STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Apple Canyon Utility Company	:	
	:	
Proposed general increase in Water Rates.	:	09-0548
	:	
	:	(Cons.)
	:	
Lake Wildwood Utilities Corporation	:	09-0549
	:	
Proposed general increase in Water Rates.	:	

INITIAL BRIEF OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

June 15, 2010

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NOW COME the Staff witnesses of the Illinois Commerce Commission ("Staff"), by and through their undersigned counsel, pursuant to Section 200.800 of the Illinois Commerce Commission's Rules of Practice (83 Ill. Adm. Code 200.800), and respectfully submit their Initial Brief in the instant proceeding.

I. INTRODUCTION

On October 14, 2009, Apple Canyon Utility Company ("ACUC") filed its Ill. C. C. No. 1, 9th Revised Sheet No. 1 and 8th Revised Sheet No. 1.1, hereinafter referred to as "Filed Rate Schedule Sheets," in which it proposes a general increase in water rates, to be effective November 28, 2009. Also, on October 14, 2009, Lake Wildwood Utilities Corporation ("LWUC") filed its Ill. C. C. No. 2, 2nd Revised Sheet No. 1 and 1st Revised Sheet No. 2, hereinafter referred to as "Filed Rate Schedule Sheets," in which it proposes a general increase in water rates, to be effective November 28, 2009.

On November 12, 2009, the Commission suspended the ACUC and LWUC tariffs. On February 4, 2010, the Administrative Law Judge granted a Motion to

Consolidate filed by ACUC and LWUC (collectively, the "Company" or "Utilities Inc."). The matters were resuspended on February 24, 2010.

The following Staff witnesses have submitted testimony in this case: Mike Ostrander (Staff Exs. 1.0 and 7.0C), Burma Jones (Staff Exs. 2.0 and 8.0C), Janis Freetly (Staff Exs. 3.0 and 9.0), Philip Rukosuev (Staff Exs. 4.0 and 10.0R), Christopher Boggs (Staff Exs. 5.0 and 11.0), and Thomas Q. Smith (Staff Ex. 6.0).

The following Petitions to Intervene were also granted in this matter: Apple Canyon Lake Property Owners Association (ACPOA") and Lake Wildwood Association, Inc ("LWA"). An evidentiary hearing was held in this matter on May 14, 2010. The record was subsequently marked Heard and Taken.

All rates set by the Commission must be "just and reasonable" and any "unjust or unreasonable" rate is unlawful. In this regard, Section 5/9-101 of the PUA provides, in relevant part, that:

> All rates or other charges made, demanded or received by any product or commodity furnished or to be furnished or for any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful. All rules and regulations made by a public utility affecting or pertaining to its charges to the public shall be just and reasonable. (220 ILCS 5/9-101)

II. RATE BASE

A. Resolved Issues

1. Adjustment to Utility Plant – Abandoned Well

The utilities have abandoned two wells such that they are no longer used and useful for the provision of utility service. (Staff Ex. 6.0, p. 9) Staff witness Ostrander proposed adjustments to reduce the test year utility plant amount for utility plant that has been retired, and is no longer used and useful, but is included in gross utility plant in the Companies' filings. (Staff Ex. 7.0, Schedules 7.7 AC and LW) Corresponding adjustments to accumulated depreciation and depreciation expense were made. The Companies did not contest these adjustments. (ACUC-LWUC Ex. 6.0, p. 2)

2. Adjustment to Utility Plant – Pro Forma Plant Additions

Staff witness Ostrander proposed adjustments to utility plant to disallow those 2009 pro forma plant additions that are not known and measurable in accordance with 83 Ill. Adm. Code 287.40. (Staff Ex. 7.0, Schedules 7.8 AC and LW) The Companies included in the pro forma plant additions the actual costs of plant additions through June 30, 2009 plus an estimate of costs through December 31, 2009 which represents double the amount of actual costs through the first half of 2009. Since the estimated costs for the July – December 2009 period are merely a repetition of the additions for the prior six months, they are not known and measurable and are therefore being disallowed. Corresponding adjustments to accumulated depreciation, accumulated deferred income taxes and depreciation expense were made. The Companies did not contest these adjustments. (ACUC-LWUC Ex. 6.0, p. 2)

