STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Whispering Hills Water Company	:	
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Proposed general increase in water rates	:	10-0110
(tariffs filed January 4, 2010)	:	
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INITIAL BRIEF OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

August 13, 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 ("IB") in the instant proceeding.

I. INTRODUCTION

On January 4, 2010, Whispering Hills Water Company ("WHWC") filed its Ill. C. C. No. 5, 11th Revised Sheet No. 1, hereinafter referred to as "Filed Rate Schedule Sheets," in which it proposes a general increase in water rates, to be effective February 19, 2010.

On February 10, 2010, the Commission suspended the WHWC tariffs. The matters were resuspended on May 25, 2010.

The following Staff witnesses have submitted testimony in this case: Mike Ostrander (Staff Exs. 1.0 and 7.0), Burma Jones (Staff Exs. 2.0 and 8.0), Janis Freetly

(Staff Ex. 3.0), Philip Rukosuev (Staff Exs. 4.0 and 9.0), William R. Johnson (Staff Exs. 5.0 and 10.0), and William H. Atwood (Staff Exs. 6.0 and 11.0).

An evidentiary hearing was held in this matter on July 22, 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 – Pro Forma Plant Additions

The Company proposed an adjustment to utility plant to reflect pro forma plant additions through December 31, 2009 that are known and measurable in accordance with 83 Ill. Adm. Code 287.40. (WHWC Ex. No. 2.0, Schedule 2.1, p. 13.) Staff accepted the Company's adjustment. (Staff Ex. 7.0, p. 5.)

2. Adjustment to Deferred Charges

Staff witness Ostrander proposed an adjustment to remove deferred charges from rate base because the Commission has not authorized the deferral. (Staff Ex. 1.0, Schedules 1.10.) The instructions to Account 186, Miscellaneous Deferred Debits, require the Commission's authority for the deferral of costs. The Company did not contest the adjustment. (WHWC Ex. No. 2.0, p. 4.)

3. Adjustment to Customer Deposits

Staff witness Ostrander proposed an adjustment to correct the Company's presentation of customer deposits as an addition to rate base. (Staff Ex. 1.0, Schedule 1.11.) The Company's support for customer deposits, as reflected in its response to Staff data request JMO 1.01, shows that customer deposits have a credit general ledger balance and should be reflected as a reduction to rate base. The Company did not contest the adjustment. (WHWC Ex. No. 2.0, p. 4.)

4. Adjustment to Working Capital

Staff witness Ostrander proposed an adjustment to working capital for the removal of real estate taxes and to incorporate the effects of other Staff-proposed adjustments. (Staff Ex. 1.0, Schedule 1.12.) The Company did not contest the removal of real estate taxes from the working capital calculation. (WHWC Ex. No. 2.0, p. 4.) These adjustments should be updated to reflect the operating expenses approved by the Commission.

5. Plant Additions – Original Cost Finding

Staff witness Ostrander testified regarding original cost determination. 83 Ill. Adm. Code 615, The Preservation of Records of Water Utilities, Appendix A, contains requirements for the preservation of specific records. For example, journal vouchers and journal entries which support plant accounts are to be maintained "7 years prior to date as of which original cost of plant has been unconditionally determined or approved by this Commission in" an original cost determination proceeding or a rate case. Mr.

Ostrander recommended that the Commission conclude and make a finding in the Order for this proceeding that the Company's December 31, 2008 plant balance as reflected in Company Schedule C, column Per Books, is unconditionally approved as the original cost of plant. (Staff Ex. 1.0, p. 11.) The Company did not respond to Staff's recommendation.

6. Depreciation Rates

Whispering Hills witness Neyzelman proposed moving from composite water depreciation rates to utilizing separate water depreciation rates for each primary account. (WHWC Ex. 1.0, pp. 10-11.)

Staff witness Johnson did not object to the Company's proposed separate water depreciation rates by primary account; however, Staff proposed a couple of adjustments to the Company's depreciation schedules. (ICC Staff Ex. 5.0, pp. 3-7.)
Company witness Neyzelman agreed with Staff's proposed depreciation adjustments. (WHWC Ex. No. 2, p. 11.)

In his rebuttal testimony, Staff witness Johnson provided depreciation schedules identifying the final proposed water depreciation rates. (ICC Staff Ex. 10.0, Attachment 10.1.) Staff also recommended that Utilities, Inc. file a joint petition with the Commission under Section 5/5-104 of the Public Utilities Act to implement separate water and sewer depreciation rates for each primary account for all of its regulated Illinois water and wastewater utilities, which would include performing a depreciation study. (ICC Staff Ex. 10.0, pp. 2-3.)

