending September 30, 2002. The Staff also updated Silverleaf's depreciation reserve balances. Mostly because Silverleaf had added plant investment after the time of the rate case, the Staff found that Silverleaf was underearning by about \$7,000 in the aggregate and encouraged Silverleaf to file a new small company rate

increase request, but Silverleaf did not do so. The Commission issued its order closing Case Nos. WC-2002-1040 and SC-2002-1039 on November 20, 2003.

17. Algonquin claims that Silverleaf attempted to file small company rate increase requests in December of 2003 and in April of 2004, but there is no record that Silverleaf did so in either instance.

18. In August 2004, Silverleaf reached an agreement to sell all of its Missouri utility properties to Algonquin Water Resources of Missouri, LLC (“Algonquin”) for the total price of \$3.8 million dollars.

19. In January 2005, Silverleaf and Algonquin filed an application with the Commission in Case No. WO-2005-0206 (the “Sale Case”), seeking authorization to transfer Silverleaf’s utility assets to Algonquin.

20. In connection with the Sale Case, the Staff submitted an update to the Commission on the rate base at Silverleaf’s Missouri resorts. The Staff filed its findings that the rate base value of Silverleaf’s assets was about \$1.4 million, and that under the terms of its agreement with Silverleaf, Algonquin would be acquiring Silverleaf’s assets at a premium of about \$2.4 million.

21. The Staff filed testimony in the Sale Case, presenting its positions on contributions in aid of construction, cost overruns on a construction project, and excess capacity issues. Algonquin was made aware of these positions prior to taking ownership of the Silverleaf properties.

22. On August 4, 2005, the Commission issued its order authorizing Silverleaf to transfer its Missouri utility assets to Algonquin.

23. On August 15, 2005, Silverleaf and Algonquin closed on their contract, and Silverleaf transferred its Missouri utility assets to Algonquin.

24. On May 5, 2006, Algonquin filed a formal rate case with the Commission in this case (Case No. WR-2006-0425). Algonquin requested a test year ending September 30, 2005, which would include 10-1/2 months of Silverleaf's operations and 1-1/2 months of Algonquin's operations.

25. The Commission subsequently approved the use of a test year ending September 30, 2005, but ordered Algonquin to update the test year data to September 30, 2006.

26. The Staff updated its calculation of rate base from the plant and reserve balances that it determined in the Sale Case, as of December 31, 2004, to the current September 30, 2006 update period.

27. Algonquin claims that Silverleaf and its predecessor, Ascension, invested substantial sums of money in utility plant that they did not include on their books as utility assets. Algonquin refers to these assets as "unrecorded plant." Algonquin claims that these assets should be included as plant in service, and as rate base, even though Silverleaf never requested the inclusion of such plant in any rate case in the past.

28. Algonquin witness Larry W. Loos testified that there was a "lack of reported investment prior to 1993," and that there is no written documentation of the amount that Algonquin's predecessors invested in this "unrecorded plant." Even though Mr. Loos determined the amount of rate base, including the "unrecorded plant," to be in excess of the purchase price of \$3.8 million, Algonquin is only requesting that its rate base be valued at the \$3.8 million purchase price plus additions since it acquired the Silverleaf

assets. Through this proposal, Algonquin is effectively requesting that its customers pay for the premium that it paid to Silverleaf for these properties.

29. Mr. Loos made a series of assumptions, virtual designs, and projections, to estimate the original cost and depreciation expense associated with the plant in service at Holiday Hills and Ozark Mountain.

30. Staff witness Graham A. Vesely testified that there was documentation for major components of the utility systems that were placed in service prior to 1993, and that this plant was properly included as plant in service and as rate base. He also testified that the Staff's audit revealed that Silverleaf's investment in the pre-1993 period consisted of: \$327,234 of water plant in service at Holiday Hills (including \$210,398 of contributed water mains); \$114,869 of water plant in service at Ozark Mountain (which did not include any contributed water mains); and \$105,132 of sewer plant in service at Ozark Mountain (including \$37,087 of contributed mains and services). All of these plant-in-service values are gross (exclusive of depreciation reserve), and the underlying plant was treated as being in service since 1984.

31. The burden of proof in a rate case is upon the applicant, pursuant to Section 393.150, RSMo. Algonquin has failed to sustain its burden of showing that there was "unrecorded plant" that should be included in Algonquin's rate base. The Commission finds that the Staff's determination of pre-1993 rate base, based upon contracts, construction records, invoices and other documentation is more credible than the Company's evidence, which is based entirely upon the assumptions and estimates of its expert witness, Mr. Loos.

