

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Aqua Illinois, Inc. :
: :
Proposed general increase in : Docket No. 06-0285
Water rates for the Kankakee :
Water Division. (Tariffs filed :
February 28, 2006). :

**REPLY BRIEF OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION**

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October 31, 2006

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NOW COMES the Staff of the Illinois Commerce Commission (“Staff”), through its undersigned counsel, and files its reply brief in the above referenced docket.

I. INTRODUCTION

Staff continues to advocate the entry of an order which would give effect to the Stipulation entered into between Aqua Illinois, Inc. and Staff. Although Staff is sensitive to the concerns and arguments made by the People of the County of Kankakee (“County”) in the Initial Brief of Kankakee County (“County IB”), Staff does not concur with the County’s proposed resolution of the outside legal rate expense, return on equity, and rate design issues. The Stipulation addresses the County’s concerns about the Plant Facilities Charge and the level of unaccounted for water. (See Stipulation, filed Oct. 20, 2006) Staff has fully briefed its recommended 10.45% return on common equity in its Initial Brief. (See Corrected IB, pp. 60-82) Those will not be repeated but arguments are adopted as though fully set forth herein. Staff responds to the County’s outside legal rate expense and rate design arguments below.

II. ARGUMENT

A. Rate Case Expense – Outside Legal

The County recommended that the Commission allow Aqua to recover only the amount of outside legal counsel expense that Aqua documented through the close of the evidentiary record that it had actually spent. (County IB. p. 4) While this proposal has some appeal, it is flawed from a ratemaking perspective. Unlike a historical test year, the data underlying a requested rate increase for a future test year is not based upon actual costs. Rather, it is based upon projected financial information, which, in turn, is based on assumptions and methodologies that are the result of many factors both internal and external to a company. (Staff Corrected IB, pp. 9-10) Staff witness Everson's recommendation reflected on Staff Ex. 13.0 is consistent with the concepts underlying a future test year.

Moreover, the County's position of allowing only those amounts documented as having been paid by Aqua through the closing of the evidentiary record in this proceeding does not take into consideration the fact that Aqua has incurred more outside legal costs than it had paid for as of the close of the record. The record evidence demonstrates that Aqua offered very little explanation for the process used to develop its rate case expense projection; however, the unredacted invoices did demonstrate that Aqua was incurring costs to prosecute the instant proceeding. (Staff Corrected IB, pp. 42, 44)

Taking into consideration Aqua's failure to provide supporting documentation for the development of the projection and the outside legal counsel invoices that did demonstrate that Aqua was incurring costs to process the instant proceeding, Staff witness Everson therefore recommended a

disallowance of one third of Aqua's projection for outside legal expense. (Staff Corrected IB, p. 44) Subsequent to evidentiary hearings, the Company, in order to reduce and simplify the issues in this proceeding, conserve resources, and reduce uncertainty, agreed to not contest Staff witness Everson's recommendation to reduce the outside legal expense projection by one third.

Staff's adjustment reflected on Staff Ex. 13.0 for amounts related to Aqua's outside legal counsel is supported by record evidence and should be adopted by the Commission.

In the event that the Commission chooses not to accept the settlement Stipulation or the adjustment to reduce rate case expense shown on ICC Staff Ex. 13.0, Staff continues to offer its alternative recommendation for rate case expense. Staff's alternative recommendation of \$1.40 per customer should be considered if Staff's primary recommendation is not adopted. (Staff Corrected IB, p. 53)

B. Rate Design

The County continues to favor Aqua's revised rate design methodology. The County states that Staff's proposal "would recover essentially the entire rate increase through consumption and fire protection charges. In contrast, Aqua's revised approach (citation omitted) would recover any increased revenues through a combination of meter charges, consumption charges, and fire protection charges". (County IB, p. 13) The County also contends that "customers who are not typical residential customers (for example, those who use significantly more or less water than the norm, such as large industrial

customers) would be adversely affected by Staff's proposed rate design." (County IB, p. 13)

However, as pointed out by Staff witness Luth, "[s]eparating usage costs, which are recovered through usage charge, from customer costs, which are typically recovered through the customer charges, provides a level of assurance that users of the utility service pay their proportionate costs to provide the service." (Staff Ex. 11, pp. 5-6) In other words, the customer using more should pay more. Consequently, large water users should pay more for water service because it is necessary to install shared facilities to provide a larger volume of water. *Id.* Further, the usage of more water indicates that a larger benefit is obtained from the utility service. *Id.* Moreover, the fact that a large percentage of the utility's costs are fixed is not sufficient reason to overweight customer charge revenues in relation to customer costs and underweight usage charge revenues in relation to usage or demand costs. (Staff Ex. 11, p. 6)

Although Staff is confident that its reasoning on this issue is sound, nonetheless, in the interest of compromise and in order to preserve scarce Commission resources and efficiently address issues in the proceeding, Staff compromised and agreed that customer charges can increase by the currently effective QIPS of 5 percent. Given the five percent increase in present customer charges, Aqua, also in the interest of compromise, chose not to contest rates based upon Staff's recommendations, with an adjustment to reflect the difference in revenue requirement. (Staff Corrected IB, p. 84)

With this compromise, Staff's position has moved in the direction of Aqua's revised proposal, which the County supports. (County IB, p. 13)

For all of these reasons, the agreed to stipulated position of Staff and the Company should be adopted.

III. CONCLUSION

WHEREFORE, for all the reasons set forth above, the Staff of the Illinois Commerce Commission urges that its recommendations and proposals be adopted in their entirety consistent with the arguments set forth herein.

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Respectfully submitted,



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