Company witness Neyzelman agreed with Staff's proposed water depreciation rates. However, the Company did not agree with Staff's recommendation for Utilities, Inc. to file a joint petition with the Commission under Section 5/5-104 of the Public Utilities Act to implement separate water and sewer depreciation rates for each primary account for all of its regulated Illinois water and wastewater utilities, which would include performing a depreciation study. Company witness Neyzelman stated that costs of performing a depreciation study would not be recoverable unless each company filed a rate case at the same time using the test year that the costs were incurred and that improper capital recovery would occur. (WHWC Ex. No. 3.0, pp. 12-13.)

Rather than have Utilities, Inc. file a joint petition with the Commission under Section 5/5-104 of the Public Utilities Act to implement separate water and sewer depreciation rates for each primary account for all of its regulated Illinois water and wastewater utilities, which would include performing a depreciation study, Staff proposed, and the Company agreed, that the Commission should direct the Company to confer with Staff within 6 months of the Order in this proceeding about the best way to implement new depreciation rates. (Staff Cross Exhibit 1.)

B. Contested Issues

1. Adjustment to Other Rate Base Components for the Company's Pro Forma Plant Additions

The Commission should approve Staff's adjustments to properly reflect the known and measurable changes in accumulated depreciation, accumulated deferred income taxes ("ADIT"), and accumulated amortization of contributions in aid of construction ("CIAC") through the date of the Company's pro forma plant additions. In rebuttal testimony Staff witness Ostrander accepted pro forma plant additions that occurred through December 2009 since the Company provided documentation that the additions were known and measurable. In addition, Staff did not oppose a project to repair an elevated tank to be completed during July 2010 that the Company included in its revised pro forma plant adjustment. (Staff Ex. 7.0, p. 5.)

In rebuttal testimony the Company accepted Staff's direct testimony adjustment to reflect accumulated depreciation on embedded plant through June 30, 2009, which was the date of the Company's direct testimony pro forma plant additions. (WHWC Exhibit No. 2.0, pp. 3-4.) In surrebuttal testimony the Company acknowledged that in recent Utilities, Inc. Companies' rate proceedings, specifically Apple Canyon Utility Company (Docket No. 09-0548) and Lake Wildwood Utilities Corporation (Docket No. 09-0549), that those companies also accepted Staff's adjustment to reflect accumulated depreciation on embedded plant through the date of pro forma plant additions. (WHWC Ex. 3.0, p. 2.) And yet the Company reversed its position in surrebuttal testimony and did not accept Staff's adjustment to reflect accumulated depreciation on embedded plant through the date of the revised pro forma plant additions which was extended to December 2009. (WHWC Ex. 3.0, pp. 2-3.) The Company, in surrebuttal testimony, continued to reflect Staff's direct testimony adjustment to accumulated depreciation on embedded plant through June 30, 2009.

The Company considers Staff's adjustments in violation of Commission rules, in violation of the matching principle and inconsistent with longstanding Commission practice. (WHWC Ex. No. 3.0, pp. 2-3.) Company witness Neyzelman interprets 83 Ill. Admin. Code 287.40 ("Section 287.40") as serving to mitigate regulatory lag by permitting known and measurable pro forma adjustments to plant investment but not permitting restatement of accumulated depreciation, ADIT nor accumulated amortization of CIAC or any other selective rate base items. This narrow interpretation is clearly not realistic since Section 287.40 allows a utility to propose adjustments to the selected historical test year for all known and measurable changes in plant investment, operating revenues, expenses, and cost of capital where such changes are reasonably certain to occur subsequent to the historical test year within twelve months after the tariffs filing date. Section 287.40 does not restrict, as Mr. Neyzelman would believe, the information that the Commission can consider. The Commission should consider whether a utility has proposed a pro forma adjustment for post-test year plant additions in a way that warrants adjustments to accumulated depreciation, ADIT, and accumulated amortization of CIAC as well.

The Company, through its pro forma plant additions adjustment, has included the actual plant additions for 2009 and has effectively restated or rolled forward its gross utility plant balance through December 31, 2009. Given this scenario, the Company's investment in rate base would be overstated unless offset by or matched with the known and measurable changes to accumulated depreciation, ADIT, and accumulated amortization of CIAC through December 31, 2009 that occur with the passage of time.

Gross utility plant represents the largest component of the Company's rate base. To restate gross utility plant without also recognizing its associated components that change due to the passage of time does not represent the investment that existed at December 31, 2009 that was provided by shareholders. Ratepayers have provided the funds to reduce that investment through rates that recover the associated depreciation expense and the federal government has provided the additional funding of reduced income taxes due to the tax related timing differences associated with accelerated depreciation. (Staff Ex. 7.0, pp. 8-10.)