32. The Commission finds that the total amount of plant in service that was installed prior to 1993 is \$543,245.

33. The Company's water facilities have excess storage capacity in the following amounts: Holiday Hills – nine percent, resulting in a rate base adjustment of \$27,846; Ozark Mountain – 68%, resulting in a rate base adjustment of \$19,318; and Timber Creek – 28%, resulting in a rate base adjustment of \$156,039. The Company's sewer facilities do not have excess capacity.

34. The excess capacity, in the total sum of \$203,203, should be booked as plant held for future use, and would thus not be included as rate base in calculating the Company's overall cost of service.

35. On December 18, 1998, Algonquin's predecessor, Silverleaf, contracted with Larry Snyder & Company ("LSC") to construct certain utility plant improvements known as the Holiday Hills Well No. 2 project for the price and sum of \$339,058. The second-low bidder on the project was Construction Management Specialists ("CMS"), who bid \$421,900 to construct this project, which was \$82,842 more than the amount of LSC's bid.

36. After Silverleaf caused numerous delays, work stoppages, and changes to the scope of the project, Silverleaf requested that LSC provide updated estimates of the cost to complete the Well No. 2 project. Silverleaf continued to delay the project, causing LSC to leave the project, and Silverleaf terminated its contract with LSC. Silverleaf then executed a new contract with CMS, the second-low bidder, to complete the work.

37. Silverleaf paid LSC \$153,412 for the work it had done on the contract, but CMS gave Silverleaf a credit of only \$111,119.94 for the work that LSC had done.

38. Silverleaf's actions that led to the termination of the contract with LSC and the execution of a new contract with CMS were not prudent.

39. By changing from the low bidder to the second-low bidder, the cost of the Holiday Hills Well No. 2 project increased by \$76,771, consisting of the difference between the low bid and the second-low bid, less some adjustments that Silverleaf and the builder agreed upon.

40. In addition, Silverleaf lost a part of the value of the work that LSC had done on the contract, in the amount of \$42,292.06, that being the difference between the amount that Silverleaf paid LSC and the amount of credit that CMS gave for the work that LSC had done.

41. The contract with LSC was supposed to be completed within six months after December 18, 1998. However due to the construction delays and poor management of the project by Silverleaf, the project was not completed until July 2002. Because of this excessive delay, Silverleaf incurred additional capitalized interest expense, in the amount of \$41,686, which was imprudently incurred.

42. Silverleaf incurred excess construction costs on the Holiday Hills Well No. 2 project in the total amount of \$161,749. That sum must be deducted from the value of the plant in service in the Holiday Hills water system when determining Algonquin's rate base.

43. Algonquin's total plant in service, including both the utility plant installed before the Commission issued its certificates of convenience and necessity to Ascension in 1994 and the utility plant it installed since that time is as follows: Holiday Hills (water) -- \$1,546,304; Ozark Mountain (water) -- \$342,956; Ozark Mountain (sewer) --

\$410,972; Timber Creek (water) -- \$865,779; and Timber Creek (sewer) -- \$786,512. Algonquin's total plant in service, at all facilities is \$3,952,523.

44. The tariffs of Algonquin's predecessor, Silverleaf, provided that when a customer requested the extension of water mains or collecting sewers to the customer, the customer must bear the cost of the extension and contribute the water mains or collecting sewers, at no cost to the utility. Such contributions are referred to as contributions in aid of construction ("CIAC"), and are not included in the rate base of the utility, because the utility has no investment in those facilities. However, Silverleaf failed to enforce the terms of its own tariff, in that it failed to record main extensions made by its affiliate development company as CIAC in accordance with the provisions of its tariff.

45. The terms of Silverleaf's tariff sheets regarding CIAC were binding upon Silverleaf. Neither Silverleaf nor Algonquin should be allowed to include the costs of these extensions of water mains and collecting sewers in rate base merely because Silverleaf failed to enforce the terms of its own tariff sheets. Doing so would result in improperly shifting the burden of paying for such extensions from the customer that requested and required them to the Company's ratepayers as a group. Algonquin will be required to record as CIAC the total cost of all such extensions that were required by the tariff sheets to be recorded as CIAC.

