

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

APPLE CANYON UTILITY COMPANY	§	
	§	Docket No. 09-0548
Proposed general increase in water rates.	§	
	§	

LAKE WILDWOOD UTILITIES CORPORATION	§	
	§	Docket No. 09-0549
Proposed general increase in water rates.	§	
	§	

**INITIAL HEARINGS BRIEF
ON BEHALF OF
LAKE WILDWOOD ASSOCIATION AND
APPLE CANYON LAKE PROPERTY OWNERS' ASSOCIATION**

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I. The ICC Should Reduce the Rate Increases Requested by Both Utilities Beyond the Reductions Proposed by the ICC Staff.

Lake Wildwood Utilities Corporation (LWUC) and Apple Canyon Utility Company (ACUC) initially filed requests with the Illinois Commerce Commission (ICC or Commission) for triple-digit rate increases for customers. Docket Nos. 09-0548 and 09-0549 were consolidated for purposes of hearing because both utilities receive all services from Utilities, Inc., their parent, and because Utilities, Inc. instituted a new billing program common to all of its utilities throughout the country and a new companywide accounting system, with the costs of both allocated among all Utilities, Inc.-owned utilities. This brief will address issues common to both LWUC and ACUC and the issues specific to each utility.

The ICC Staff in its testimony recommended reductions to the utilities' requests, which still would result in increases to customers in the high double-digit range. Lake Wildwood Association (LWA) and Apple Canyon Lake Property Owners' Association (ACLPOA) believe

the ICC should not stop at the ICC Staff recommendations, but rather the Commission should make further reductions to the utilities' requested rate increases, including:

- Disallowing any recovery of the costs of Utilities, Inc.'s new customer billing software program that have been allocated to ACUC and LWUC because the program is neither appropriate nor useful for ACUC's and LWUC's customers. When compared to the ICC Staff's recommendation, this adjustment reduces ACUC's rate base by \$64,228, ACUC's depreciation expense by \$9,178, LWUC's rate base by \$34,081, and LWUC's depreciation expense by \$4,870. See Appendix to this brief.
- Disallowing any recovery of the costs associated with Utilities, Inc.'s use of a new accounting software program because the program is neither appropriate nor useful for ACUC's and LWUC's customers. When compared to the ICC Staff's recommendation, this adjustment reduces ACUC's rate base by \$129,168, ACUC's depreciation expense by \$18,458, LWUC's rate base by \$68,540, and LWUC's depreciation expense by \$9,782. See Appendix to this brief.
- Eliminating the costs associated with the multiple layers of managers in the parent company—especially managers for large capital improvement projects—because neither ACUC nor LWUC had a major construction program during the test year nor do they plan to have any major construction projects in the foreseeable future. Rather than attempting to parse the specific job responsibilities of each employee at each layer of Utilities, Inc.'s management, LWA/ACLPOA submit that a reasonable adjustment is to eliminate all costs associated with Utilities, Inc.'s

Northbrook employees. When compared to the ICC Staff's recommendation, this adjustment reduces ACUC's expenses by \$49,799 and LWUC's expenses by \$26,559. See Staff Ex. 8.0C, Schedules 8.5AC and 8.5LW. See Appendix to this brief.

- Reducing rate case expenses that are disproportionately high as compared to the increase requested and the number of customers served, and disallowing rate case expenses that are not justified and fully detailed as required by statute. When compared to the ICC Staff's recommendation, this adjustment reduces ACUC's annual rate case expenses by \$7,061 and LWUC's annual rate case expenses by \$12,895. See Appendix to this brief.

The Commission also should reduce the rate of return granted to the utilities beyond the rate proposed by the ICC Staff because the utilities and their parent have failed to exercise prudent operational and financial management. The management failure has resulted in persistently high and excessive unaccounted for water, repeated violations of the Commission's own rule at Section 600.240, and inappropriate and excessive expenditures allocated by Utilities, Inc. to LWUC and ACUC. The Commission should not reward the utilities for management failure by granting them a high rate of return. Specifically, LWA/ACLPOA recommends that the return on equity should be set at the low end of the ICC Staff's return on equity analysis, which is 9.41 percent rather than at the average of the ICC Staff's analysis, which is 9.82 percent.

In addition, the Commission should:

- Require ACUC and LWUC to comply fully with the ICC-required annual inspection program for critical valves and require that appropriate repairs be made to defective and/or uninspected valves.
- Require the utilities to take appropriate measures to reduce the unaccounted for water.

As will be detailed in this initial hearing's brief, the result of these adjustments is that ACUC should receive a rate increase of no more than \$76,547, or 27.70 percent and LWUC should receive an increase of no more than \$43,788 or 22.04 percent, as summarized in the Appendix to this initial brief.

II. Both Utilities Inappropriately Seek To Impose Triple-Digit Increases on Ratepayers.

A. ACUC's initial request would hike rates by 275 percent for the average active user.

ACUC serves the Apple Canyon Lake development in Jo Daviess County. The lake community has 2,700 acres of land and a dam across the Hell's Branch Creek, which creates Apple Canyon Lake. Lange Direct, ACLPOA Ex. 1 at 2/18-21. The development was created in 1969 and was sold to ACLPOA in 1975. ACLPOA is a not-for-profit Illinois corporation run by and for the benefit of all property owners in the community. Membership is mandatory and the association is responsible for the enforcement of covenants and restrictions, as well as maintaining common property and amenities. Lange Direct, ACLPOA Ex. 1 at 2/22-27. Until 2001, residential construction in the community averaged about 19 new units per year. In the past several years, construction has decreased with only one or two new homes per year. About half of the residents are permanent. Lange Direct, ACLPOA Ex. 1 at 2/28-34. Water service to

Apple Canyon is provided by ACUC, which serves about 890 active water customers and 1,800 availability customers, that is, lots where water lines are available but no water service is provided or metered. ACUC Burris Direct at 6/1-2.

ACLPOA intervened in Docket No. 09-0548 out of concern for the magnitude of the rate increase sought by ACUC, which requested a revenue increase of \$367,663. ACUC Schedule B. ACUC's request would increase bills by 275 percent for the average residential user, whose bill would go from \$31.91 per quarter to \$119.58 per quarter. Lange Direct, ACLPOA Ex. 1 at 3/58-60. For the association's commercial accounts, its annual total water charge would increase 117 percent to \$19,345 from \$8,905. *Id.* at 3/61-65. In order to pay for the increase to the commercial accounts, ACLPOA would need to increase its assessments or fees to members, who are the only source of the association's revenues. "As a result, the increased proposed by ACUC has a double impact on our members—they pay higher rates for their water use and the Association will again ask for an increase in assessments to offset the increase to ACLPOA." Lange Direct at 4/71-74.

In its testimony, the ICC Staff proposed adjustments to ACUC's revenue requirements that would reduce the amount of the increase to 66.96 percent for the average customer using 1,100 gallons/month and the overall increase for active meter customers to 66.99 percent. ICC Staff Ex. 11.0 Schedules 11.0 and 11.4. As discussed in this brief, the ICC Staff's recommendation is a good start but further reductions should be made to reduce the overall increase to no more than 27.70 percent as shown in the Appendix attached.

B. LWUC's proposed increase would hike rates by 275 percent for the average active user.

LWUC serves the private, gated Lake Wildwood community near Varna, Illinois. Lake Wildwood is a 220-acre lake. The Lake Wildwood community has about 460 homes, of which half are occupied year round. There are about 950 lots for future growth. The community has both retirees on fixed incomes and working families with children. The majority of the permanent residents are on fixed incomes. Bayler Direct, Ex. LWA 1.0 at 1/20-2/26.