3. Adjustment to Accumulated Depreciation

Staff witness Ostrander proposed adjustments to properly reflect the increase in accumulated depreciation during the post-test year time period. (Staff Ex. 7.0, Schedules 7.9 AC and LW) The Companies have not properly reflected both known and measurable increases and decreases that impact "net" utility plant investment from known and measurable changes that occurred from January 2009 through June 2009. The Companies, through their pro forma plant additions adjustments, have reflected increases to gross utility plant during the post-test year period through June 30, 2009. However, plant should also be offset by the known changes to accumulated depreciation through June 30, 2009. The Companies did not contest these adjustments. (ACUC-LWUC Ex. 6.0, p. 2)

4. Adjustment to Deferred Charges

Staff witness Ostrander proposed adjustments to remove deferred charges from rate base because the Commission has not authorized the deferral. (Staff Ex. 7.0, Schedules 7.10 AC and LW) The instructions to Account 186, Miscellaneous Deferred Debits, require the Commission's authority for the deferral of costs. The Companies did not contest these adjustments. (ACUC-LWUC Ex. 6.0, p. 2)

5. Adjustment to Working Capital

Staff witness Ostrander proposed adjustments to working capital for the removal of real estate taxes and to incorporate the effects of other Staff-proposed adjustments. (Staff Ex. 7.0, Schedules 7.12 AC and LW) The Companies did not contest the removal of real estate taxes from the working capital calculation. (ACUC-LWUC Ex. 6.0, p. 3) These adjustments should be updated to reflect the operating expenses approved by the Commission.

III. OPERATING REVENUES AND EXPENSES

A. Resolved Issues

1. Adjustment for Unaccounted-for Water

Apple Canyon has located and repaired several leaks in its water system that had resulted in higher than expected unaccounted-for-water levels. (AC Ex. 2.0, p. 19)

Staff witness Smith found that the leaks have resulted in high unaccounted-for water quantities and stated that Apple Canyon should continue its program of identification and repair of leaks in its water system. (Staff Ex. 6.0, p. 10) Staff witness Ostrander proposed adjustments to decrease maintenance expenses because the unaccounted-for water percentage exceeded the maximum as defined by the Companies' tariffs. (Staff Ex. 7.0, Schedules 7.11 AC and LW) The adjustments limit the costs ratepayers bear for unaccounted-for water to what the Commission has set forth as reasonable in each Company's tariffs. The Companies did not contest these adjustments. (ACUC-LWUC Ex. 6.0, p. 2)

2. Pro Forma Expense

Staff witness Jones proposed an adjustment to disallow increases to expenses that are based on an inflation factor. (Staff Ex. 2.0 p.4, Schedule 2.1AC and 2.1LW and Staff Ex. 8.0 C p. 3, Schedule 8.1AC and 8.1LW) Pro forma adjustments to an historical test year should be based upon known and measurable changes; inflation factors are not known and measurable. Staff's adjustment decreases maintenance and general expenses for each company. The Companies agreed with the adjustment. (ACUC-LWUC Ex. 4.0, p.4)

3. Add-On Taxes

Staff witness Jones proposed an adjustment to remove the Gross Revenues tax (also known as the Public Utility Fund tax) from the Company's revenue requirement and recommended that the Company collect the tax as a separate charge on customers' bills when the rates approved in this docket go into effect. (Staff Ex. 2.0 pp. 3-4, Schedule 2.2AC and 2.2LW and Staff Ex. 8.0 C pp. 3-6, Schedule 8.2AC and

8.2LW) The tax, which is an add-on charge to customers' bills, is not an actual operating expense of the utility and, therefore, should not be included in tariffed rates. The Companies agreed with the adjustment and recommendation. (ACUC-LWUC Ex. 6.0, p.3)

4. Rate Case Expenses

Staff witness Jones proposed adjustments to rate case expenses (1) to recognize updated information presented by the Company regarding actual expense incurred, (2) to account for the overlap, for ratemaking purposes, between the normal allocation of WSC personnel costs to the Company and the costs requested as rate case expense, and (3) to change the amortization period for rate case expense to five years from the three years proposed by the Company. (Staff Ex. 2.0 pp. 4-7, Schedule 2.3AC and 2.3LW and Staff Ex. 8.0 C pp. 6-10, Schedule 8.3AC and 8.3LW) For the purpose of these cases, the Companies accept Staff's adjustments to rate case expenses, including the five-year amortization period. (ACUC-LWUC Ex. 6.0, p.3)

