

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

RME Illinois, L.L.C.	:	07-0331
	:	
	:	
Petition for Issuance of Certificate of Public	:	
Convenience and Necessity to Provide	:	
Onsite Wastewater, Collection and	:	
Dispersal Services to a Parcel in Lake	:	
Villa, Lake County, Illinois Pursuant to	:	
Section 8-406 of the Illinois Public Utilities	:	
Act.	:	
	:	
	:	
RME Illinois, L.L.C.	:	07-0332
	:	
	:	
Petition for Issuance of Certificate of Public	:	
Convenience and Necessity to Provide	:	
Onsite Wastewater, Collection and	:	(Consolidated)
Dispersal Services to a Parcel in Long	:	
Grove, Lake County, Illinois Pursuant to	:	
Section 8-406 of the Illinois Public Utilities	:	
Act.	:	

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

JANIS E. VON QUALEN
JAMES V. OLIVERO
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
Phone: (217) 785-3402
(217) 785-3808
Fax: (217) 524-8928
jvonqual@icc.illinois.gov
jolivero@icc.illinois.gov

March 27, 2008

TABLE OF CONTENTS

- I. INTRODUCTION..... 1**
 - A. PROCEDURAL HISTORY 1
 - B. LEGAL STANDARDS 2
- II. DISCUSSION..... 3**
 - A. OVERVIEW OF STAFF’S POSITION 3
- III. STAFF’S POSITION 4**
 - A. NECESSARY AND LEAST-COST MEANS (SECTION 8-406(B)(1))..... 4
 - B. CAPABILITY TO EFFICIENTLY MANAGE AND SUPERVISE (SECTION 8-406(B)(2))..... 5
 - C. FINANCIAL CAPABILITY (SECTION 8-406(B)(3))..... 5
 - 1. Background..... 5
 - 2. Rate of Return on Rate Base for the Company 6
 - 3. Section 8-406(b)(3) of the Act..... 6
 - 4. Alternative Recommendation 10
 - D. ACCOUNTING..... 13
 - 1. Staff Proposed Revenue Requirements..... 13
 - 2. Journal Entries and Reporting 14
 - 3. Financial Reporting 15
 - 4. Summary 15
 - E. PROPOSED CERTIFICATED SERVICE AREAS 17
 - F. RULES, REGULATIONS, AND CONDITIONS OF SERVICE..... 17
 - G. INVESTMENT 18
 - H. SEWER MAINS 18
 - I. SEWER RATES..... 18
 - J. STAFF’S OVERALL RECOMMENDATION 20
- IV. CONCLUSION 21**

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

RME Illinois, L.L.C.	:	07-0331
	:	
	:	
Petition for Issuance of Certificate of Public	:	
Convenience and Necessity to Provide	:	
Onsite Wastewater, Collection and	:	
Dispersal Services to a Parcel in Lake	:	
Villa, Lake County, Illinois Pursuant to	:	
Section 8-406 of the Illinois Public Utilities	:	
Act.	:	
	:	
	:	
RME Illinois, L.L.C.	:	07-0332
	:	
	:	
Petition for Issuance of Certificate of Public	:	
Convenience and Necessity to Provide	:	
Onsite Wastewater, Collection and	:	(Consolidated)
Dispersal Services to a Parcel in Long	:	
Grove, Lake County, Illinois Pursuant to	:	
Section 8-406 of the Illinois Public Utilities	:	
Act.	:	

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

Pursuant to 83 Ill. Adm. Code 200.800, Staff witnesses of the Illinois Commerce Commission (“Staff”), by and through its attorneys, hereby files its Initial Brief in the above-captioned proceeding.

I. INTRODUCTION

A. Procedural History

On May 23, 2007, RME Illinois, L.L.C. (“RME” or the “Company”) filed two separate Petitions seeking issuance by the Illinois Commerce Commission (“Commission”) of Certificates of Public Convenience and Necessity (“CPCN” or

“Certificates”) pursuant to §8-406 of the Public Utilities Act (“PUA”), (220 ILCS 5/8-406), authorizing RME to own, operate and maintain facilities as an Illinois public utility and provide wastewater services to two parcels in Lake Villa and Long Grove, Lake County, Illinois, and for such further relief as may be just and reasonable.

Pursuant to proper legal notice, a pre-hearing conference was held on June 26, 2007 and several status hearings were held before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois. On December 10, 2007, the two proceedings for Lake Villa and Long Grove were consolidated. An evidentiary hearing was held on February 21, 2008. Appearances were entered and testimony was presented by RME and Staff. At the conclusion of the hearing on February 21, 2008, the matter was marked HEARD and TAKEN.

B. Legal Standards

Requests for Certificates are governed by Section 8-406 of the PUA, which provides, in part:

(b) No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or any extension or alteration thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. Whenever after a hearing the Commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto, it shall have the power to issue certificates of public convenience and necessity. The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the

proposed construction without significant adverse financial consequences for the utility or its customers.