LWA intervened in Docket No. 09-0549 because of the dramatic increase in rates proposed by LWUC. The Company proposed a revenue increase of \$273,589. For a typical residential user, the monthly bill would increase 275 percent from \$15.41 to \$57.80. Depending upon usage, some customers would see increases of 326 percent on their monthly bills. Bayler Direct, LWA Ex. 1.0 at 2/44-3/47. LWA itself currently pays about \$7,166 per year for water. Under the proposed rates, the bill would go to \$21,485, or a 199.8 percent increase. Bayler Direct, LWA Ex. 1.0 at 3/53-55. Any rate increase from LWUC to the association would be paid by higher assessments to LWA members, so members see a double impact with the rate increase. Bayler Direct, LWA Ex. 1.0 at 3/48-52.

The ICC Staff, in its testimony, recommended that LWUC's increase for a customer using 1,400 gallons/month be 77.44 percent and an overall increase for all active meter customers of 66.43 percent. ICC Staff Ex. 10.0C, Schedules 10.2 and 10.3. As with the adjustments proposed by the ICC Staff for ACUC, these recommended decreases are a good starting point but not the only reductions that should be made to LWUC's revenue request. When the additional adjustments as set out in this brief are made, LWUC should receive an increase of not more than 22.04 percent as shown on the attached Appendix.

III. Ratepayers Voiced Concerns Over the Requested Triple-Digit Rate Increases to the ICC Via Its Website and Public Forums.

Ratepayers for both ACUC and LWUC voiced their opposition to the triple-digit rate increases by posting comments on the ICC website and attending public forums. Both the Administrative Law Judge (ALJ) hearing the case and the Commissioners themselves must review the comments posted on the ICC website and comments taken at the public forums. 220 ILCS 5/8-306(n).

A. Ratepayers' comments on the ICC website express opposition to the proposed rate increases.

To date, there have been 72 written comments posted on the ICC's website concerning the proposed increases. Of these, 45 are from LWUC customers and 27 from ACUC customers. Considering that there are only 435 and 890 active customers respectively, the number of comments is significant. Among the comments received on the ICC website:

- They are wanting to triple our basic rate and triple our usage rates! This is ridiculous. People won't be able to afford paying more when they are struggling now to pay all their bills with the economy. I can see them wanting to raise the fees but not tripling it!! Linda Machroli, Varna, IL
- I wish to strongly object to the 400% raise in water rates in Lake Wildwood. How can a rate jump that high? I am on social security and would find it a great hardship to pay that fee. There have been no improvements that would warrant a 400% hike. Let's be reasonable. Many people are on fixed incomes and have lost their jobs, so don't make it impossible for them to have WATER. Virginia Bulat, Varna, IL
- Lake Wildwood Utilities has entered a request to raise basic rates from \$10.34 to \$45.07 per month. This more than quadruples the rate for just being attached to a water line. Why have rates not been slowly raised over the years to keep up with costs rather than allowing the system to need upgrades and quadrupling rates? This is poor management. Our family owns a tiny little summer cottage that only has the water on from April to October or November. We are only there on

weekends. We understand the need to support the water system for the community, however this fee increase is irresponsible and places an undue burden on the residents. Our family, which uses little water even during the summer would be forced to pay \$540.84 a year for water we don't even use. Now we pay just over \$120. With this type of increase it will be cheaper to have the water shut off by the company rather than turn it off ourselves and pay the fees for shut off and turn on. I assume if a general movement begins to take that action it will further damage the finances of Lake Wildwood Utilities. I appeal to the Commission to see that this company use better stewardship of its resources and not allow this enormous increase in basic rates. Patricia J. Noack, Eureka, IL

- This letter is in opposition to the proposed rate change for our water service. This proposed change is unthinkable in this economy and for most of our citizens who are retired and on fixed incomes. No business has the right to increase a service to 350%. Better forecasting and re-evaluating their business practice is what Utilities Inc needs to do. Alan Cottrell, Apple Canyon Lake, Apple River, IL
- We are writing regarding the proposed rate increase at Apple Canyon Lake, and we are asking that you block it. Our address is 14A33 Falling Sun Dr. The majority of the residents here are retired and on a fixed income. To ask that we agree to such a rate increase is unreasonable. The gentleman at the Town Hall meeting noted that there were no planned capital improvements, and that the rate increase was just to make up for the money they did not get at the last increase request. And they're asking for that money EVERY YEAR!!! The gentlemen did not have any answers to our questions, so why he was sent there is beyond us. All we got was a flashy powerpoint presentation on expenditures for the past 10 years. What a waste of our time and an insult to our intelligence. I think you owe all the homeowners who were there an apology...we deserve better than what we got. Pat & Tim Reese, Apple River, IL

B. LWUC's and ACUC's ratepayers attending public forums find the proposed rate hikes outrageous.

The ICC conducted public forums to gather comments pursuant to 220 ILCS 5/8-306(n). For the LWUC public forum, LWUC did not bother to send any representatives who could answer questions concerning the reasons for the rate increase. ("I am just strictly in operations and there may be some financial questions that you have for me that I will not be able to answer . . . some of our regulatory staff couldn't be here tonight due to other obligations." Tr. at 11/6-13

from LWUC public forum, Feb. 24, 2010.) However, LWUC’s customers were there and did speak. Their comments at the public forums conducted for both utilities include:

- “I understand everybody needs a raise these days, but I just can’t understand the amount per month they are asking. It seems kind of outrageous, you know. I was a union rep in Cantrall for a number of years, sat on the bargaining committee and if I faced across the table with the company and asked them for over 100 percent increase of what I was getting, I would have been laughed out of the room.” Donald French, LWUC Tr. at 12/8-16.
- “I don’t understand how the water company could require a rate increase between three and four times the current rate. It suggests to me gross mismanagement. The water company has operated successfully for over 40 years with rate increases somewhat greater than inflation. This operation included drilling wells and installing entire water systems. I can understand the need for increased rates to cover these functions and amortizing the cost of the wells. But this rate increase appears to go far beyond those costs.” Ward Bivens, LWUC Tr. at 16/18-17/6.
- “Now, you know, you can look around. Everybody—90 percent of those people here are on a fixed income. We have to limit our spending. We are supposed to be able to go and enjoy our lives, go on vacation, whatever. You know, you are talking a 200 percent increase; you are talking vacation for us. I know a lot of these people don’t even go on a vacation because they are strapped for money and they can’t do nothing.” Thomas C. Phillips, LWUC Tr. at 51/6-14.
- “Many of the points that I had wanted to make have been made, but I would just, again, want to say that I believe this is an excessive request for—or request for an excessive increase, when you consider that overall we’re looking at 100 to 440 percent or so increase for people, some of whom we have, I think, a little over 900 homes here, about a little over a third of those are permanent residents out here. And I think about 80 percent of those permanent residents are retired people on fixed incomes. And for anyone, but particularly for those people, that kind of increase is clearly excessive.” Marge Clark, ACUC Tr. at 36/13-37/3.
- “And you talked about your new billing system, yet hundreds of homeowners here did not receive our bill for January, I believe it was, and were threatened with disconnection, because we didn’t pay our bill. But nobody could figure out that perhaps something was wrong, because why would hundreds of peoples, who normally pay their bill faithfully, every quarter, whatever often we get them, would all of a sudden not pay their bill.” Jan Hedges, ACUC Tr. at 39/14-22.
- “The billing has continued to be messed up. When we heard the leady speak about the hundred people that were going to get their water shut off, we were told

by a gentleman sitting at that table there that they traced it to an error at the post office. Well, the Galena territory must have had the same error, because they also received the same notice and they are serviced by a different post office. Customer service, I don't think it's improved at all. When you call, if you don't have your exact account number, they can't even find your records. Most of the time you are given a recording and nobody calls you back." Kevin Kavanaugh, ACUC Tr. at 44/19-45/10.