The Company asserts that Staff's adjustments violate the related concepts of the matching principle and the Commission's test year rule, 83 Ill. Adm. Code 287.20. ("Section 287.20") The Company defines the matching principle as requiring recognition of costs that are associated with the generation of revenues based on accrual accounting. The Company views Section 287.20 as preventing a mismatch by requiring revenues and expenses to be stated over the same 12 month period. (WHWC Ex. No. 3.0, p. 5.) Staff has no disagreement with the Company's definition of the related concepts of the matching principle and Commission test year rule. The Company posits that its pro forma plant addition adjustment does not change the test year. The test year remains the historical 12 months ended December 31, 2008 with the effect of the Company's pro forma plant adjustment to restate rate base to be more representative of the level of plant investment that will exist during the rate effective period. (WHWC Ex. No. 3.0, pp. 5-6.) The Company's proposed plant investment is not representative of the plant investment that will exist during the rate effective period. The Company incorrectly uses plant investment per Section 287.40 to mean gross utility plant. This fallacy is remedied by referring to plant investment as "net plant investment" or gross utility plant less accumulated depreciation.

Only by matching pro forma plant additions with changes to accumulated depreciation can the Commission accurately estimate the change to the Company's "net" plant investment and its related change to the historical test year rate base, and accurately produce a revenue requirement that collects the Company's cost of capital. The amount the Company actually has invested and dedicated to providing service at any point in time can be determined only by taking account of both changes in gross plant **and** changes in accumulated depreciation. Otherwise, the calculation will not match the costs and revenues that may be expected for the period during which the rates are in place. Therefore the Company's proposal, and not Staff's, is in violation of the matching principle and the Commission's test year rule, because it does not result in a net plant investment estimate that is reasonably certain to occur, it will inflate net plant investment and rate base, and it will overstate the Company's cost of capital.

The Company opines that Staff's adjustment is inconsistent with the longstanding Commission practice of not approving an accumulated depreciation adjustment on embedded plant and cites recent ComEd and North Shore/Peoples orders. (WHWC Ex. No. 3.0, pp. 7-8.) The Company's assertion is not accurate. A review of various Commission Orders demonstrates that the Commission has reached various conclusions about this issue based on the record in each of those cases. In the following cases, the Commission rolled forward the accumulated depreciation reserve on embedded plant to coincide with the date of pro forma plant additions.

- In Illinois Gas Docket No. 08-0482, the Commission approved the utility's proposal to reflect an accumulated depreciation amount measured as of the same period as the proposed pro forma plant additions.[1]
- In the AmerenUE Dockets Nos. 02-0798, 03-0008, and 03-0009 (Consolidated), the Commission included post-test year plant additions only to the extent that they exceeded the increases in the accumulated depreciation reserve for that

[1] Docket No. 08-0482, Company Exhibit LAU01, p. 4, lines 79 – 86, Exhibit LAU06, and Exhibit LAU07. Staff did not propose an adjustment to the Company's proposed pro forma adjustment. The Order entered on May 13, 2009 approved the Rate Base which reflected the Company's adjustment. (Order, p. 5.)

same time period[2] which reduced the pro forma plant additions by the accumulated depreciation on embedded plant as the Commission order did in the May 6 Order.

- In Inter-State Water Company Docket No. 94-0270, the Commission accepted adjustments to the accumulated depreciation reserve and ADIT on embedded plant through the date of pro forma plant additions stating that the adjustments are of a type which the Commission has consistently made.[3]
- In Inter-State Water Company Docket No. 85-0166, the Commission allowed pro forma plant additions only through the date for which accumulated depreciation on embedded plant was reflected in the record.[4]
- In Alton Water Company Docket No. 83-0433, the Commission included the increase in the accumulated depreciation reserve and ADIT that occurred after the test year for the period for which pro forma plant additions were included.[5]

In the following cases, the Commission did not roll forward the accumulated depreciation reserve to coincide with the date for pro forma plant additions.

- In Commonwealth Edison Docket No. 05-0597 Order ("ComEd Order"), the Commission accepted an adjustment to include post-test year plant additions

[2] Order, October 22, 2003, Docket Nos. 02-0278, 03-00008, and 03-0009 (Cons.), pp. 10-11; Order on Rehearing, May 25, 2004, Docket Nos. 02-0278, 03-00008, and 03-0009 (Cons.), pp. 1 and 7.