II. DISCUSSION

A. Overview of Staff's Position

The Company is seeking two CPCN's to construct, operate, and maintain onsite wastewater, collection, and dispersal services ("Wastewater Services") for two parcels of property located in Lake Villa and Long Grove, Lake County, Illinois ("Lake County areas"). The first Wastewater System is to provide service to the Falcon Crest Subdivision ("Falcon Crest") in the Village of Lake Villa, Lake County, Illinois. The second Wastewater System is to provide service to the Eastgate Estates Subdivision ("Eastgate Estates") in the Village of Long Grove, Lake County, Illinois. Staff concurs with the Company that the proposed construction of the Wastewater Systems is necessary and least cost (see Section 8-406(b)(1)). (Staff Ex. 1.0, pp. 4-7)

The Company testified that it is capable of efficiently managing and supervising the construction process. Based on the information provided by RME, Staff opined that RME is capable of managing and supervising the construction of the Wastewater Systems for Falcon Crest and Eastgate Estates (as required by Section 8-406(b)(2)). (Staff Ex. 1.0, pp. 7-8)

The Company must be capable of financing the proposed construction without adverse financial consequences for the utility or its customers (see Section 8-406(b)(3)). As explained below, Staff's analysis led it to the conclusion that RME did not adequately address Staff's concerns regarding its ability to fund the proposed construction without adverse financial consequences for the utility or its customers. Thus, Staff recommends against a finding that RME has demonstrated that it is capable of financing the

proposed construction without significant adverse financial consequences for the utility or its customers and recommends that the Commission not grant the Certificates to RME.

If, contrary to Staff's view, the Commission finds that RME has demonstrated that it is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers and approves the Company's request for Certificates, then Staff recommends that the Commission's Order require the Company to provide the supporting documentation in compliance filings as explained below. In the event the Commission grants the Certificates, Staff also made recommendations regarding accounting entries and reporting, the certificated service areas, the rules, regulations and conditions of service, and the rates to be applied.

III. STAFF'S POSITION

A. Necessary and Least-Cost Means (Section 8-406(b)(1))

Staff witness William D. Marr testified that the Company's proposed construction of the wastewater systems is necessary to provide adequate, reliable, and efficient sewer service to the customers to be located within the proposed certificated service areas. (Staff Ex. 1.0, p. 4, ll. 85-91)

Staff witness Marr concluded that the Company's proposed wastewater systems will have sufficient capacity to meet the estimated demand from the customers within the proposed areas without the need to construct additional sewer facilities. (Staff Ex. 1.0, pp. 4-5, ll. 93-105)

Staff witness Marr determined that the Company's proposed construction of the wastewater systems constitutes the least-cost means of satisfying the sewer service needs of the customers within the proposed areas. (Staff Ex. 1.0, pp. 5-7, ll. 107-134)

B. Capability to Efficiently Manage and Supervise (Section 8-406(b)(2))

Staff witness Marr stated that the Company is capable of efficiently managing and supervising the construction necessary to provide sewer service to the proposed areas. (Staff Ex. 1.0, p. 7, ll. 136-151)

Staff witness Marr opined that the Company has a need for Certificates to provide sewer service to Falcon Crest in the Village of Lake Villa and Eastgate Estates in the Village of Long Grove in Lake County, Illinois. Staff witness Marr concluded that the Company has met the requirements set forth in Section 8-406(b)(1) and (2) of the PUA. (Staff Ex. 1.0, pp. 7-8, ll. 153-160; p. 13, ll. 277-280) The Company agreed with Staff witness Marr's conclusions. (RME Ex. RB-1, p. 2)

C. Financial Capability (Section 8-406(b)(3))

1. Background

Staff witness Rochelle Phipps recommended a rate of return on rate base for RME and evaluated the Company's financial ability to construct, operate and maintain onsite wastewater, collection and dispersal services to the Lake County areas without significant adverse financial consequences for the utility or its customers pursuant to Section 8-406(b)(3) of the PUA. (Staff Ex. 2.0, p. 2)

2. Rate of Return on Rate Base for the Company

Staff witness Phipps recommends a 9.70% rate of return on rate base for the Company. Ms. Phipps' cost of capital recommendation for the Company is based on the cost of capital for a hypothetical water utility with limited access to capital because RME's actual capital structure comprises 100% equity, which is inappropriate for ratemaking purposes. Specifically, Ms. Phipps' cost of capital recommendation for the Company is comprised of (1) a capital structure for a hypothetical water utility that is financed equally with debt and equity, which approximates the average capital structure for the water utility industry as a whole; (2) a 12.0% rate of return on common equity, which is based on a cost of equity analysis for publicly-traded water utilities, plus a liquidity premium;¹ and (3) a 7.40% cost of debt, which equals the actual cost of indebtedness for another small sewer utility. (Staff Ex. 2.0, pp. 7-8) The Company agreed with Ms. Phipps' recommendation. (RME Ex. RB-1)

3. Section 8-406(b)(3) of the Act

Staff witness Marr recommends RME invest \$465,388 in the wastewater system for Falcon Crest and \$172,508 in the wastewater system for Eastgate Estates. (Staff Ex. 1.0, p. 12) Staff witness Phipps recommends the Company demonstrate it is capable of funding Staff's recommended level of investment (*i.e.* \$637,896) without significant adverse financial consequences for the utility or its customers as required by Section 8-406(b)(3) of the PUA. (Staff Ex. 2.0, pp. 3-4)

¹ Liquidity costs arise from the probability and financial consequences of an investor's inability to sell an asset at the desired time, at a predictable price. The sample used to estimate the cost of equity comprises market-traded companies whose security prices do not reflect substantial liquidity costs. However, the security prices of small standalone companies such as RME typically reflect significant liquidity costs, which are largely due to the lack of a liquid market for their securities.