- "But something that really sets me off is this young lady gave us what the potential increase would be and it's [sic] figures up to, as long as my math is still working, 275 percent. I mean, that's phenomenal. In this day and age and in this economy we are still reeling from all kinds of economic woes. Most companies are lucky to get, you know, 10, 20, 30 percent increase, if they have that, that's over the top. And here we're talking about an increase in terms of usage of 275 percent." John Kline, ACUC Tr. at 56/12-21.

Under the Public Utilities Act, the ALJ and Commissioners must review not only these comments but all comments made on the ICC website and at the public forums as they consider a final order. When the ratepayers' comments are considered, the only conclusion can be that the outrageous increases proposed by both utilities must be rejected.

IV. LWUC's and ACUC's Rate Increases Put a Strain on a Family and Budget While the Utilities Charge Customers for Godiva Chocolates and Flowers for Their Employees.

Randy Hart, a Lake Wildwood resident, filed written testimony in the LWUC case. Hart Direct, LWA Ex. 2.0. He testified about the dramatic impact the Company's proposed initial increase would have on his family. He said:

I have three children. As a result, our family's water usage is high. We have laundry to do and our children take baths frequently. For example, for the bill issued on July 26, 2009, our family used 13,700 gallons of water. Our bill for that month was \$59.93. A copy of the bill is attached as LWA Ex. 2.1. For the bill issued on December 23, 2009, our usage was 8,400 gallons. This bill was \$40.75. A copy of the bill is attached as LWA Ex. 2.2. I have calculated those same bills using the proposed rates. The July bill would be \$169.60, up from \$59.93. The December bill would be \$121.43, up from \$40.75. I have been told that under present rates, my annual water bill is about \$544. Under the proposed rates, my annual water cost would increase to \$1,595. In other words, I would pay \$1,050, or 193 percent more than I currently am paying on an annual basis.

Hart Direct, LWA Ex. 2.0 at 1/19-2/28.

He further explained the effect an increase of this magnitude would have on his family as follows:

As a family that has a monthly budget to stay in, it affects our ability to buy groceries; budget for extracurricular activities at school; and spend time as a family to do the things that need to be one (i.e. as shopping for school clothes; eating out as a family; vacations; etc.). It puts a strain on our family. As a union carpenter, I am not against a rate increase, as my contract each year has an increase, but not like the increase that the utility is asking for.

Hart Direct, LWA Ex. 2.0 at 2/31-36.

While the Hart family is concerned that the increase in water rates by LWUC may affect its ability to buy groceries and a significant portion of LWUC and ACUC customers are on fixed incomes, Utilities, Inc. has no qualms about sending Godiva chocolates and flowers to employees and then billing LWUC and ACUC ratepayers for “expenses” like these gourmet treats.

ACLPOA/LWA Cross Ex. 6 contains the business expense report of Mike Miller, who is the Midwest Regional Manager for Utilities, Inc. ICC Staff Ex. 8.0C, Attachment A. Included in his expenses charged to the Midwest Region, which includes LWUC and ACUC, was \$117.96 for a Godiva Sampler (\$49.99 plus \$13.99 shipping) and a Serene Peace Plant (\$39.99 plus \$13.99 shipping) sent to the home of one of his employees. When asked who paid for this expense, LWUC/ACUC witness Steve Lubertozzi said it was allocated to all utilities in the Midwest Region. 94/15-95/9.

Thus, while Mr. Hart’s family and families on fixed incomes may have to cut back, employees for LWUC and ACUC still are able to enjoy their Godiva chocolates and admire delivered flowers, all courtesy of ratepayers who are threatened with triple-digit rate increases.

This simple example demonstrates that Utilities, Inc. has no financial controls in place to determine legitimate costs allocated to ratepayers.

V. Quadrupling Water Bills for Customers Is Not Justified by Increases in Actual Costs Since the Last Rate Cases.

ACUC concluded its last rate case in 2004. LWUC concluded its last rate case in 2002. While some actual costs for the utilities have increased during that time period, neither utility has justified the magnitude of the increases requested that would quadruple water bills for some ratepayers.

In the direct testimony of Paul Burris (adopted by Carl Daniel at hearing), both utilities discuss capital additions as if the additions were driving these rate increases. Capital additions, however, have had almost no impact on overall utility expenses. There are three important points about the capital additions. First, the capital additions were offset by the depreciation expenses that were in rates during the period when the new plant additions were installed. Second, neither utility had any major capital projects in the test year nor does either utility plan any capital projects in the foreseeable future. Third, there is no need for several layers of management to oversee major capital construction projects for these utilities, since none occurred in the test year and none are forecast.

A. Cost of capital additions at both utilities are offset by the amount recovered for depreciation since the last rate cases.

1. ACUC's plant additions totaled \$316,870 while it collected \$316,120 in depreciation from customers.

In its last rate case, the Commission approved a rate base of \$561,696 for ACUC, which was depreciating at an annual rate of \$45,160. "That is, since Apple Canyon's last rate case, the utility has collected seven years of depreciation, totaling \$316,120, through customers' rates.

Mr. Burris shows that between January 2003 and December 2009, Apple Canyon placed in service plant additions totaling \$316,870.” Rubin Direct, ACLPOA/LWA Ex. 1.0 at 9/190-10/199. “In other words, Apple Canyon’s capital investments in local facilities during the past seven years have served only to offset the amount by which its plant depreciated during that same seven-year period. Thus, Apple Canyon’s capital investment would not result in any rate increase (except perhaps for minor changes in depreciation expense).” Rubin Direct, ACLPOA/LWA Ex. 1.0 at 10/200-203.

2. LWUC’s plant additions totaled \$285,348 while it collected \$261,075 in depreciation expense from customers.

In LWUC’s last case in 2002, the approved rate base was \$550,783, depreciating at a rate of \$29,075 per year. Thus, the utility has collected through rates nine years of deprecation totaling \$261,675. Mr. Burris’ testimony shows that between 2002 and December 2009, LWUC placed in service plant additions totaling \$285,348. “In other words, Lake Wildwood’s capital investments in local facilities during the past nine years have served to increase the level of rate base by a total of less than \$25,000 (about 4%). Thus, Lake Wildwood’s local capital investment would not result in a significant rate increase.” Rubin Direct, ACLPOA/LWA Ex. 1.0 at 10/205-217.

B. Neither utility has any plans for capital projects in the foreseeable future.

In the 2008 test year, ACUC had no capital project under construction nor any capital project completed. Burris Direct for ACUC at 8 and 9 and Tables 2 and 3. There are no capital projects currently underway for ACUC. Tr. at 30/22-31/2. ACUC plans no capital project for 2011. Tr. at 31/3-6. LWUC had only one project in the test year, which was the emergency replacement of well No. 2. The project occurred primarily in 2007 and was placed in service on

January 10, 2008. Burris Direct for LWUC at 10, Table 3. No other projects took place in 2009, Burris Direct for LWUC at 12/6-10, nor are any capital projects planned for 2010 or 2011. Tr. at 28/14-29/2.