5. Corporate Employee Expenses

Staff witness Jones proposed an adjustment to correct corporate employee expenses in the Company's revenue requirement. (Staff Ex. 8.0 C p. 14, Schedule 8.5AC and 8.5LW) The amounts as filed were calculated with an incorrect Water Service Corporation ("WSC") allocation factor. Staff's adjustment, which is based on applying the correct WSC allocation factor to total corporate salaries, payroll taxes, and benefits, increases test year expenses. Staff's adjustment was not specifically addressed by the Companies in testimony, but the adjustment was included in the revenue requirements filed with the Companies' surrebuttal testimony. (ACUC-LWUC Ex. 6.0, Schedule 6.1AC, p. 3 and 6.1LW, p. 3)

6. Operations and Customer Service Employee Expenses

Staff witness Jones proposed an adjustment to update operations and customer service employee expenses to reflect known and measurable changes to test year expenses for actual costs incurred in 2009 for salaries, payroll taxes, and benefits. (Staff Ex. 8.0 C pp. 14-15, Schedule 8.6AC and 8.6LW) The adjustment also reflects the change in the Regional Vice President ("RVP") allocation factor due to the RVP organizational change that occurred in 2009. The adjustment for Apple Canyon incorporates Staff's proposed adjustment in direct testimony to correct the allocation factor for employee Nathan Brant. (Staff Ex. 2.0 p. 9, Schedule 2.4AC) Staff's adjustment was not specifically addressed by the Companies in testimony, but the adjustment was included in the revenue requirements filed with the Companies' surrebuttal testimony. (ACUC-LWUC Ex. 6.0, Schedule 6.1AC, p. 3 and 6.1LW, p. 3)

B. Contested Issues

1. Test Year O&M and General Expenses

Staff witness Jones proposed an adjustment to test year O&M and General Expenses to reflect a more reasonable level of expense to include in base rates. (Staff Ex. 2.0 p. 7, Schedule 2.4AC and 2.4LW and Staff Ex. 8.0 C p. 10, Schedule 8.4AC and 8.4LW) Increases to expenses of the magnitude experienced in 2008, which is the test year, over previous years' expenses do not appear reasonable and must be addressed.

Ms. Jones' proposed adjustment is based on the five-year average of expenses reported on Form 22 ILCC for the years 2004 through 2008, as shown below:

Apple Canyon			Lake Wildwood	
2004	$151,560		2004	$92,234
2005	$166,281		2005	$110,824
2006	$179,260		2006	$122,325
2007	$246,216		2007	$154,089
2008	$399,063		2008	$218,870

The gross adjustment is the difference between the five-year average and the comparable test year expenses on Company Schedule B. The net adjustment reflects the removal of the overlapping effect of other staff adjustments to comparable test year expenses. (Staff Ex. 2.0 pp. 7-8)

Company witness Steven Lubertozzi takes issue with Staff's methodology. He opines that historical averaging would be appropriate if costs were declining, but certain costs are increasing. However, Mr. Lubertozzi has not demonstrated that the net effect of changes to all costs represents an increase. Further, in discussing 2009 comparable costs for the Companies, Mr. Lubertozzi states that actual incurred expense for Apple Canyon is $353,094 and for Lake Wildwood is $212,174. Each of these amounts is *less,* not more, than the amount reported in the respective Company's 2008 Annual Report ($399,063 for Apple Canyon and $218,870 for Lake Wildwood). (Staff Ex. 8.0C pp. 12-13)

Mr. Lubertozzi attributes the majority of the increase in expenses to salaries and related benefits. (*Id.*, p. 13) Even if that is correct, information provided by the

Company indicates that 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. (*Id*., pp. 11-12) The number of employees decreased from approximately 501 at the end of the test year to 436 at the end of 2009. It is logical to assume that salaries and related benefits will decrease as a result of the downsizing and consolidation. (*Id*., p. 13) Thus, not only has the Company failed to explain why the large increase in its O&M and general expenses for the test year is reasonable, it has provided evidence that the test year level will not be sustained.

The result of Staff's adjustment, which is based on known historical spending levels, is a more just and reasonable level of expense on which to calculate rates. It is offered as a reasonable way to mitigate the large increase in test year expenses over previous years' expenses and should be adopted by the Commission.