The RME partners intend to fund Staff's recommended level of investment in the Company by establishing an escrow account that would hold capital contributions that (1) are free from encumbrances; (2) represent equity in the Company; and (3) are earmarked for public utility purposes only. The Company asserts it will not borrow any funds for investment in the proposed construction, operation or maintenance of the wastewater systems that will serve the Lake County areas. (Staff Ex. 6.0, p. 3; RME Ex. RB-3, pp. 2-3)

Staff does not object to the Company's proposed method for funding Staff's recommended level of investment on its face; however, the Company has not provided any documentation to show it has done as it proposes to address Staff's concerns regarding RME's ability to satisfy the requirements of Section 8-406(b)(3) of the PUA. (Staff Ex. 8.0, pp. 3-5)

Staff also requested an opportunity to review documentation or, at minimum, specific information, relating to the Company's escrow account and line of credit so that Staff would have an opportunity, if necessary, to propose modifications that would safeguard the utility and its customers from potential significant adverse financial consequences and to ensure the escrow account and line of credit satisfy the requirements of Section 8-406(b)(3) of the PUA. (Staff Ex. 6.0, pp. 6-7)

Supporting documentation is necessary because RME's proposal to establish an escrow account provides no assurance that the Company is capable of doing so. RME is not currently an Illinois public utility and, consequently, has no existing utility operations, retained earnings or revenue. Ms. Phipps testified that until the Company

provides supporting documentation that satisfies Staff's concerns, Staff cannot recommend that the Commission find the Company is capable of funding Staff's recommended level of investment without significant adverse financial consequences to the utility or its customers. (Staff Ex. 8.0, pp. 2-3)

Recognizing the Company may not provide a copy of the escrow agreement, Staff recommended in rebuttal testimony that, at minimum, the Company provide the following information in testimony: (1) the reason it is unable to provide a copy of the escrow account agreement; (2) the name of each person and entity that will contribute capital to the escrow account; (3) the amount (in dollars) each person and entity will contribute to the escrow account; (4) a description of each and every condition attached to the funds held in the escrow account; (5) the expected date the Company will establish the escrow account; and (6) the expected date the Company will commence construction on the wastewater systems. Staff noted that the provision of this information would not necessarily demonstrate that the Company could finance the proposed construction without significant adverse financial consequences for the utility or its customers, but it would provide a more substantial framework for the Company's proposal and an opportunity for Staff to review key aspects of the escrow account sooner rather than later. (Staff Ex. 6.0, p. 8)

Ms. Phipps also recommended RME obtain a line of credit as a backup source of liquidity to fund any unanticipated expenditures. She explained that RME's proposed revenue requirement is based solely on assumptions rather than experience. Furthermore, despite RME's intention to fund all expenditures internally, borrowing funds may be necessary if the Company incurs higher costs or its revenues are lower

than the Company's financial projections assume. Absent a backup source of liquidity, higher costs or lower revenues than projected could result in significant adverse financial consequences for the utility or its customers. However, access to external funds could reduce the impact of any significant adverse financial consequences for the utility or its customers under those circumstances. Thus, Ms. Phipps recommends RME obtain a line of credit of at least \$45,000, which equals approximately one year of operating expenses (excluding depreciation and amortization) for the wastewater systems, which is designated for the sole purpose of funding expenditures relating to the Company's utility operations for the two Lake County areas at issue in the instant dockets. (Staff Ex. 2.0, pp. 4-5)

In an attempt to alleviate Staff's concerns regarding available liquidity, the Company provided Staff copies of two Letters of Credit, whose sole beneficiary is the Village of Long Grove. Staff testified that those Letters of Credit did not resolve Staff's concerns regarding the Company's ability to construct, operate and maintain the proposed wastewater systems without any significant adverse financial consequences for the utility or its customers because Staff does not believe that RME could draw upon those Letters of Credit to fund its short-term liquidity needs. (Staff Ex. 2.0, pp. 5-7)

Recognizing the Company may not provide a copy of the agreement for a line of credit agreement, Staff recommended in rebuttal testimony that the Company explain why it cannot provide the requested documentation and a letter of intent from an external lender for the line of credit that includes, at minimum, the following information: (1) the name of the lender; (2) each and every borrower under the line of credit; (3) the amount (in dollars) of the line of credit; (4) a description of each and every condition

attached to borrowings under the line of credit; (5) the expected date the Company will establish the line of credit; and (6) the expected date the Company will provide utility service to its first customer. (Staff Ex. 6.0, p. 10)

However, in testimony, RME provided neither supporting documentation nor the information Staff requested if the Company were unable to provide the requested documentation. Moreover, the Company did not provide any explanation of why it has not begun establishing the funding instruments (i.e., escrow account and line of credit) that, in Staff's view, are necessary to demonstrate that the Company is capable of funding the proposed construction without significant adverse financial consequences for the utility or its customers. (Staff Ex. 8.0, p. 2) In summary, RME did not adequately address Staff's concerns regarding its ability to fund the proposed construction without significant adverse financial consequences for the utility or its customers. Thus, Staff cannot recommend that the Commission find that RME has demonstrated it is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers. For that reason, Staff opposes the Company's request for Certificates to construct, operate and maintain wastewater systems for the Lake County areas. (Staff Ex. 8.0, p. 5)

4. Alternative Recommendation

If, contrary to Staff's view, the Commission finds that RME has demonstrated that it is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers and grants the Company's request for Certificates, then Staff recommends the Commission's Order require the Company to provide the supporting documentation in compliance filings. Ms. Phipps explained that

requiring compliance reports would benefit the Commission by providing information to the Commission on the status of the Company's escrow account and allowing the Commission to review the final terms of the escrow account once it is established. The disadvantage of requiring compliance reports in comparison to reviewing such documentation during the course of the Certificate proceedings is that compliance reports do not provide the opportunity for Staff to recommend modifications that would safeguard ratepayers' interests should the terms of the escrow account or the terms for a line of credit fail to do so sufficiently. (Staff Ex. 6.0, pp. 8-10)

Thus, if the Commission grants the Company Certificates, then Staff recommends the Commission's Order *require* the Company to file compliance reports regarding both the escrow account and the letter of credit with the Chief Clerk and Manager of the Finance Department.