The fact that neither utility conducted any major capital projects in the test year or in 2009 and has no plans for any major capital projects in the foreseeable future shows that the lengthy testimony concerning plant placed in service in 2003, 2004, and 2005 does not materially affect rates in these dockets.

VI. The ICC Should Disallow Any Allocation of Costs for Utilities, Inc.'s New Billing and Accounting Systems.

Both utilities seek to include in rate base the costs associated with two projects for Utilities, Inc. The first project was the development of a nationwide billing software system with a total cost of \$7,124,532. The second project was a new nationwide accounting software system at a cost of \$14,328,103. Utilities, Inc. did not conduct any studies or analysis as to whether either of these systems is appropriate or useful for the two small utilities in this consolidated docket. As a result, it is inappropriate to include the costs for these systems in either ACUC's or LWUC's rates.

A. Neither ACUC nor LWUC has supported inclusion of the new billing software system in rates for utilities of their size.

1. The sophisticated, nationwide system was not designed for small utilities such as ACUC and LWUC and thus it is inappropriate for ratepayers to pay for such a system.

For the \$7.1 million nationwide customer billing system, ACUC seeks to include \$64,228 in rates in this docket. LWUC seeks to include \$34,081. This allocation should be rejected because the utilities have not shown that the new billing system is either cost-justified or useful for the ACUC or LWUC ratepayers.

Both utilities are very small systems. LWUC has only about 460 active customers who receive monthly bills for water consumption. The remaining 950 LWUC customers are availability customers who receive a flat bill for the standby service, so no sophisticated billing system is necessary. Burris Direct for LWUC at 1. ACUC has about 890 active customers who currently receive bills quarterly for their consumption and about 1,800 availability customers who receive a flat bill for the standby service. Burris Direct for ACUC at 1.

Neither ACUC nor LWUC demonstrated a need to change to a sophisticated nationwide billing system or any benefits to their customers. “The companies were able to send bills to their customers and respond to customers’ inquires before these changes were made.” Rubin Direct, ACLPOA/LWA Ex. 1.0 at 13/272-273.

The expensive, new billing system was not designed for small systems, such as ACUC and LWUC. ACUC/LWUC witness Lubertozzi testified during cross examination:

Q. A billing system that’s designed for 480 customers would not necessarily be the same system that would be for a holding company such as Utilities, Inc?

A. Correct. Those systems would be different.

Q. And the costs of those systems would be different?

A. If you're going to do stand alone, correct, that would be absolutely different.

Tr. at 97/15-98/1.

Since neither ACUC nor LWUC have justified including the high-cost system not designed for very small systems such as the two in these dockets, the costs associated with the billing system should not be charged to customers.

2. ACUC and LWUC ratepayers see no benefits from nationwide billing system.

The new billing system did not improve or change the customer bill process to the benefit of ratepayers. As Mr. Lubertozi explained during cross examination, the new system handles mail-in payments in the same manner under the new system as did the old system it replaced. "The physical process of receiving the envelope and opening it and depositing the check is unchanged." Tr. at 108/22-109/2. From a customer perspective, the new system offers no benefits for mail-in payments. ACUC and LWUC tout the system as offering walk-in customers the benefit of having their payments posted to their account in real time. Burris Direct for ACUC at 6, Burris Direct for LWUC at 6. This benefit is illusory. Very few, if any, customers actually "walk in" to pay their bills. ("It is very rare that a customer would come in." ACLPOA/LWA Cross Ex. Nos. 7 and 9). If they did, it would be a very long walk. For LWUC customers, the nearest walk-in office is located in Pekin, some 42 miles from Lake Wildwood. Bayler Direct, LWA Ex. 1.0 at 42/83-85. For ACUC, the nearest payment center is in Galena. LWUC's witness Mr. Lubertozi, the director of regulatory accounting and affairs for Utilities,

Inc., testified that he did not know how far Apple Canyon Lake was from Galena and that he did not know if it was “within walking distance” for Apple Canyon ratepayers. Tr. at 108/5-10.

3. The ‘benefits’ for a billing system for 15 other states does not make system beneficial for ACUC and LWUC ratepayers.

Mr. Lubertozi also touted the new billing system as being beneficial for Utilities, Inc. because it allows the company to track customers who move from one premise to another within the company. Yet he did not know how many Apple Canyon customers moved from one premise to another in 2008. Tr. at 101/7-12. He nonetheless contended that it was still a benefit that ACUC and LWUC ratepayers should pay for because “we do have systems in 15 other states where we do have customers that move from one residence to another.”

Q. Well, I’m not asking what you do in 15 other states. We’re focusing on Lake Wildwood and Apple Canyon in these dockets.

A. Correct. I understand. CC&B was clearly implemented for every state from which we operate, not just, you know, a 480 system—utilities here in Illinois.

Tr. at 101/19-102/7.

There is no reason why ratepayers in Illinois should pay for a purported “benefit” for customers in 15 other states—a benefit primarily for Utilities, Inc., not ACUC nor LWUC ratepayers.

4. Continuing billing errors and no bills at all raise questions as to benefits of new system for ACUC and LWUC ratepayers.

Furthermore, it is questionable whether the new systems are working properly for Illinois customers. Rubin Direct, ACLPOA/LWA Ex. 1.0 at 13/276-277. The new system has incorrectly billed customers for bad checks, the wrong reconnection charges, and at least one

customer for the wrong size meter. Rubin Direct, ACLPOA/LWA Ex. 1.0 at 14/283-288. The system also failed to properly bill ACLPOA. As its general manager testified:

On January 7, 2009, ACLPOA received a bill that was paid on January 16, 2009. The next water bill we received was on October 15, 2009. After speaking with the company, we found out that the company failed to bill us during that period. We also found out that we had not been billed for our campground meter since April 1, 2008. We were sent a bill to cover these charges, which we promptly paid. On our next bill in January, 2010, we were assessed a late fee of \$67 for the previous billings.

Lange Direct, ACLPOA Ex. 1.0 at 4/77-82. The problem identified by Ms. Lange for ACLPOA's commercial account is not unique. At the public forums, several ratepayers also commented about not receiving bills. Comments of Jan Hedges, ACUC Public Forum Tr. at 39/14-40/1; Kevin Kavanaugh, ACUC Public Forum Tr. at 44/19-45/5; Matt Hamilton, LWUC Public Forum Tr. at 13/20-15/17; and Jim DiNaso, LWUC Public Forum Tr. at 18/11-20/14.

Mr. Rubin observed that these errors—"inaccurate (or no) bills, incorrect notices, and the inability to prepare proper summaries from a billing system—all appear to be related to either the new system or employees not being properly trained on how to use those systems. In either event, I have not seen any indication that the new systems have improved the efficiency or accuracy of billing and customer service information to Illinois consumers. Indeed, it appears that they actually might be a step backwards." Rubin Direct, ACLPOA/LWA Ex. 1.0 at 15/311-317.