[3] Order, April 19, 1995, Docket No. 94-0270, p. 14.

[4] Order, February 26, 1986, Docket No. 85-0166, p. 5.

[5] Order, May 30, 1984, Docket Nos. 83-0433 and 84-0052 (Cons.), p. 12.

and rejected an adjustment to the accumulated depreciation reserve for that same period.[6]

- In Peoples Gas and North Shore Gas Docket Nos. 07-0241 and 07-0242 (Consolidated), the Commission rejected an adjustment to the accumulated depreciation reserve on embedded plant through the date of pro forma plant additions because the Commission found that the facts were not distinguished from those in the ComEd Order.[7]

Contrary to what the Company argues, Section 287.40 does not bind the Commission to a decision on the appropriate date that accumulated depreciation, ADIT and accumulated amortization on CIAC related to embedded plant at December 31, 2008 should be measured and reflected in the test year rate base. Instead, the Commission should base its decision on the facts in the record presented in each particular case.

The Commission has based its conclusion on the accumulated depreciation reserve on the record of each individual case rather than on an over-arching position that is applied across all cases. A review of the rate cases of the current Ameren companies over the last 10 years is instructive.

- Docket No. 00-0802: AmerenCIPS and AmerenUE Electric DST cases included only a very limited pro forma plant adjustment. Since the impact to plant was of a limited nature, no party proposed an adjustment to roll forward

[6] Order, July 26, 2006, Docket No. 05-0597, p. 15.

[7] Order, February 5, 2008, Docket Nos. 07-0241 and 07-0242 (Cons.), pp. 16-17.

accumulated depreciation through the pro forma period. As such, there was no issue regarding accumulated depreciation on embedded plant.

- Docket No. 01-0432: Illinois Power Electric DST case included a very limited pro forma plant adjustment. Since the impact to plant was of a limited nature, IP did not propose an adjustment to roll forward accumulated depreciation through the pro forma period. While the CUB/AG witness raised the issue of depreciation on embedded plant, the Commission found that IP's proposal was reasonable.
- Docket No. 01-0637: CILCO DST Electric DST case included specific limited projects in the pro forma plant adjustment. Since the impact to plant was of a limited nature, no party proposed an adjustment to roll forward accumulated depreciation through the pro forma period. No issue was raised concerning accumulated depreciation on embedded plant.
- Docket No. 02-0837: CILCO Gas rate case included limited specific projects but also included a significant amount for Blanket projects in the pro forma plant additions adjustment. The CUB/AG witness proposed to reflect accumulated depreciation on all embedded plant through the pro forma period. The Commission approved the CUB/AG adjustment since it concluded "where net plant in service shows a consistent declining trend, it is unwise to adopt a post-test year change that fails to account for accumulated depreciation."[8]

[8] Order, October 17, 2003, Docket No. 02-0837, p. 8.

- Docket Nos. 03-0008/0009: AmerenCIPS and AmerenUE rate cases included limited projects in the pro forma plant adjustment. Since AmerenCIPS displayed a declining net plant in service, no pro forma plant additions were allowed. For AmerenUE, however, pro forma plant additions allowed were limited to the extent they exceeded increased accumulated depreciation on embedded plant. The net effect of this decision is the same as rolling forward accumulated depreciation to the pro forma period. This position was affirmed on rehearing.
- Docket No. 04-0476: IP Gas rate case included many projects in its pro forma plant adjustment. The parties stipulated that accumulated depreciation on all embedded plant through the pro forma period should be included in rate base. The Commission's approved revenue requirement reflected that stipulation.
- Docket Nos. 06-0070 – 06-0072: Ameren Illinois Utilities Electric rate cases included limited projects in the pro forma plant adjustment. The impact to plant was of a limited nature and no party proposed an adjustment to roll forward accumulated depreciation through the pro forma period.
- Docket Nos. 07-0585 – 07-0590: Ameren Electric and Gas rate cases did not include pro forma plant adjustments; therefore, there was no issue related to accumulated depreciation on embedded plant.

As is apparent, the circumstances in each case were somewhat different but a common thread runs through. Where the Company included only limited projects in its pro forma plant adjustment, the issue of accumulated depreciation on embedded plant was not raised; the Company was not rolling forward its plant balances. However, where a more aggressive position regarding the level of projects included in the pro forma plant adjustment was taken, the Commission did find that the accumulated depreciation reserve for all embedded plant should likewise be rolled forward to the pro forma period.

As is clearly demonstrated above, the adjustments recommended by Staff witness Ostrander properly reflect the known and measurable changes in accumulated depreciation, ADIT, and accumulated amortization of CIAC through the date of the Company's pro forma plant additions are appropriate and should be adopted by the Commission.