A compliance report should be required to be filed with the Chief Clerk and Manager of the Finance Department within 10 business days of establishing the escrow account, which escrow account should be established no later than the date on which the Company commences construction on the wastewater systems. The compliance report should include the following information: (1) a copy of the escrow account agreement; (2) the name of each person and entity that contributed capital to the escrow account; (3) the amount (in dollars) each person or entity contributed to the escrow account; (4) a description of each and every condition attached to the funds held in the escrow account; and (5) the date on which the Company commenced construction on the wastewater systems. Such compliance report should be filed in

connection with Docket Nos. 07-0331/0332 (consolidated) and include verification from Mr. Olson. (Staff Ex.6.0, pp. 8-9)

In addition, a compliance report should be filed with the Chief Clerk and Manager of the Finance Department within 10 business days of establishing the line of credit, which line of credit should be established no later than the date on which the Company provides utility service to its first customer. The compliance report should include (1) a copy of the agreement establishing the line of credit, (2) the dollar amount of the line of credit, (3) a description of each and every condition attached to borrowings under the line of credit; and (4) the date on which the Company provides utility service to its first customer. The compliance report should be filed in connection with Docket Nos. 07-0331/0332 (consolidated) and include verification from Mr. Olson. (Staff Ex. 6.0, pp. 10-11)

If the Commission grants the Certificates, Staff also recommends the Commission require the Company to file status reports on March 31, June 30, September 30 and December 31 of each year until the Company establishes the escrow account. Those status reports should include verification from Mr. Olson that indicates the Company has not established the escrow account and the utility has not commenced construction on the wastewater systems. Similarly, Staff recommends the Commission require the Company to file reports on March 31, June 30, September 30 and December 31 of each year until the Company establishes the line of credit. Each status report should include verification from Mr. Olson that indicates the Company has not established a line of credit and the utility is not providing utility service to any customers. (Staff Ex. 6.0, pp. 9 and 11)

Finally, Staff recommends that in the event the Commission grants the Certificates, the Commission's Order should (1) accept Staff's recommendation regarding the date on which the escrow account should be established and reject Mr. Olson's proposal to meet certain conditions prior to establishing the escrow account; and (2) adopt the compliance filing requirements as set forth in ICC Staff Ex. 6.0 to avoid any confusion on the information that should be provided in those filing requirements. (Staff Ex. 8.0, pp. 4-5)

D. Accounting

1. Staff Proposed Revenue Requirements

Staff prepared revenue requirement schedules including adjustments for payroll tax expense, depreciation expense, materials and supplies expense, advertising expense, a working capital allowance, plant in service adjustments, and contributions in aid of construction, for Falcon Crest and Eastgate Estates (Attachments A & B) because the Company's proposed revenue requirement calculations were not in the traditional format for presenting a revenue requirement and omitted certain components of the Company's cost of service. Staff's schedules are consistent with the revenue requirement format traditionally used in setting rates at the Commission and calculate revenue requirements based upon the limited information the Company provided. In addition, because there is no other wastewater system similar to Falcon Crest and Eastgate Estates that exists in Illinois (Staff Ex. 1.0, p. 12), Staff was unable to recommend the adoption of rates already in use for a similar wastewater system operating in Illinois as is the traditional practice for newly certificated service areas. Thus, completely new rates have been calculated for the Commission's consideration if

the requested Certificates are granted. In rebuttal testimony, Company witness Olson accepted the rates that were derived from the Staff prepared revenue requirement schedules. (RME Ex. RB-1)

2. Journal Entries and Reporting

In the Company's initial filing, it indicated that 100% of plant in service would be contributed by the developer of the subdivisions. As the case progressed, the Company agreed that the entire cost of utility plant would not be contributed by the developer. Staff recommended that the cost of the entire sewer system be debited to the appropriate detailed plant accounts as set forth in the Uniform System of Accounts for Sewer Utilities Operating in Illinois with the summation of those accounts being included in Account 101, Sewer Utility Plant. The investment to be made by the Company, as proposed by Staff, should be credited to Account 131, Cash and the remaining investment, the contribution from the developer, be credited to Account 271, Contribution in Aid of Construction. The Company agreed to record the journal entries as proposed by Staff. (RME Ex. RB-1)

Staff also recommended that, within six months of closing the transactions, RME file with the Chief Clerk of the Commission, with a copy to the Manager of Accounting, copies of actual accounting journal entries used to record the acquisition of the wastewater systems. If the transactions have not occurred within six months of the order date in this proceeding, then RME should file a report regarding the status of the transaction within six (6) months from the date of the order in this proceeding and every

six (6) months thereafter until the actual journal entries have been filed with the Commission. The Company similarly agreed to this recommendation. (RME Ex. RB-1)

3. Financial Reporting

Staff recommended that RME provide to the Chief Clerk of the Commission, with a copy to the Manager of Accounting, by March 31 and September 30 of each year, a copy of actual financial information through June 30 and December 31, for the two wastewater systems until the Commission makes a revenue requirement determination in a rate proceeding. The financial information should include, but not be limited to, the aggregated plant investment, annual revenues, direct expenses, allocated expenses, Contributions in Aid of Construction, and number of customers. In addition, the report should include an explanation of any significant changes in the status or operations of the systems. This will allow the Commission to determine whether the rates granted in this proceeding need to be reassessed. In order that RME be able to fulfill these financial reporting requirements, Staff suggested that RME retain the services of a certified public accountant familiar with public utility regulation in Illinois to set up the books for RME and advise the Company on matters of reporting to the Commission. The Company agreed to the specific reporting recommended by Staff as well as to consult with a certified public accountant familiar with public utility regulation and reporting. (RME Ex. RB-1 and Staff Ex. 7.0, Attachments A and B)