5. The ICC should follow the Kentucky Commission in disallowing recovery of new billing system costs in rates.

In Kentucky, a Utilities, Inc. operating utility attempted to include costs for the same billing system in rates. The Kentucky Public Service Commission rejected the inclusion of any of the \$178,715 in costs associated with the billing system because the utility failed to conduct

any studies or analysis as to the benefits to the ratepayers of a system the size of the Kentucky system (7,305 customers). *Application of Water Service Corporation of Kentucky for an Adjustment of Rates*, Case No. 2008-00563 at 6, entered Nov. 9, 2009. In these dockets, both ACUC and LWUC did not present any studies or analysis as to the benefits to the ratepayers for systems that are one-tenth or less than the system in Kentucky, so the logic of the Kentucky case is applicable here as well.

This Commission should follow the decision of the Kentucky Public Service Commission and disallow any recovery in either ACUC's or LWUC's rates for the costs associated with the billing system. The elimination of the costs associated with the billing system reduces ACUC's rate base by \$64,228, and ACUC's depreciation expense by \$9,178. LWUC's rate base would decrease by \$34,081, and LWUC's depreciation expense would decrease by \$4,870.

B. The Utilities, Inc. accounting system does not offer any benefits to customers of ACUC or LWUC.

In addition to the new billing system, ACUC and LWUC seek to include the costs associated with a new accounting system for Utilities, Inc. The total cost of the system for Utilities, Inc. was \$14,328,103. Utilities, Inc. has assigned \$129,168 of the cost to ACUC and \$68,540 to LWUC. Burris Direct for ACUC at 4, Burris Direct for LWUC at 4.

The accounting system, which together with the billing system is also known as Project Phoenix, has several modules including accounts payable, human resources, requisitioning, capital projects, fixed assets, and general ledger. These are functions that might benefit Utilities, Inc., but not ACUC's or LWUC's ratepayers. As with the billing system, Utilities, Inc. attempted to recover the costs of this system in rates in Kentucky. In rejecting the company's proposal, the Kentucky Public Service Commission found:

The AG states that “[c]entral to understanding the Project Phoenix cost allocation is the fact that the focus of Project Phoenix was the needs of Utilities, Inc., including its non-regulated operations.” According to the AG, Water Service failed to produce evidence to show that Utilities examined the potential benefits Project Phoenix would have for Water Service. The AG argues that Utilities was concerned with its needs and not whether a system of comparable size to Water Service would require an information technology package that cost \$367,498. The AG contends that Water Service failed to show that Project Phoenix is cost-effective and also failed to “carry its burden of proof that the allocation of Project Phoenix costs are reasonable.”

Based upon the evidence of record, it is apparent that Utilities did not perform a benefit analysis of Project Phoenix to ascertain the potential financial impact or to identify any benefits Project Phoenix would provide to each of its operating subsidiaries, in particular Water Service. As pointed out by the AG, it is Water Service’s burden to document that the cost of Project Phoenix is reasonable and to identify the benefits that computer software will provide to the ratepayers of Water Service. The Commission believes that Water Service failed to meet this burden. Further, John Williams, a Water Service witness with 30 years of experience working for the Florida Public Service Commission, testified that he was not aware of any utility of comparable size to Water Service in Florida that would have spent a half-million dollars on software similar to JD Edwards and Oracle.

For these reason, the Commission finds that Water Service has failed to demonstrate that the allocated Project Phoenix costs are reasonable and, therefore, has reduced UPIS by \$389,537, the cost of JD Edwards, and has reduced rate base by \$178,715 to remove the allocation of Oracle costs.

Application of Water Service Corporation of Kentucky for an Adjustment of Rates, Case No. 2008-00563, Order at 5-6, entered Nov. 9, 2009.

Similarly, in the instant consolidated case, ACUC and LWUC have failed to demonstrate the reasonableness of the allocated costs for the new billing and accounting systems or the benefit of these systems to ACUC and LWUC ratepayers. The ICC should likewise reject the inclusion of the costs associated with the JD Edwards accounting system from ACUC’s and LWUC’s rates in this consolidated docket. This adjustment reduces ACUC’s rate base by \$129,168, ACUC’s depreciation expense by \$18,458, LWUC’s rate base by \$68,540, and LWUC’s depreciation expense by \$9,782.

C. The billing and accounting systems add nearly \$5 a month to the bills paid by customers of ACUC and LWUC.

Not only are the billing program and accounting system not useful to ACUC and LWUC, but they are inordinately expensive for systems the size of ACUC and LWUC and the cost allocated on a per customer basis is far in excess of what other Utilities, Inc. customers have been allocated. As shown by the calculation below, the monthly allocated costs per ACUC customer is \$4.76. The LWUC per customer cost is \$4.86. This is far in excess of the \$1.50 that Mr. Lubertozi offered as the costs for both systems “when you take that and spread that over an average customer in any of our companies.” Tr. at 120/15-19. The specific costs allocated to ACUC and LWUC contradict Mr. Lubertozi’s estimate by a wide margin as shown below:

Apple Canyon		
JDE rate base	\$ 129,168	Lubertozi direct, p. 4
CC&B rate base	<u>64,228</u>	Lubertozi direct, p. 7
Total rate base	\$193,396	line 1 + line 2
Depreciation rate	14.29%	ACUC-LWUC Exh. 4.0, Sch. F-ACUC w/p [f]
Weighted cost of debt	3.37%	ACUC-LWUC Exh. 4.0, Sch. F-ACUC w/p [h]
After-tax cost of equity	5.06%	ACUC-LWUC Exh. 4.0, Sch. F-ACUC w/p [h]
Gross revenue conversion factor	1.703238	Staff Exh. 1.0, Sch. 1.6 AC
Revenue requirement for JDE and CC&B investment:		
Depreciation expense	\$ 27,636	line 3 x line 4
Debt component of return	6,517	line 3 x line 5
Equity component of return	<u>\$ 16,668</u>	line 3 x line 6 x line 7
Total	\$ 50,821	line 8 + line 9 + line 10
Number of active customers	890	Lubertozi direct, p. 1
Cost per customer per year	\$ 57.10	line 11 / line 12
Cost per customer per month	\$ 4.76	line 13 / 12

Lake Wildwood		
JDE rate base	\$ 68,540	Lubertozzi direct, p. 4
CC&B rate base	<u>34,081</u>	Lubertozzi direct, p. 7
Total rate base	\$ 102,621	line 1 + line 2
Depreciation rate	14.29%	ACUC-LWUC Ex. 4.0, Sch. F-LWUC w/p [f]
Weighted cost of debt	3.37%	ACUC-LWUC Ex. 4.0, Sch. F-LWUC w/p [h]
After-tax cost of equity	5.06%	ACUC-LWUC Ex. 4.0, Sch. F-LWUC w/p [h]
Gross revenue conversion factor	1.687023	Staff Exh. 1.0, Sch. 1.6 LW
Revenue requirement for JDE and CC&B investment:		
Depreciation expense	\$ 14,665	line 3 x line 4
Debt component of return	3,458	line 3 x line 5
Equity component of return	<u>8,760</u>	line 3 x line 6 x line 7
Total	\$ 26,883	line 8 + line 9 + line 10
Number of active customers	460	Lubertozzi direct, p. 1
Cost per customer per year	\$58.44	line 11 / line 12
Cost per customer per month	\$ 4.87	line 13 / 12

In other words, according to Mr. Lubertozzi, the average Utilities, Inc. customer nationwide has been allocated costs for the billing and accounting systems that average \$1.50 per month per customer. However, for ACUC and LWUC, the utilities have requested that customers pay nearly \$5 per month, or over three times what other customers have been requested to pay nationwide. Thus, by the utilities own admission, the amount allocated to ACUC and LWUC is imprudent and unreasonable since the ratepayers here are paying nearly \$3.50 per month more, or triple, what other Utilities, Inc. customers pay nationwide. Neither ACUC nor LWUC has justified charging ratepayers nearly \$5 per month for the new accounting and billing systems, especially when other Utilities, Inc. customers pay only \$1.50 per month. So even if the Commission were to find, contrary to the recommendations of ACLPOA and

LWA, that some costs for the billing and accounting systems should be included in rates, the amount included should not exceed the nationwide average of \$1.50 per customer per month, which Mr. Lubertozi offered, with all costs above that amount excluded from the rates. It is neither prudent nor reasonable to charge customers of such small water systems these outrageous fees for systems that are of no benefit to them. Thus, the entire amount for the billing and accounting systems should be excluded from rates.