IV. RATE OF RETURN - RESOLVED

Staff witness Janis Freetly presented the overall cost of capital and recommended a fair rate of return on rate base for Apple Canyon and Lake Wildwood. (Staff Ex. 3.0 and 9.0) The Companies accepted Staff's 7.79% overall cost of capital recommendation. (ACUC-LWUC Ex. 6.0, p. 8)

Weighted Average Cost of Capital
December 31, 2008

Staff Proposal

	Amount	Percent of Total Capital	Cost	Weighted Cost
Short-term Debt	$22,380,391	6.24%	2.64%	0.16%
Long-term Debt	$178,726,842	49.81%	6.65%	3.31%
Common Equity	$157,737,014	43.96%	9.82%	4.32%
Total Capital	$358,844,247	100.00%		
Weighted Average Cost of Capital				**7.79%**

A. Capital Structure

Since both of the Companies are wholly owned subsidiaries of Utilities, Inc. ("UI"), Staff proposed using UI's capital structure for the year ended December 31, 2008, comprised of 6.24% short-term debt, 49.81% long-term debt, and 43.96% common equity. (Staff Ex. 3.0, p. 3 and Schedule 1)

Ms. Freetly calculated the balance of short-term debt in three steps. First, Ms. Freetly calculated the monthly ending net balance of short-term debt outstanding from June 2008 through June 2009. The net balance of short-term debt equals the monthly ending gross balance of short-term debt outstanding minus the lesser of (a) the corresponding monthly ending balance of construction-work-in-progress ("CWIP") accruing an allowance for funds used during construction ("AFUDC"), or (b) the monthly ending balance of CWIP accruing AFUDC times the ratio of short-term debt to total CWIP for the corresponding month. That adjustment recognizes the Commission's formula for calculating AFUDC assumes short-term debt is the first source of funds financing CWIP[1] and addresses the double-counting concern the Commission raised in a previous Order.[2] Second, Ms. Freetly calculated the twelve monthly averages from the adjusted monthly ending balances of short-term debt. Third, Ms. Freetly averaged the twelve monthly balances of short-term debt for July 2008 through July 2009. (Staff Ex. 3.0, pp. 3-4 and Schedule 2)

Ms. Freetly adjusted the $180,000,000 balance of long-term debt outstanding on December 31, 2008 to reflect the unamortized debt expense incurred to issue the debt, which produces a long-term debt balance of $178,726,842. Ms. Freetly used the $157,737,014 balance of common shareholders equity on December 31, 2008. (*Id.*, p. 5)

B. Cost of Debt

Ms. Freetly estimated that the Companies' cost of short-term debt is 2.64%, which equals a weighted average of the current Prime rate and LIBOR rate that the Companies pay on short-term borrowings. The weighted cost of short-term debt was calculated based on the proportion of the Companies' borrowings at the Prime rate and LIBOR during the short-term measurement period.

The Companies' embedded cost of long-term debt is 6.65%, which includes the annual amortization of debt expense to reflect straight line amortization of the

[1] *Uniform System of Accounts for Water Utilities Operating in Illinois,* Accounting Instruction 19 Utility Plant - Components of Construction Cost (17). Long-term debt, preferred stock and common equity are assumed to finance CWIP balances in excess of the short-term debt balance according to their relative proportions to long-term capital.

[2] Order, Docket No. 95-0076 (Illinois-American Water Company, general rate increase), December 20, 1995, p. 51.

unamortized balance over the remaining life of the outstanding issue of long-term debt. (Staff Ex. 3.0, p. 8 and Schedule 3)

C. Cost of Common Equity

Ms. Freetly recommended a 9.82% cost of common equity for UI subsidiaries Apple Canyon and Lake Wildwood. She measured the investor-required rate of return on common equity for UI with the discounted cash flow ("DCF") and risk premium models. DCF and risk premium models cannot be directly applied to UI because its stock is not market traded. Therefore, Ms. Freetly applied those models to water utility and public utility samples (hereafter, referred to as "Water sample" and "Utility sample", respectively).