4. Summary

If the Commission grants the requested Certificates, Staff, with the agreement of RME (RME Ex. RB-1), makes the following recommendations that the Commission:

- 1) Approve the Revenue Requirements proposed by Staff as reflected on Attachments A and B;
- 2) Approve the proposed accounting journal entries to record the projected original cost of the Falcon Crest and Eastgate Estate wastewater systems as set forth in Staff Ex. 3.0, Schedules 3.14 (FC) and 3.14(EE);
- 3) Order RME to file with the Chief Clerk of the Commission, with a copy to the Manager of Accounting, copies of actual accounting journal entries used to record the wastewater systems within six months of closing the transactions and if the transactions have not occurred within six months of the order date in this proceeding, then order RME to file a report regarding the status of the transaction within six (6) months from the date of the order in this proceeding and every six (6) months thereafter until the actual journal entries have been filed with the Commission;
- 4) Require RME to provide actual financial information to the Chief Clerk of the Commission, with a copy to the Manager of Accounting, concerning the Falcon Crest and Eastgate Estate wastewater systems by March 31st and September 30th of each year until rates are set in a future rate case; and
- 5) Recommend that RME retain the services of a certified public accountant familiar with public utility regulation in Illinois to set up the books for RME and advise the Company on matters of reporting to the Commission.

E. Proposed Certificated Service Areas

If the Commission grants the Certificates, Staff witness Marr recommended that the Commission approve the Company's proposed certificated service areas, which are shown on the maps identified as Revised Exhibit A of the Petition and legally described in Exhibit B of the Petition. (Staff Ex. 1.0, pp. 8-9, ll. 164-188; p. 14, ll. 281-284)

F. Rules, Regulations, and Conditions of Service

If the Commission grants the Certificates, Staff witness Marr recommended that the Commission approve the Company's proposed Rules, Regulations, and Conditions of Service tariffs for sewer service. These tariffs were compiled previously by Staff, provided to other Illinois regulated utilities, and approved by the Commission in numerous Docketed proceedings, most recently in Docket No. 06-0522 for Rockwell Utilities, LLC. (Staff Ex. 1.0, pp. 9-10, ll. 192-210; p. 14, ll. 286-288)

Staff witness Marr recommended that the Commission order the Company to file the Rules, Regulations, and Conditions of Service tariffs for sewer service, within ten (10) days of the final Order, with an effective date of not less than five (5) working days after the date of filing, for service rendered on and after their effective date, with individual tariff sheets to be corrected within that time period, if necessary. (Staff Ex. 1.0, pp. 10-11, ll. 212-217; p. 14, ll. 290-294) The Company agreed with Staff witness Marr's recommendation. (RME Ex. RB-1, p. 2)

G. Investment

Staff witness Marr recommended that the Company invest \$465,388 in the wastewater system for Falcon Crest and \$172,508 in the wastewater system for Eastgate Estates. Because there are no other wastewater systems similar to Falcon Crest and Eastgate Estates that exist in Illinois, nor are there any Commission rules that apply to sewer utilities, Staff witness Marr relied upon 83 Ill. Adm. Code 600.370 (Service to New Customers) of the Commission's regulations as investment policy. 83 Ill. Adm. Code 600.370(a) requires the utility to provide all backbone plant (treatment – central plant costs) at its cost and expense without requiring contributions from developers. The recommended level of investment is the amount that the Company has described as central plant costs, which is what Staff has determined is backbone plant for the proposed wastewater systems. (Staff Ex. 1.0, pp. 11-13, ll. 219-263; p. 14, ll. 296-298) The Company agreed with Staff witness Marr's recommendation. (RME Ex. RB-1, p. 2)

H. Sewer Mains

Staff witness Marr verified that the proposed 2-inch in diameter sewer mains are sized to comply with good engineering principles in order to meet each proposed subdivision's service requirements. (Staff Ex. 1.0, p. 13, ll. 265-272)

I. Sewer Rates

Staff witness Luth determined that, based upon Staff's revenue and investment recommendations, rates at Falcon Crest should be \$166.56 per month and \$263.19 per

month at Eastgate Estates. (Staff Ex. 4.0, p. 3, ll. 27-31) As Mr. Luth noted, those rates for wastewater service are considerably higher than other wastewater service rates regulated by the Commission. For example, sewer or wastewater rates applicable to residential customers under Commission regulation range from \$23.97 per month at the Aqua Illinois, Inc. Ivanhoe Club development, \$50.70 per month in the Village of Hawthorn Woods served by Aqua Illinois, Inc., \$43.02 per month at the Harbor Ridge subdivision served by Utilities, Inc., and \$45.52 in the Chicago area served by Illinois-American Water Company. (Id., at 6, ll. 85-92) However, with no other apparent options for sewer or wastewater service, RME appears to be the only choice available to Eastgate Estates and Falcon Crest customers.

In rebuttal testimony, RME witness Olson stated that, based upon Staff's revenue requirement and investment recommendations, he agreed with the rates recommended by Staff witness Luth. (RME Ex. RB-1, at 3) Mr. Olson indicated that he had informed the developers of Eastgate Estates and Falcon Crest that he had accepted Staff's recommended rates. (Staff Ex. 5.0, p. 3 ll. 24-30) Staff witness Luth confirmed that the Eastgate Estates and Falcon Crest developers had been notified of the rates that would be in effect at their respective developments. (Id., p. 3, ll. 31- 4, ll. 55) While the rates are necessary to properly operate and maintain the RME wastewater systems at Eastgate Estates and Falcon Crest, the sizeable nature of those rates appears to push the boundary of affordability to residing in those developments and are therefore probably more than just an afterthought in deciding whether to proceed with the purchase of a house at Eastgate Estates or Falcon Crest.