VII. Both ACUC and LWUC Have Failed to Demonstrate Prudent Operations and Management.

In addition to seeking inclusion of a nationwide billing program and accounting program that does not benefit either ACUC or LWUC ratepayers, both utilities seek to include multiple layers of management for supervising non-existent construction projects. Even with this multiple layering of management, the utilities have been unable to properly inspect and maintain facilities and have not been able to bring unaccounted for water down to acceptable levels.

As a result of the lack of effective cost and managerial controls by Utilities, Inc. over its operating utilities, the Commission should order a thorough management audit of both utilities and their parent. In addition, the Commission should exclude all costs associated with Utilities, Inc.'s Northbrook employees. Compared with the ICC Staff's recommendation, this adjustment reduces ACUC's expenses by \$49,799 and LWUC's expenses by \$26,559. See ICC Staff Ex. 8.0C, Schedules 8.5AC and 8.5LW.

A. Multiple layers of management to supervise non-existent capital improvement projects should be eliminated from rates.

Each utility has requested multi-layers of management costs for capital projects to be included in rates. The costs and expenses associated with this alleged construction oversight

should be eliminated from rates because neither ACUC's nor LWUC's ratepayers benefit from these layers of management designed to oversee construction projects.

For example, at ACUC Steven Winter was added "mainly due to compensate for the additional operational needs during the capital improvements" at ACUC "in late 2007" and 2008. ICC Staff Ex. 8.0C, Attachment A. In 2007, the only capital improvements project was the addition of a storage building for chemicals that was begun in September 2007 and completed in December 2007. Burriss Direct for ACUC at Table 2 and 3. The work for the storage building was done by outside contractors. There were no capital improvements project in 2008, none in 2009, and none planned in the foreseeable future.

In attempting to justify headcount, Utilities, Inc. explained that, in addition to Mr. Winter, several other individuals were added to supervise capital improvement projects. The Company stated that "it was necessary" during the first two quarters of 2007 for Jon Schoenard "to spend all of his time in Apple Canyon due to the many capital improvement projects that occurred that year." ICC Staff Ex. 8.0C Attachment A. This directly contradicts Mr. Burriss' testimony that the only capital improvement project for ACUC in 2007 was the new storage building for chemicals that was built late that year by outside contractors. Burriss Direct for ACUC at 9, Tables 2 and 3. A leak detection program was undertaken during 2007, but it was performed by M.E. Simpson, not the utility. Another non-capital improvement program for mapping and hydraulic studies was performed for the Illinois Cost Center, but the mapping portion of that project was for 20 water systems in Illinois, not just ACUC. The hydraulic study was for five water systems in Illinois, not just ACUC. Burriss Direct for ACUC at 9. Paul Burriss himself "was added in 2006 to accommodate the vast capital improvement expenditures of the company." ICC Staff Ex. 8.0C, Attachment C. However, there were no "vast capital

improvement expenditures” for ACUC. Burriss Direct for ACUC at 9, Tables 2 and 3. Thomas Tapella was added to the payroll because “there was a need for an in-house person that could visit the many projects and insure that construction was being performed in accordance with company, State and Federal Standards.” ICC Staff Ex. 8.0C, Attachment C. Yet, as noted above, there was only one capital improvement project for ACUC—the construction of a chemical storage building—between 2005 and the present time. L. Goldsmith was added for “Compliance and Safety Management.” His duties are to “review and inspect the facilities of the various companies of Utilities, Inc.” In 2008, he “became more involved with companies in Illinois.” As the record demonstrates and as discussed elsewhere in this brief, however, the inspection of ACUC’s facilities was deficient in 2008.

The costs associated with the persons detailed above also were allocated to LWUC. But LWUC has not had any major capital improvement projects since January 10, 2008 and no projects are planned.

As a result, the layers of management at Utilities, Inc. to oversee major capital improvement projects are not used by or useful to either ACUC or LWUC. It is inappropriate to allocate these costs to either utility.

Even the utilities admit that they have decreased their capital improvement expenditures since 2006 and “[s]ince that time, Utilities, Inc. has begun to downsize its staff and consolidate positions due to the lack of necessity in direct relation to the amount of capital improvements that are planned for future years.” Company response to BCJ 7.01, Attachment A, ICC Staff Ex. 8.0C. That fact notwithstanding, the ICC Staff proposal misguidedly increases funding for the non-existent management positions at the Northbrook headquarters over and above the utilities’

request, by \$35,217 for ACUC and by \$11,977 for LWUC. ICC Staff Ex. 8.0C, Schedules 8.5AC and 8.5 LW. This adjustment is wrong.

Rather than increasing funding for Utilities, Inc.'s management position at the Northbrook headquarters, ACLPOA and LWA recommend that the Commission modify the ICC Staff proposal for the Northbrook employees by reducing ACUC's expenses by \$49,799 and LWUC's expenses by \$26,559. These expenses are reflected on Schedules 8.5AC and 8.5LW of ICC Staff Ex. 8.0C.

B. The ICC Staff's adjustment for unaccounted for water does not adequately motivate ACUC and LWUC to remedy the longstanding problem.

The utilities' lack of proper, prudent, and efficient management is further demonstrated by the excessive amount of unaccounted for water (UFW) for both ACUC and LWUC. The ICC Staff has recommended an adjustment to operating expenses, but the adjustment fails to adequately motivate the utilities to take corrective action. In addition, the ICC Staff's adjustment does not consider the failure of both utilities to properly inspect critical valves as required by the Commission's rules.

ACUC's UFW for the second quarter 2009 was 62.7 percent. Tr. at 60/11-14. This means that for every ONE gallon delivered, ACUC must pump THREE gallons. Tr. at 60/18-22. This unacceptable UFW represents an alarming trend. For the first quarter 2009, the UFW was 51.2 percent. Tr. at 59/20-60/1. ACUC has been experiencing UFW in the rates of 50 percent or worse since early 2008. As Mr. Rubin observed:

UFW of this magnitude is quite serious and would indicate either significant leakage or serious problems with the accuracy of metering equipment. Whatever the cause, losing more than half the water that is pumped from the ground is an extremely serious problem—not just wasting money, but also potentially jeopardizing the integrity of the entire system. If Apple Canyon really believes

that it costs more than \$9.00 to distribute 1,000 gallons of water to a consumer (as its proposed rates indicate), then the loss of millions of gallons per year should be a top priority, not just for the utility but for its parent company as well. The fact that this level of UFW has been allowed to persist for two years gives me further reason to question the quality of the utility's management and operations.