Staff's Water sample consists of domestic corporations classified as water utilities within Standard & Poor's ("S&P") *Utility Compustat II* that have publicly traded common stock and long-term growth rates from Zacks Investment Research ("Zacks"). (Staff Ex. 3.0, p. 9) Staff's Utility sample was selected using S&P credit ratings, business risk profiles and financial risk profiles for a typical water utility since UI is not rated. Ms. Freetly concluded that a credit rating of A- with a business risk profile of 'excellent' and a financial risk profile of 'significant' are representative of the business and financial risk of a typical water utility and, therefore, reasonable estimates for UI. Ms. Freetly formed her sample by selecting domestic dividend paying publicly traded corporations classified as electric or gas utilities within S&P *Utility Compustat II* that (1) have been assigned a S&P credit rating of A, A- or BBB+; (2) a business risk profile score of 'excellent'; and (3) a financial risk profile of 'intermediate', 'significant' or 'aggressive'. Companies that lacked Zacks growth rates or were in the process of being acquired by another company or acquiring a company or similar size were not included in the Utility sample. (Staff Ex. 3.0, pp. 9-11)

1. DCF Analysis

DCF analysis assumes that the market value of common stock equals the present value of the expected stream of future dividend payments to the holders of that stock. Ms. Freetly employed a multi-stage non-constant-growth DCF model that reflects a quarterly frequency in dividend payments. (Staff Ex. 3.0, pp. 11-16)

Staff witness Freetly modeled three stages of dividend growth. The first, near-term growth stage is assumed to last five years. The second stage is a transitional growth period lasting from the end of the fifth year to the end of the tenth year. The third or "steady-state" growth rate is assumed to begin after the tenth year and continue into perpetuity. (*Id.*, p. 12)

For the first stage, Ms. Freetly used market-consensus expected growth rates published by Zacks as of February 2, 2010. To estimate the long-term growth expectations for the third, steady-state stage, she utilized the implied 20-year forward U.S. Treasury rate in ten years, 5.05%. (*Id.*, pp. 13-14) The growth rate employed in the intervening, five-year transitional stage equals the average of the Zacks growth rate and the steady-state growth rate. (*Id.*, p. 14) The growth rate estimates were combined with the closing stock prices and dividend data as of February 2, 2010. Based on these growth assumptions, stock price, and dividend data, Ms. Freetly's DCF estimate of the cost of common equity was 9.61% for the Water sample and 10.83% for the Utility sample. (*Id.*, p. 16 and Schedule 8)

2. Risk Premium Analysis

According to financial theory, the required rate of return for a given security equals the risk-free rate of return plus a risk premium associated with that security. Staff witness Freetly used a one-factor risk premium model, the Capital Asset Pricing Model ("CAPM"), to estimate the cost of common equity. (Staff Ex. 3.0*,* pp. 16-18)

The CAPM requires the estimation of three parameters: beta, the risk-free rate, and the required rate of return on the market. For the beta parameter, Ms. Freetly combined adjusted betas from Value Line, Zacks, and a regression analysis to estimate the beta of the Water and Utility sample. For the Water sample, the average Value Line, Zacks, and regression beta estimates were 0.70, 0.60, and 0.55, respectively. For the Utility sample, the average Value Line, Zacks, and regression beta estimates were 0.69, 0.63, and 0.57, respectively. The Value Line regression employs weekly observations of stock return data while both the regression beta and Zacks betas employ monthly observations. Since the Zacks beta estimate and the regression beta estimate are calculated using monthly data rather than weekly data (as Value Line uses), Ms. Freetly averaged those results to avoid over-weighting betas estimated from monthly data in comparison to the weekly data-derived Value Line betas. She then averaged the resulting monthly beta with the Value Line weekly beta, which produced a beta of 0.64 for the Water sample and 0.64 for the Utility sample. (*Id.*, pp. 24-29)

For the risk-free rate parameter, Ms. Freetly considered the 0.04% yield on four-week U.S. Treasury bills and the 4.60% yield on thirty-year U.S. Treasury bonds. Both estimates were measured as of February 2, 2010. Forecasts of long-term inflation and the real risk-free rate imply that the long-term risk-free rate is between 4.3% and 5.0%.

Thus, Ms. Freetly concluded that the U.S. T-bond yield is currently the superior proxy for the long-term risk-free rate. (*Id.*, pp. 21-22)

Finally, for the expected rate of return on the market parameter, Ms. Freetly conducted a DCF analysis on the firms composing the S&P 500 Index. That analysis estimated that the expected rate of return on the market was 12.12% for the fourth quarter of 2009. (*Id*., p. 23) Inputting those three parameters into the CAPM, Ms. Freetly calculated a cost of common equity estimate of 9.41% for both the Water sample and the Utility sample. (*Id.*, p. 29 and Schedule 9)