If the Commission grants RME a Certificate to provide wastewater service at the Eastgate Estates and Falcon Crest developments, rates recommended by Staff witness Luth and accepted by RME witness Olson should be in effect at the time RME begins to provide service. At \$166.56 per month at Eastgate Estates and \$263.19 per month at Falcon Crest, those rates are considerably higher than at other service areas regulated by the Commission. Potential customers should be able to expect that RME service is adequate and reliable. Given the magnitude of RME rates that would be in effect at Eastgate Estates and Falcon Crest, it is imperative that RME demonstrate that it is financially capable of operating and maintaining the Eastgate Estates and Falcon Crest wastewater systems.

J. Staff's Overall Recommendation

Staff recommends that the Commission deny RME's request for Certificates to serve the Lake County areas because RME has not demonstrated that it is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

If, contrary to Staff's view, the Commission finds that RME has demonstrated that it is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers and approves the Company's request for Certificates, then Staff recommends that the Commission's Order require the Company to provide the supporting documentation in compliance filings as explained above. In the event the Commission grants the Certificates, Staff also made recommendations regarding accounting entries and reporting, the certificated service areas, the rules, regulations and conditions of service, and the rates to be applied.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, Staff of the Commission respectfully requests that the Commission deny issuance of Certificates as requested by RME, and adopt Staff's recommendations in its Order in this matter.

Respectfully submitted,



Janis E. von Qualen
James V. Olivero
Counsel for the Staff

March 27, 2008

JANIS E. VON QUALEN
JAMES V. OLIVERO
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
Phone: (217) 785-3402
Phone: (217)785-3808
jvonqual@icc.illinois.gov
jolivero@icc.illinois.gov

Falcon Crest
Statement of Operating Income with Adjustments
For the Test Year Ending December 31, 2008

Line No.	Description	Company Proposed (Co. Ex. 1.01-C)	Staff Adjustments (Sch. 3.02 (FC))	Company Proposed with Staff Adjustments (Cols. b+c)	Staff Adjustment To Proposed Revenues	Staff Proposed (Cols. d+e)
	(a)	(b)	(c)	(d)	(e)	(f)
1	Wastewater Service Revenues	\$ 52,340	-	\$ 52,340	\$ 35,603	\$ 87,943
2	Other Operating Revenues	-	-	-	-	-
3	Total Operating Revenue	<u>52,340</u>	<u>-</u>	<u>52,340</u>	<u>35,603</u>	<u>87,943</u>
4		-	-	-	-	-
5	Salaries & Wages Expense	11,900	-	11,900	-	11,900
6	Sludge Removal	2,700	-	2,700	-	2,700
7	Purchased Power	1,700	-	1,700	-	1,700
8	Materials & Supplies Expense	800	(250)	550	-	550
9	Contractual Services	1,588	-	1,588	-	1,588
10	Insurance	1,200	-	1,200	-	1,200
11	Depreciation & Amortization Expense	5,280	4,028	9,308	-	9,308
12	Regulatory Assessment Fees	532	-	532	-	532
13	Payroll Taxes	-	910	910	-	910
14	Advertising Expense	<u>1,000</u>	<u>(1,000)</u>	<u>-</u>	<u>-</u>	<u>-</u>
15	Total Operating Expense					
16	Before Income Taxes	26,700	3,688	30,388	-	30,388
17	State Income Tax	808	(1,498)	(690)	2,599	1,909
18	Federal Income Tax	9,400	(2,855)	6,545	4,951	11,496
19	Deferred Taxes and ITCs Net	-	-	-	-	-
20	Total Operating Expenses	<u>36,908</u>	<u>(665)</u>	<u>36,243</u>	<u>7,550</u>	<u>43,793</u>
21	NET OPERATING INCOME	<u>\$ 15,432</u>	<u>\$ 665</u>	<u>\$ 16,097</u>	<u>\$ 28,053</u>	<u>\$ 44,150</u>
22	Staff Rate Base (ICC Staff Exhibit 3.0, Schedule 3.03 (FC), Column (d), Line 22)				\$	455,155
23	Staff Overall Rate of Return (ICC Staff Exhibit 2.0)					9.70%
24	Co. Rate Base (Sch 3.03 (FC), Col (b), Line 22)	\$ 255,160				
25	Co. Overall Rate of Return (1)	6.05%				
26	Revenue Change (Col. (f) Line 3 minus Col. (d), Line 3)				\$	35,603
27	Percentage Change (Col. (f), Line 24 divided by Col. (d), line 3)					68.02%

Note (1) Line 21 divided by line 24

Falcon Crest
Adjustments to Operating Income
For the Test Year Ending December 31, 2008