46. The amount that shall be recorded as net CIAC for each of Algonquin's systems is as follows: Holiday Hills (water) -- \$548,779; Ozark Mountain (water) -- \$119,771; Ozark Mountain (sewer) -- \$108,215; Timber Creek (water) -- \$241,698; and Timber Creek (sewer) -- \$191,313. The total of Algonquin's gross CIAC, for all of its

systems is \$1,555,896, and the total amount of Algonquin's CIAC (net of amortization) is \$1,209,776.

47. The proper amount of depreciation reserve for each of Algonquin's systems is as follows: Holiday Hills (water) -- \$477,865; Ozark Mountain (water) -- \$131,908; Ozark Mountain (sewer) -- \$223,647; Timber Creek (water) -- \$185,305; and Timber Creek (sewer) -- \$170,305. Algonquin's depreciation reserve, at all facilities is \$1,189,030.

48. Algonquin's rate base for each of its systems is equal to the plant in service at that facility (discussed in Paragraph 43), less net CIAC for that facility (discussed in Paragraph 46), less the depreciation reserve for that facility (discussed in Paragraph 47).

49. The net rate base for each of Algonquin's systems is as follows: Holiday Hills (water) -- \$519,660; Ozark Mountain (water) -- \$91,277; Ozark Mountain (sewer) -- \$79,110; Timber Creek (water) -- \$438,776; and Timber Creek (sewer) -- \$424,894. Algonquin's total rate base, at all facilities is \$1,553,717.

50. The Company proposed to use the capital structure of Algonquin's parent company, Algonquin Power Income Fund, which consisted of 58.21% equity and 41.79% debt (including convertible debentures) as of September 30, 2006. The Staff proposed to use a hypothetical capital structure based on a selection of comparable United States water companies, consisting of 47.88% equity and 52.12% long-term debt.

51. Algonquin Power Income Fund is a Canadian company, and it is not organized like a typical publicly traded U.S. water utility corporation, but is organized to distribute a majority of its free cash flow to shareholders. For these reasons, it is not appropriate to apply the capital structure of Algonquin Power Income Fund to its

subsidiary, the applicant in this case. The hypothetical capital structure proposed by Staff is more appropriate in this case.

52. The capital structure of Algonquin shall consist of 47.88% equity and 52.12% long-term debt.

53. Company witness Larry W. Loos recommended that the Commission allow Algonquin to earn a 12.00% return on equity ("ROE"). Staff witness Matthew Barnes recommended an ROE within the range of 8.06% to 9.06%.

54. Mr. Loos is an engineer, with a master's degree in business administration. He has been employed by Black & Veatch for 35 years, and has testified extensively in utility regulation cases, but only a few times in cases involving water or sewer companies. He has only taken one or two classes in financial analysis, and he has never taught the subject of financial analysis or written articles about it, and does not belong to any professional organizations that are related to the field of financial analysis. He has only testified on the ROE issue in about five cases, and ROE was never his primary issue in those cases.

55. Mr. Barnes has a bachelor's degree with an emphasis in accounting and a master's degree in business administration with an emphasis in accounting. He is a financial analyst by profession and has worked for the Commission as a full-time utility regulatory auditor since 2003. He has participated in four recent rate cases before the Commission and has filed testimony in several other recent cases.

56. Although Mr. Barnes has fewer total years of experience than Mr. Loos, his credentials in the field of financial analysis exceed those of Mr. Loos.

57. Mr. Loos and Mr. Barnes used similar methods to determine Algonquin's required ROE. Both selected a group of water companies that are comparable to Algonquin, and applied the Discounted Cash Flow Model ("DCF Model") to determine the ROEs for the comparable companies, and then made adjustments as they deemed appropriate to recommend the ROE for Algonquin.

58. The DCF Model sets the required ROE equal to the dividend yield on the market price of a company's stock plus the expected appreciation in the price of the stock.

59. Mr. Loos determined the dividend yield for the comparable companies to be in the range of 2.50% (based on the market price of the stock of the comparable companies) to 5.75% (based on the book values of the stock of the comparable companies). As noted in Paragraph 58, the yield is properly based on the market price of the stock. Mr. Loos erred, to the extent that he relied on book values of the stock. The Commission will therefore disregard the high end of Mr. Loos's range for the dividend yield.

60. Mr. Barnes found that the dividend yield of his comparable companies was 2.88%, which is greater than the low end of Mr. Loos's range.