3. Staff Cost of Equity Recommendation

Ms. Freetly estimated the investor-required rate of return on common equity for the Water sample of 9.51% by taking the simple average of the DCF-derived results (9.61%) and the risk-premium derived results (9.41%) for the Water sample. (Staff Ex. 3.0, p. 30) Ms. Freetly estimated the investor-required rate of return on common equity for the Utility sample of 10.12% by taking the simple average of the DCF-derived results (10.83%) and the risk-premium derived results (9.41%) for the Utility sample. The investor required rate of return on common equity for Apple Canyon and Lake Wildwood, 9.82%, is based on the average for the Water and Utility samples. (Staff Ex. 3.0, p. 30)

V. RATE DESIGN/TARIFF TERMS - RESOLVED

A. Miscellaneous Fees and Charges

1. Tampering Fee

The Companies proposed to reserve the right to assess a $50 administrative fee to a customer for tampering with Company equipment. (AC Ex. 2.0, p. 15, LW Ex. 2.0,

p. 15) After reviewing the Administrative Code, Staff witnesses Boggs and Rukosuev presented arguments that this proposed fee was not in compliance with 83 Illinois Administrative Code Part 280.60(b) which states:

> A utility may request a deposit pursuant to Section 280.70 herein from a present residential customer after the first 24 months that the customer has received utility service if the customer's wires, pipes, meters or other service equipment have been tampered with and the customer enjoyed the benefit of the tampering. (Staff Ex. 10.0, p. 5 and Staff Ex. 11.0, p.17)

In his rebuttal testimony, Company witness Daniel[3] stated that the Companies would withdraw their requests for approval to assess the Tampering Fee of $50.00 and would rely on 83 Illinois Administrative Code Sections 280.60 and 280.100 when applicable. (ACUC-LWUC Ex. 5.0, p. 3)

2. After Hours Call-Out Charge

The Companies proposed to establish an After Hours Call-out charge as described in Section 4C of the Company Rules, Rates and Conditions of Service. (AC Ex. 2.0, pp. 14-15, LW Ex. 2.0, pp. 14-15). The Companies proposed a minimum rate to be equal to two hours of current labor rate or $106. For all time accumulated above the two hour minimum, the Company proposed to bill customers at the rate of $53 per hour. In response to Staff DR CB 1.07, the Companies documented the average operator overtime costs, customer service costs to process the overtime request and roundtrip mileage to premises. Furthermore, in response to Staff DR CLB 1.12, the Companies stated that such a minimum charge would act as a deterrent in instances when a customer calls and requests service to an issue that can be otherwise handled during normal business hours. Although the Companies sufficiently demonstrated that the

[3] Mr. Daniel adopted the direct testimony of Company witness Burris.

$106 fee is reasonable for the reasons stated earlier, the proposed tariff language provides an opportunity for discriminatory treatment, since there are no clear criteria as to when such fee would be assessed. In their direct testimony, Staff witnesses Boggs and Rukosuev indicated that the proposed fee should not be approved, unless the Companies provide in rebuttal testimony, amended proposed tariff language that defines under what circumstances the fee would be applied and be compliant with 83 Illinois Administrative Code Part 280. Staff was concerned that with no standard for imposing the fee, it could be applied arbitrarily. (Staff Ex. 4.0, pp. 15-16 and Staff Ex. 5.0, pp. 12, 15-16)

Although the Companies did not provide updated tariff language, in rebuttal testimony, Company witness Daniel pointed out that, per Paragraph 4C of the Companies' existing tariffs, the Companies' Rules, Regulations and Conditions of Service currently provide the appropriate verbiage that allows the Companies to assess a charge for an After Hours Call-Out. (ACUC-LWUC Ex. 5.0, p. 3) Furthermore, Company witness Daniel pointed out that the After Hours Call-Out charge would only be applicable for "call-out service requested by the customer or service necessitated by the customer's negligence." The After Hours Call-Out charge would not be applied to after hours service calls for situations such as system low pressure, water quality issues, water main breaks or other system malfunctions. (ACUC-LWUC Ex. 5.0, p. 4) Following Company witness Daniel's clarifications in rebuttal testimony, Staff witnesses Boggs did not object and recommend approving the After Hours Call-Out charges