Line No.	Description	Interest Synchronization	Payroll Taxes	Depreciation Expense	Mats & Supp Expense	Advertising Expense	(Source)	(Source)	Subtotal Operating Statement Adjustments
		(Sch 3.05 (FC))	(Sch 3.07 (FC))	(Sch 3.08 (FC))	(Sch 3.09 (FC))	(Sch 3.10 (FC))	(g)	(h)	(i)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	Wastewater Service Revenues	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	Other Operating Revenues	-	-	-	-	-	-	-	-
3	Total Operating Revenue	-	-	-	-	-	-	-	-
4		-	-	-	-	-	-	-	-
5	Salaries & Wages Expense	-	-	-	-	-	-	-	-
6	Sludge Removal	-	-	-	-	-	-	-	-
7	Purchased Power	-	-	-	-	-	-	-	-
8	Materials & Supplies Expense	-	-	-	(250)	-	-	-	(250)
9	Contractual Services	-	-	-	-	-	-	-	-
10	Insurance	-	-	-	-	-	-	-	-
11	Depreciation & Amortization Expense	-	-	4,028	-	-	-	-	4,028
12	Regulatory Assessment Fees	-	-	-	-	-	-	-	-
13	Payroll Taxes	-	910	-	-	-	-	-	910
14	Advertising Expense	-	-	-	-	(1,000)	-	-	(1,000)
15	Total Operating Expense	-	-	-	-	-	-	-	-
16	Before Income Taxes	-	910	4,028	(250)	(1,000)	-	-	3,688
17	State Income Tax	(1,229)	(66)	(294)	18	73	-	-	(1,498)
18	Federal Income Tax	(2,342)	(127)	(560)	35	139	-	-	(2,855)
19	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
20	Total Operating Expenses	(3,571)	717	3,174	(197)	(788)	-	-	(665)
21	NET OPERATING INCOME	\$ 3,571	\$ (717)	\$ (3,174)	\$ 197	\$ 788	\$ -	\$ -	\$ 665

Falcon Crest
Rate Base
For the Test Year Ending December 31, 2008

Line No.	Description	Company Proposed Rate Base (Co response to Staff DR TEE 3.11)	Staff Adjustments (Sch. 3.04 (FC))	Staff Proposed Rate Base (Col. b+c)
	(a)	(b)	(c)	(d)
1	Gross Utility Plant	\$ 465,388	\$ 363,612	\$ 829,000
2	Accumulated Depreciation and Amortization	<u>(10,591)</u>	<u>(7,272)</u>	<u>(17,863)</u>
3	Net Plant	454,797	356,340	811,137
4	Additions to Rate Base			
5	Working Capital	-	2,635	2,635
6		-	-	-
7		-	-	-
8		-	-	-
9		-	-	-
10		-	-	-
11	Deductions From Rate Base			
12	Contributions in Aid of Construction	(201,388)	(162,224)	(363,612)
13	Accumulated Amortization	4,028	3,244	7,272
14		-	-	-
15	Customer Deposits	(2,277)	-	(2,277)
16		-	-	-
17		-	-	-
18		-	-	-
19		-	-	-
20		-	-	-
21		<u>-</u>	<u>-</u>	<u>-</u>
22	Rate Base	<u>\$ 255,160</u>	<u>\$ 199,995</u>	<u>\$ 455,155</u>

Falcon Crest
Adjustments to Rate Base
For the Test Year Ending December 31, 2008

Line No.	Description	Cash Working Capital (Sch. 3.11 (FC))	Plant in Service (Sch. 3.12 (FC))	CIAC (Sch. 3.13 (FC))	(Source)	(Source)	(Source)	Total Rate Base Adjustments
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Gross Utility Plant	\$ -	\$ 363,612	\$ -	\$ -	\$ -	\$ -	\$ 363,612
2	Accumulated Depreciation and Amortization	-	(7,272)	-	-	-	-	(7,272)
3	Net Plant	-	356,340	-	-	-	-	356,340
4	Additions to Rate Base							
5	Working Capital	2,635	-	-	-	-	-	2,635
6		-	-	-	-	-	-	-
7		-	-	-	-	-	-	-
8		-	-	-	-	-	-	-
9		-	-	-	-	-	-	-
10		-	-	-	-	-	-	-
11	Deductions From Rate Base							
12	Contributions in Aid of Construction	-	-	(162,224)	-	-	-	(162,224)
13	Accumulated Amortization	-	-	3,244	-	-	-	3,244
14		-	-	-	-	-	-	-
15	Customer Deposits							
16		-	-	-	-	-	-	-
17		-	-	-	-	-	-	-
18		-	-	-	-	-	-	-
19		-	-	-	-	-	-	-
20		-	-	-	-	-	-	-
21		-	-	-	-	-	-	-
22	Rate Base	\$ 2,635	\$ 356,340	\$ (158,980)	\$ -	\$ -	\$ -	\$ 199,995

Eastgate Estates
Statement of Operating Income with Adjustments
For the Test Year Ending December 31, 2008

Line No.	Description	Company Proposed (Co. Exhibit 1.01-C)	Staff Adjustments (Sch. 3.02 (EE))	Company Proposed with Staff Adjustments (Cols. b+c)	Staff Adjustment To Proposed Revenues	Staff Proposed (Cols. d+e)
	(a)	(b)	(c)	(d)	(e)	(f)
1	Wastewater Service Revenues	\$ 10,706	-	\$ 10,706	\$ 17,719	\$ 28,425
2	Other Operating Revenues	-	-	-	-	-
3	Total Operating Revenue	10,706	-	10,706	17,719	28,425
4		-	-	-	-	-
5	Salaries & Wages Expense	2,450	-	2,450	-	2,450
6	Sludge Removal	540	-	540	-	540
7	Purchased Power	350	-	350	-	350
8	Materials & Supplies Expense	300	(150)	150	-	150
9	Contractual Services	318	-	318	-	318
10	Insurance	260	-	260	-	260
11	Depreciation & Amortization Expense	1,080	2,370	3,450	-	3,450
12	Regulatory Assessment Fees	172	-	172	-	172
13	Payroll Taxes	-	187	187	-	187
14	Advertising Expense	210	(210)	-	-	-
15	Total Operating Expense					
16	Before Income Taxes	5,680	2,198	7,878	-	7,878
17	State Income Tax	163	(621)	(458)	1,293	835
18	Federal Income Tax	1,900	(1,183)	717	2,464	3,181
19	Deferred Taxes and ITCs Net	-	-	-	-	-
20	Total Operating Expenses	7,743	394	8,137	3,757	11,894
21	NET OPERATING INCOME	\$ 2,963	\$ (394)	\$ 2,569	\$ 13,962	\$ 16,531
22	Staff Rate Base (Sch 3.03 (EE), Col (d), Line 22)					\$ 170,427
23	Staff Overall Rate of Return (ICC Staff Exhibit 2.0)					9.70%
24	Co. Rate Base (Sch 3.03(EE), Col (b), Line 22)	\$ 53,736				
25	Co. Overall Rate of Return (1)	5.51%				
26	Revenue Change (Col. (f) Line 3 minus Col. (d), Line 3)				\$ 17,719	
27	Percentage Change (Col. (f), Line 24 divided by Col. (d), line 3)				165.51%	