61. The Commission finds that the yield on the stock of the comparable companies is 2.88%.

62. Mr. Loos estimated the growth rates of the comparable companies by first determining a range of growth rates in cash value per share, earnings per share, dividends per share, price per share, and book value per share. The average of the low ends of these ranges was 4.50% and the average of the high ends of these ranges was 7.55%. However,

Mr. Loos determined the DCF growth rate “by inspection” to be in the range of 5.50% to 9.50%. The Commission will correct this determination, to find that Mr. Loos’s growth rate range should be 4.50% to 7.55%.

63. Mr. Barnes found that the growth rate for his comparable companies was within the range of 5.16% to 6.18%. This range is narrower than Mr. Loos’s range, but the midpoint is very close to the midpoint of Mr. Loos’s range, as corrected.

64. The Commission finds that the growth rate of the comparable companies is in the range of 5.18% to 6.18%.

65. The Commission finds that Algonquin’s required ROE is in the range of 8.06% to 9.06%. The Commission will establish Algonquin’s ROE at 8.56%, the midpoint of this range.

66. Algonquin has not issued any debt in its own name. Mr. Loos testified about the embedded cost of debt for Algonquin’s parent company, Algonquin Power Income Fund. However, it is not appropriate to use the capital structure of Algonquin’s parent company, for reasons discussed above, in Paragraph 51.

67. Mr. Barnes estimated the embedded cost of long-term debt by first determining the long-term debt of his comparable companies to be 5.88%, and then adding 13 basis points to this rate, to cover debt issuance expenses, discounts, premiums, etc. He estimated the embedded cost of Algonquin’s long-term debt to be 6.01%.

68. The weighted average cost of capital for Algonquin is 7.26%, based on a capital structure consisting of 47.88% equity and 52.12% long-term debt, an ROE of 8.56%, and an embedded cost of debt of 6.01%.

69. Algonquin was qualified to file a small company rate increase request pursuant to rules of the Commission for such proceedings.

70. A small company rate increase request can be presented at very little cost to the regulated company.

71. However, Algonquin chose not to follow this procedure and elected, instead, to file a full formal rate case, because it believed that it would take too long to complete a small company rate increase request and that it would not be able to achieve a satisfactory increase through the small company rate increase process.

72. Algonquin's concerns about the small company rate increase process were not substantially justified. Staff presented evidence that small company rate increase requests are typically processed as quickly as full formal rate cases, and that the rate increases obtained in small company rate cases are similar to the rate increases obtained in full formal rate cases.

73. In order to present this rate case, Algonquin had to hire attorneys and consultants, and it incurred significant expense in doing so. Company witness Loos estimated that Algonquin's rate case expense would amount to about \$225,000. However, the Company failed to produce proof of the amount of rate case expense that it actually incurred.

74. Algonquin filed its rate case based upon a test year that included 10-1/2 months of operating data from its predecessor, Silverleaf, and 1-1/2 months of operating data from Algonquin. This operating data was not useful to the Commission, because a substantial portion of the data did not pertain specifically to Algonquin, as it represented expenses incurred prior to the sale by the previous owner of the property. It was

therefore necessary for the Company to update this data so it would include one full year of Algonquin's operations. Even though Algonquin filed its rate increase application in May 2006, it did not present its updated case with Algonquin's actual costs until October 31, 2006.

75. The Company filed its rate case prematurely, resulting in costs that were significantly greater than they would have been if Algonquin had waited until it had the opportunity to fully integrate the acquired properties into its existing operations. The rate case expense that resulted from this premature filing was imprudently incurred.

76. A significant portion of the Company's rate case expense was incurred in order to present the Company's novel and unprecedented claim that "unrecorded plant" should be included in rate base. Algonquin's "unrecorded plant" claim is an attempt to recover from the ratepayers the full price it paid for Silverleaf's assets, including the acquisition premium. The "unrecorded plant" claim was not substantially justified, and the rate case expense that the Company incurred to present this claim was imprudently incurred.

77. The Company's predecessor, Silverleaf, failed to follow the terms of its own tariff with respect to the extensions of mains and collecting sewers, which should properly have been reported as contributions in aid of construction. A significant portion of the Company's rate case expense was incurred in order to present the Company's unsubstantiated claim that these contributions should be included in rate base. This claim was not substantially justified, and the rate case expense that the Company incurred to present this claim was imprudently incurred.

78. The Company's decision to not file a small company rate increase request, and to instead file a full formal rate case was imprudent and the rate case expense associated with the full formal rate case was imprudently incurred.