ACLPOA/LWA Ex. 1.0 at 16/324-333.

For LWUC, the UFW rate is 23.63 percent. While less than the UFW rate for ACUC, it still is in excess of the 15 percent UFW rate approved by the Commission for LWUC. ICC Staff Ex. 7.0C Schedule 7.11 LW.

In response to these high levels of unaccounted for water, the ICC Staff reduced ACUC's maintenance expense by only \$7,359 and LWUC's maintenance expense by only \$1,344. Because the utilities believe that it costs more than \$9 to distribute 1,000 gallons of water for both of these systems, such a small adjustment is meaningless and will not prompt the utilities to take the necessary steps to stem their huge water losses and the wasting of a precious natural resource.

C. ACUC's and LWUC's records demonstrate lack of proper inspection and repair of critical valves.

Yet another management failure by ACUC and LWUC is shown by the lack of proper inspection and repair of critical valves. The ICC requires that water utilities inspect valves and hydrants at least annually. 83 Ill. Admin. Code 600.240. The code further requires:

Valves and hydrants found to be inoperable shall be repaired or replaced. Valve covers shall be maintained at grade level and not paved over. Each inspection and all maintenance performed shall be properly noted on the valve or hydrant record card.

Id.

ACUC and LWUC records show, however, that in consecutive years, inspectors found critical valves that were paved over, valves that they were unable to turn, and valve boxes full of

debris that were not cleaned out. ACLPOA/LWA Cross Ex. 2 and 3. These are all violations of Section 600.240.

LWUC has repeatedly ignored the requirement to ensure critical valves as accessible and inspected. For example, the inspection report in 2007 for LWUC valve No. LW-01 stated that it was buried and paved over. The 2008 inspection report found that it was still paved over and buried. ACLPOA/LWA Cross Ex. 3 and Tr. at 50/2-51/5. The same is true for valve LW-021. It was paved over for the inspection in 2007 and still paved over in 2008 and hence not inspected. Tr. at 51/16-52/10. Again, the story is repeated for valve LW-39. Tr. at 52/11-17. In other words, not only were valves paved over in violation of Section 600.240, the utility did not correct the violations and committed repeated violations by not inspecting the paved-over valves.

When inspection reports called for repairs, the repairs were not made. For example, for valve No. LW-60, the 2007 inspection report states that the valve box was broken. In 2008, the report for the same valve had stated that the box needed repair. When ACUC/LWUC witness Carl Daniel was asked whether these notations indicated that the repairs were not made, he replied, "The initial inspection states that the valve box needed repair and the 6/18/2008 states the valve box needs repair as well." Tr. at 55/6-8. Section 600.240 mandates that the repairs be made and LWUC's failure is a violation of the ICC's rule.

ACUC fails to provide adequate documentation for the inspection of fire hydrants as required by the ICC. ACLPOA/LWA Cross Ex. 4. For ACUC fire hydrant No. 72 in August 2008, the report states that it has a broken bonnet and was out of service. ACUC witness Daniel did not know if or when it was repaired. When asked if the fire hydrant records should show the dates they are repaired, he answered, "I assume they should." Tr. at 57/8-10. For ACUC fire hydrant No. 75, the 2008 report states that it was out of service, no top. ACUC witness Mr.

Daniel, who is responsible for inspections of valves and hydrants, Tr. at 37/15-38/3, did not know what a top was on a fire hydrant. Tr. at 58/19-21. Nor did he know when, or if, the repair was made to the fire hydrant. Tr. at 58/22-59/2. More interestingly, the fire hydrant inspection reports have portions whited out. Tr. at 58/12-14 and Tr. at 59/3-5. Mr. Daniel could not explain what was whited out. Tr. at 58/12-15. Failure to make repairs on fire hydrants is not only a violation of the ICC rule but also is a critical public safety concern.

The repeated violations of 83 Ill. Admin. Code 600.240 demonstrate ACUC's and LWUC's lack of proper equipment maintenance and a pervasive failure to properly manage and operate their systems. Such failures may also contribute to the unaccounted for water levels and the Commission should take action against ACUC and LWUC for these violations.

Because of ACUC's and LWUC's deficiencies in management as demonstrated by its layers of managers to oversee non-existent construction projects, the inability to reduce the long-standing high level of unaccounted for water, and the failure to properly inspect critical valves and hydrants, it is appropriate to not only eliminate the salaries for the Northbrook Office and require a management audit, but also it is appropriate for the Commission to reduce the return on equity for both utilities to the low end of the ICC Staff's return on equity analysis, which is 9.41 percent rather than at the average of the ICC Staff's analysis of 9.82 percent. See ICC Staff Ex. 3.0 at 30/534-541.

VIII. ACUC and LWUC Have Not Demonstrated Either the Justness or Reasonableness of Their Requested Rate Case Expenses.

In these dockets, ACUC requested rate case expenses that are 13.5 times higher than the amount granted in its last rate case. LWUC is requesting rate case expenses that are 23 times higher than the amount granted in its last rate case. These rate case expenses are neither just nor reasonable and are out of proportion to the overall requested rate increases.

ACUC's total initial requested increase is for \$367,663, including rate case expenses of \$115,521 amortized over three years. ICC Staff Ex. 8.0C Schedule 8.3 AC. The ICC Staff recommends limiting the rate case expenses to \$94,107 to be amortized over a five-year period. LWUC's total initial requested increase is for \$273,589, including rate case expenses of \$114,270 amortized over three years. ICC Staff Ex. 8.0C Schedule 8.3 LW. The ICC Staff recommends limiting the rate case expenses for LWUC to \$90,573 to be amortized over a five-year period. The levels of rate case expenses are out of proportion to the rate increase amount sought, let alone to a reasonable rate increase.

In addition, both ACUC and LWUC seek rate case expenses void of support by competent data and lack the scrutiny required under the Public Utilities Act. The Commission is required to "specifically assess the justness and reasonableness of any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing. This issue shall be expressly addressed in the Commission's final order." 220 ILCS 5/9-229.

A. Rate case expenses should be excluded for a witness whose testimony was stricken and did not testify and for SFIO, which did not properly document expenses as required by statute.

In these dockets, the Utilities seek to include as rate case expenses the costs for a witness who never testified because her testimony was found to be untimely and was properly stricken. The Utilities also seek to include as rate case expenses the cost for an apparent consultant who submitted general bills only without detail as to what specific work was performed.

In its testimony, the ICC Staff properly excluded all bills from Paula Ahern but erroneously included the bills from SFIO Consulting, Inc. in rate case expenses. As recommended by ICC Staff, the Commission should deny the utilities' request to include Ahern's bills as part of rate case expenses. In addition, the Commission should exclude the bills for SFIO Consulting, Inc., which currently remains in the ICC Staff's recommended increases for both ACUC and LWUC. There is no way that the Commission can "specifically assess the justness and reasonableness of any amount expended" by SFIO Consulting in these dockets. The record shows that for October 2009, SFIO billed \$3,000 for "split projects" for ACUC and LWUC's rate cases. The only explanation for the \$3,000 was that it was for "services provided during the month of October, 2009" as a monthly retainer for November 2009 [sic]. There is no explanation as to what "services" were performed. The invoice includes an additional charge for "Lunch (Burriss, Mayda, Williams and Fiorella) \$52.02" on an unspecified date with no topic listed and another additional charge "Mileage" of 344 miles again with no date(s) or places travelled to or from to explain the \$189.20 mileage charge. ACLPOA/LWA Cross Ex. No. 6. In another invoice, SFIO billed for "services provided during the month of October, 2009" (again) and stated that the services were "Gathered information re: ICC Staff assignments for Apple

Canyon and Lake Wildwood; Reviewed testimony and tariffs filed.” ACLPOA/LWA Cross Ex. No. 6.