Note (1) Line 21 divided by line 24

Eastgate Estates
Adjustments to Operating Income
For the Test Year Ending December 31, 2008

Line No.	Description	Interest Synchronization	Payroll Taxes	Depreciation Expense	Mats & Supp Expense	Advertising Expense	(Source)	(Source)	Subtotal Operating Statement Adjustments
		(Sch 3.05 (EE))	(Sch 3.07 (EE))	(Sch 3.08 (EE))	(Sch 3.09 (EE))	(Sch 3.10 (EE))	(g)	(h)	(i)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	Wastewater Service Revenues	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	Other Operating Revenues	-	-	-	-	-	-	-	-
3	Total Operating Revenue	-	-	-	-	-	-	-	-
4		-	-	-	-	-	-	-	-
5	Salaries & Wages Expense	-	-	-	-	-	-	-	-
6	Sludge Removal	-	-	-	-	-	-	-	-
7	Purchased Power	-	-	-	-	-	-	-	-
8	Materials & Supplies Expense	-	-	-	(150)	-	-	-	(150)
9	Contractual Services	-	-	-	-	-	-	-	-
10	Insurance	-	-	-	-	-	-	-	-
11	Depreciation & Amortization Expense	-	-	2,370	-	-	-	-	2,370
12	Regulatory Assessment Fees	-	-	-	-	-	-	-	-
13	Payroll Taxes	-	187	-	-	-	-	-	187
14	Advertising Expense	-	-	-	-	(210)	-	-	(210)
15	Total Operating Expense	-	-	-	-	-	-	-	-
16	Before Income Taxes	-	187	2,370	(150)	(210)	-	-	2,198
17	State Income Tax	(460)	(14)	(173)	11	15	-	-	(621)
18	Federal Income Tax	(877)	(26)	(330)	21	29	-	-	(1,183)
19	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
20	Total Operating Expenses	(1,337)	147	1,867	(118)	(166)	-	-	394
21	NET OPERATING INCOME	\$ 1,337	\$ (147)	\$ (1,867)	\$ 118	\$ 166	\$ -	\$ -	\$ (394)

Eastgate Estates
Rate Base
For the Test Year Ending December 31, 2008

Line No.	Description	Company Proposed Rate Base (Co response to Staff DR TEE 3.11)	Staff Adjustments (Sch. 3.04 (EE))	Staff Proposed Rate Base (Col. b+c)
	(a)	(b)	(c)	(d)
1	Gross Utility Plant	\$ 172,508	\$ 84,492	\$ 257,000
2	Accumulated Depreciation and Amortization	<u>(2,166)</u>	<u>(1,690)</u>	<u>(3,856)</u>
3	Net Plant	170,342	82,802	253,144
4	Additions to Rate Base			
5	Working Capital	-	553	553
6		-	-	-
7		-	-	-
8		-	-	-
9		-	-	-
10		-	-	-
11	Deductions From Rate Base			
12	Contributions in Aid of Construction	(118,508)	34,016	(84,492)
13	Accumulated Amortization	2,370	(680)	1,690
14		-	-	-
15	Customer Deposits	(468)	-	(468)
16		-	-	-
17		-	-	-
18		-	-	-
19		-	-	-
20		-	-	-
21		<u>-</u>	<u>-</u>	<u>-</u>
22	Rate Base	<u>\$ 53,736</u>	<u>\$ 116,691</u>	<u>\$ 170,427</u>

Eastgate Estates
Adjustments to Rate Base
For the Test Year Ending December 31, 2008

Line No.	Description	Cash Working Capital (Sch. 3.11 (EE))	Plant in Service (Sch. 3.12 (EE))	CIAC (Sch. 3.13 (EE))	(Source)	(Source)	(Source)	Total Rate Base Adjustments
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Gross Utility Plant	\$ -	\$ 84,492	\$ -	\$ -	\$ -	\$ -	\$ 84,492
2	Accumulated Depreciation and Amortization	-	(1,690)	-	-	-	-	(1,690)
3	Net Plant	-	82,802	-	-	-	-	82,802
4	Additions to Rate Base							
5	Working Capital	553	-	-	-	-	-	553
6		-	-	-	-	-	-	-
7		-	-	-	-	-	-	-
8		-	-	-	-	-	-	-
9		-	-	-	-	-	-	-
10		-	-	-	-	-	-	-
11	Deductions From Rate Base							
12	Contributions in Aid of Construction	-	-	34,016	-	-	-	34,016
13	Accumulated Amortization	-	-	(680)	-	-	-	(680)
14		-	-	-	-	-	-	-
15	Customer Deposits	-	-	-	-	-	-	-
16		-	-	-	-	-	-	-
17		-	-	-	-	-	-	-
18		-	-	-	-	-	-	-
19		-	-	-	-	-	-	-
20		-	-	-	-	-	-	-
21		-	-	-	-	-	-	-
22	Rate Base	<u>\$ 553</u>	<u>\$ 82,802</u>	<u>\$ 33,336</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 116,691</u>