3. Temporary Disconnection Charge

Companies' witness Burris proposed that the Companies increase their Temporary Disconnection charge to $37.50 so that it could recover the current average cost of labor for one hour of employee time to provide these services. (AC Ex. 2.0, p. 14, LW Ex. 2.0, p. 14) In response to Staff DR CB 1.07, the Companies provided an average labor cost for hourly customer service labor, hourly field staff labor and mileage to disconnect/reconnect a customer. Based on a review of the data provided by the Companies, Staff witnesses Boggs and Rukosuev determined that the proposed increase is reasonable and recommend the increase be approved. (Staff Ex. 5.0, p. 10 and Staff Ex. 4.0, p.14)

4. Reconnection Charge

The Companies proposed to increase their reconnection charge from $20 to $37.50. In his Direct Testimony, the Company stated that it would like to recover the current average cost of labor for one hour of employee time to provide the reconnection service. (AC Ex. 2.0, p. 14, LW Ex. 2.0, p. 14) In response to Staff DR CB 1.07, the Companies provided average labor costs for hourly customer service staff, hourly field staff, and mileage to support the proposed increase. Based on a review of the data provided by the Companies, Staff witnesses Boggs and Rukosuev determined that the proposed increase is reasonable and recommend the increase be approved. (Staff Ex. 5.0, p. 10 and Staff Ex. 4.0, p.13)

5. Non Sufficient Funds Charge

The Companies proposed to increase the Non-Sufficient Funds (NSF) Check charge from $10 to $25. (AC Ex. 2.0, p. 13, LW Ex. 2.0, p. 13) In direct testimony, Staff witnesses Boggs and Rukosuev stated that, based on the information provided, the $25 NSF charge proposed by the Company is reasonable and should be approved. (Staff Ex. 5.0, p.9 and Staff Ex. 4.0, p. 11)

6. New Service Application Fee

The Companies proposed to reserve the right to assess a minimum fee of $50 for a new service application, if deemed necessary due to applicant's undesirable credit history. (AC Ex. 2.0, p. 14. LW Ex. 2.0, p. 14) In direct testimony, Staff witnesses Boggs and Rukosuev recommended rejecting the fee and stated that the tariff language setting forth this fee must be compliant with 83 Illinois Administrative Code Part 280.50, 280.60, and 280.70. Staff recommended that the Companies provide updated tariff language which complies with the Illinois Administrative Code in their rebuttal testimony (Staff Ex. 5.0, p.14 and Staff Ex. 4.0, p. 17-18).

Although the Companies did not provide updated tariff language with their rebuttal testimony, Companies' witness Mr. Daniel[4] stated that the Companies would abide by the Commission's rules. (ACUC-LWUC Ex. 5.0, p. 3) In rebuttal testimony, Staff pointed out that the Companies' Rules, Regulations and Conditions of Service, ILL. C.C. 96 No. 1, Original Sheet 22, paragraph 16 titled "Customer's Deposit," currently provides the appropriate verbiage that allows the Company to assess a deposit. Staff stated that "[t]he Company's initial proposal to assess a minimum security deposit of $50 should not be approved. Instead, the Company should continue to use its current Rules, Regulations and Conditions of Service (ILL. C.C. No. 1 Original Sheet 22 paragraph 16) when assessing the need for a customer deposit." (Staff Ex. 10.0, p. 5 and Staff Ex. 11.0, p.5)

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[4] Mr. Burris' direct testimony was adopted by Company witness Daniel.

VI. MISCELLANEOUS - UNCONTESTED

A. Rules Changes

Apple Canyon proposes several changes to its Rules. (AC Ex. 2, pp. 15-18) Smith opposed all rules changes. (Staff Ex. 6.0, pp. 3-9) The Company withdrew its request for all changes. (ACUC-LWUC Ex. 5.0, p. 5)

B. Unauthorized Service

In direct testimony, Staff addressed the provision of unauthorized service by Lake Wildwood. Staff Ex. 6.0, p. 10) The Company has filed a petition addressing the problem, Docket No. 10-0224. (ACUC-LWUC Ex. 5.0, pp. 5-6) There is no issue on this point.

C. Aged Meters

In direct testimony Staff addressed the problem of aged meters. (Staff Ex. 6.0, p. 11) The Companies indicated in rebuttal testimony that they have a plan in place to replace aged meters. (ACUC-LWUC Ex. 5.0, p. 6) There is no issue on this point.

VIII. CONCLUSION

WHEREFORE, for all of the following reasons, Staff respectfully requests that the Commission's order in this proceeding reflect all of Staff's recommendations regarding the Company's request for a general increase in water rates.

June 15, 2010

Respectfully submitted,

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