When ICC Staff witness Burma Jones was asked what services SFIO performed in this case for the utilities, she responded,

A. Whatever it was they hired him for in this rate case.

Q. Did you do any analysis to determine what SFIO Consulting was hired to do?

A. I asked for a contract and did not receive one, so no, I did not.

Tr. at 148/16-149/1.

Because the utilities did not provide explanation for the justness or reasonableness of any SFIO charges—and did not even provide the ICC Staff with documentation explaining what SFIO was hired to do in the first place—all payments to SFIO should be excluded from rate case expenses. The amount to be excluded for SFIO for each utility is \$2,498. ICC Staff Ex. 8.0C Schedules 8.3AC and 8.3LW.

B. Total amount of rate case expenses should be reduced to collect no more than \$1 per month per active ratepayer.

In addition, the total amounts for rate case expenses are disproportionate to the amount of the revenue increase sought by each utility. Thus, the rate case expenses should be reduced to more closely match the approved increase in total revenues.

In ACUC’s last rate case, Docket No. 03-0399, the Commission included \$8,580 as rate case expenses, amortized over three years at \$2,860. During the six years that rates have been in effect, ACUC will have collected \$17,160 in rate case expenses, more than double what it spent for rate case expenses in the 2003 case. In this case, ACUC seeks \$115,521 amortized over three years. This amount is more than 13 times (1,246% increase over) the amount in the previous rate

case. ACUC has not demonstrated that any expense, including rate case expenses, have legitimately seen an increase of 1,246 percent since April 2004.

LWUC has been collecting in rates since August 2002 annually \$4,941 for rate case expenses, for a total amount collected of \$39,528. In its last case, Docket No. 01-0663, the Commission granted LWUC total rate case expenses of \$14,824, so it has collected more than double the amount of its authorized rate case expenses from ratepayers since 2002. In this docket, LWUC has requested \$114,270 amortized over three years. This is a 671 percent increase over the amount of rate case expenses awarded in its last rate case.

In light of the total amounts requested by each utility in this docket, albeit exorbitant in their own right, the level of rate case expenses is excessive. The Commission should not require customers to pay more than \$1 per month toward the utilities' rate case expenses. For ACUC, with 980 active customers, this would result in an annual allowance for rate case expense of \$11,760 (980 x \$12.00), which is a reduction of \$7,061 from the ICC Staff's recommendation. For LWUC with 435 active customers, this would result in an annual allowance for rate case expenses of \$5,220 (435 x \$12.00), which is a reduction of \$12,985 from the ICC Staff's recommendation. It must be emphasized that even these allowances for rate case expenses represent substantial increases over amounts currently in each utility's rates (\$2,860 for ACUC and \$4,941 for LWUC).

If the ICC Staff's recommendation of a five-year amortization of rate case expenses is adopted, this would permit ACUC to amortize \$58,800 (\$11,760 x 5) in rate case expenses, and LCUC to amortize \$26,100 (\$5,220 x 5) in rate case expenses. Such amounts should be more than sufficient for prudently managed utilities to fully litigate cases of this size.

IX. Conclusion.

Attached to this initial hearings brief as an appendix is a schedule that incorporates the recommendations by ACLPOA/LWA to the ICC Staff adjustments to the utilities' requests.

Respectfully submitted,

____/s/ *Richard C. Balough*_____

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Apple Canyon Lake Property Owners' Association

APPENDIX

LWA/ACLPOA: Summary of Recommendations
Apple Canyon Utility Company

Description	Proposed Rates with Staff		
	Adjustments (Staff Exh. 7.0C, Sch. 7.1 AC)	LWA/ACLPOC Adjustments	LWA/ACLPOC Proposed Rates
Water Service Revenues	447,891	(106,196)	341,695
Miscellaneous Revenues	11,158	-	11,158
Total Operating Revenues	459,049	(106,196)	352,853
Uncollectible Accounts	18,085		18,085
Maintenance Expenses	89,488		89,488
General Expenses	138,956	(56,860)	82,096 (a)
Depreciation	127,466	(27,636)	99,830 (b)
Amortization of CIAC	(19,375)		(19,375)
Taxes Other Than Income	22,254	-	22,254
Total Operating Expense Before Income Taxes	376,874	(84,496)	292,378
State Income Tax	3,981	(1,051)	2,930
Federal Income Tax	17,198	(4,541)	12,657
Deferred Taxes and ITCs	-	-	-
Total Operating Expenses	398,053	(90,089)	307,964
Net Operating Income	60,996	(16,107)	44,889
Rate Base	783,003	(193,396)	589,607 (c)
Overall Rate of Return	7.79%		7.61% (d)
Revenue Change	182,743	(106,196)	76,547
Percent Change in Revenue	66.14%		27.70%

Notes

- (a) Reduce management expense (\$49,799) and rate case expense (\$7,061)
- (b) Reduce depreciation from billing and accounting systems (\$9,178 and \$18,458, respectively)
- (c) Reduce rate base from billing and accounting systems (\$64,228 and \$129,168, respectively)
- (d) Reduce return on equity to 9.41%

LWA/ACLPOA: Summary of Recommendations
Lake Wildwood Utility Company

Description	Proposed Rates with Staff		
	Adjustments (Staff Exh. 7.0C, Sch. 7.1 LW)	LWA/ACLPOC Adjustments	LWA/ACLPOC Proposed Rates
Water Service Revenues	303,345	(66,506)	236,839
Miscellaneous Revenues	5,616	-	5,616
Total Operating Revenues	308,961	(66,506)	242,455
Uncollectible Accounts	9,450		9,450
Maintenance Expenses	64,016		64,016
General Expenses	75,432	(39,454)	35,978 (a)
Depreciation	67,010	(14,652)	52,358 (b)
Amortization of CIAC	(4,313)		(4,313)
Taxes Other Than Income	15,561	-	15,561
Total Operating Expense Before Income Taxes	227,156	(54,106)	173,050
State Income Tax	3,985	(604)	3,381
Federal Income Tax	17,207	(2,608)	14,599
Deferred Taxes and ITCs	-	-	-
Total Operating Expenses	248,348	(57,318)	191,030
Net Operating Income	60,613	(9,188)	51,425
Rate Base	778,092	(102,621)	675,471 (c)
Overall Rate of Return	7.79%		7.61% (d)
Revenue Change	110,294	(66,506)	43,788
Percent Change in Revenue	55.52%		22.04%

Notes

- (a) Reduce management expense (\$26,559) and rate case expense (\$12,895)
- (b) Reduce depreciation from billing and accounting systems (\$4,870 and \$9,782, respectively)
- (c) Reduce rate base from billing and accounting systems (\$34,081 and \$68,540, respectively)
- (d) Reduce return on equity to 9.41%

CERTIFICATE OF SERVICE

I, Richard C. Balough, do hereby certify that a true and correct copy of the Initial Hearings Brief on behalf of Lake Wildwood Association and Apple Canyon Lake Property Owners' Association has been served via electronic means on the eDocket service list on this 15th day of June 2010.

 /s/ Richard C. Balough