79. The Commission will not allow the Company to recover any portion of its rate case expense from the ratepayers.

80. The Commission finds that it is appropriate for the Company to increase staffing for the utility operations above the staffing that Silverleaf utilized when it operated the facilities. The use of a full-time Missouri Facility Accountant is prudent, and the Company should recover the full amount of his/her payroll expense. However the Company does not need to have a full-time Wastewater/Water Utility Superintendent. Only 50% of that person's time is needed for Missouri operations; the other 50% should be devoted to Illinois operations or operations in other states. The Commission will allow Algonquin to recover the full cost of the consultant it hired to be the utility operator, who is the same operator that Silverleaf used when it owned the assets. Algonquin does not need the full services of the utility operator and the full-time services of the Wastewater/Water Utility Superintendent.

81. Algonquin's total prudently incurred expenses, including payroll expense, but before taxes, are as shown on Exhibit 28. As shown on the Accounting Schedule 8 that was prepared for each system, these amounts are as follows: Holiday Hills (water) -- \$201,538; Ozark Mountain (water) -- \$64,361; Ozark Mountain (sewer) -- \$95,557; Timber Creek (water) -- \$71,091; and Timber Creek (sewer) -- \$99,895. The total prudently incurred expenses, excluding taxes, for all systems, are \$532,442.

82. Algonquin's total income tax requirement for each system is as shown on Exhibit 28, based upon a rate of return of 7.26%. As shown on the Accounting Schedule 10 that was prepared for each system, these amounts are as follows: Holiday Hills (water) -- \$6,536; Ozark Mountain (water) -- \$930; Ozark Mountain (sewer) -- \$806; Timber Creek (water) -- \$5,119; and Timber Creek (sewer) -- \$4,328. The total income tax requirement, for all systems, is \$17,719.

83. The Company's total cost of service is equal to the sum of the rate base times the rate of return plus operating expenses (including taxes). Algonquin's cost of service is $(\$1,553,717 * .0726) + \$532,442 + \$17,719 = \$662,961$.

84. Algonquin's total current revenues are as follows: Holiday Hills (water) -- \$246,450; Ozark Mountain (water) -- \$39,053; Ozark Mountain (sewer) -- \$81,095; Timber Creek (water) -- \$23,728; and Timber Creek (sewer) -- \$40,812. Total current revenues, for all systems, are \$431,138.

85. Algonquin's revenue requirement is \$662,961 less \$431,138 or \$231,823.

86. Algonquin's systems at Holiday Hills, Ozark Mountain, and Timber Creek are not physically interconnected, and each of the systems has characteristics that are different in significant ways from the characteristics of the other systems. If the Commission imposed "single-tariff pricing" upon the facilities at Holiday Hills and Ozark Mountain, or upon the facilities at all three locations, it would result in the ratepayers in one system subsidizing the ratepayers in another system. "District-specific rates" provide the only mechanism through which customers of Algonquin can be fairly and equitably treated, and the Commission will require the use of district specific rates.

87. Staff witness Rosella Schad recommends that the Commission adopt depreciation rates that are based upon the expected service lives of the Company's plant. The Company contends that the depreciation rates need to be reduced, because the depreciation reserve represents an unreasonably high percentage of the Company's total plant. The Commission finds that the depreciation rates should be based upon the service lives of the plant, as proposed by Ms. Schad.

PROPOSED CONCLUSIONS OF LAW

1. The burden of proof in a rate case is upon the applicant. Section 393.150, RSMo.
2. Property that is not used and useful in providing utility service should not be included as plant in service or in rate base, and a company's investment in that property should not be recovered from the ratepayers. Excess storage capacity constitutes property that is not used and useful, and therefore must not be included as rate base in calculating the Company's cost of service.
3. A company may not include in its rate base plant that has been contributed by a customer, known as "CIAC."
4. Where a company's tariffs required that plant be contributed by a customer and recorded as CIAC, the company may not include such property in its rate base.
5. A company's rate base is equal to the total plant in service less certain deductions, including depreciation reserve and CIAC.
6. The Company's cost of service is equal to the product of the rate base and the weighted cost of capital added to the Company's prudently incurred operating expenses.

WHEREFORE, the Staff respectfully submits its Proposed Findings of Fact and Conclusion of Law for the Commission's consideration in this case.

Respectfully submitted,

/s/ **Keith R. Krueger**

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 26th day of February, 2007.

/s/ **Keith R. Krueger**