III. OPERATING REVENUES AND EXPENSES

A. Resolved Issues

1. Pro Forma Expense

Staff witness Jones proposed an adjustment to disallow increases based on an inflation factor to test year expenses. Pro forma adjustments to a 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. (Staff Ex. 2.0, pp. 3-4.) The Company agreed with the adjustment. (WHWC Ex. No. 2.0, p.4.)

2. 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. 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. (Staff Ex. 2.0, pp. 4-6.) The Company agreed with the adjustment and recommendation. (WHWC Ex. No. 2.0, p. 5.)

3. WSC Allocation Factor

Staff witness Jones proposed an adjustment to correct the amount of Water Service Corporation ("WSC") expenses allocated to the Company. The Company used an incorrect allocation factor to calculate its share of WSC expenses. (Staff Ex. 2.0, pp. 12-13.) The Company agreed with the adjustment. (WHWC Ex. No. 2.0, p. 10.)

4. Operations Employee Expenses

Staff witness Jones proposed adjustments to operations employee expenses to account for the change in the Regional Vice President ("RVP") that is responsible for UI's Illinois companies, the elimination of a construction inspector position, the removal of an unfilled field technician position (Staff Ex. 2.0, pp. 13-14) and the removal of a vacant operator position. (Staff Ex. 8.0, p. 8.) The Company agreed with the adjustments except for the field technician position, which has been filled. (WHWC Ex. No. 2.0, p. 10; WHWC Ex. No. 3.0, p. 11.) In rebuttal testimony, Company witness Neyzelman proposed an adjustment to include salary, tax and benefit amounts related to the field technician position in test year expenses. Ms. Jones agreed with the Company's adjustment, which is reflected in the revenue requirement filed with Staff's rebuttal testimony. (Staff Ex. 8.0, pp. 8-9.)

5. Corporate Employee Expenses

Staff witness Jones proposed an adjustment to reflect corporate employee expenses in the Company's revenue requirement. Schedule B of the Company's filing does not reflect costs for these employees, as the Company failed to include the costs on workpaper (b), Calculation of Salaries and Benefits. (Staff Ex. 2.0, p. 14.) The Company agreed with the adjustment. (WHWC Ex. No. 2.0, p. 10.)

B. Contested Issues

1. Rate Case Expenses

Staff witness Jones proposed adjustments to rate case expenses (1) to reduce rate case expense for WSC personnel working on the rate case by the amount recoverable as employee costs to prevent double recovery of the employee costs, (2) to reduce or eliminate the estimates for the three external consultants, (3) to change the amortization period for rate case expense to five years from the three years proposed by the Company, and (4) to reflect actual rate case expense incurred as of May 31, 2010 plus an estimate of the amount to bring the case to conclusion. (Staff Ex. 2.0, pp. 6-9 and Staff Ex. 8.0, pp. 3-5.)

Company witness Neyzelman did not specifically address Ms. Jones' adjustment to reduce rate case expense for WSC personnel to prevent double recovery of the employee costs, but in rebuttal testimony he calculated the Company's rate case expense for WSC employees working on the rate case by using the same methodology as Staff. (Staff Ex. 8.0, p. 3.) Presumably, this indicates the Company's acceptance of the adjustment.

Regarding Ms. Jones' adjustments for outside consultants Steven Lubertozzi and AUS Consultants, the Company accepted the reduction of Mr. Lubertozzi's consulting fee to the amount actually incurred while he was employed as a consultant (WHWC Ex. No. 3.0, Schedule 3.2, p. 4), and the elimination of the estimated fees for AUS Consultants (WHWC Ex. No. 3.0, p. 9). In response to Ms. Jones' adjustment to eliminate the fees for SFIO Consulting due to lack of information regarding services provided (Staff Ex. 8.0, p. 4), Mr. Neyzelman identified the services provided by SFIO Consultants and the basis for the fees. (WHWC Ex. No. 3.0, pp. 9-10.) Based on that information, Ms. Jones testified at the evidentiary hearing that she would change her proposed rate case expense adjustment to include the consulting fees for SFIO Consulting, which results in a $6,000 increase to total rate case expense. (Tr., pp. 41-45.) The effect on the revenue requirement is an increase of $1,200 to amortized rate case expense ($6,000/5 years). The increase is reflected in the revenue requirement attached to Staff's IB.

The Company disagrees with Ms. Jones' adjustment to disallow a portion of the estimated legal fees of $25,000. (WHWC Ex. No. 3.0, p. 10.) However, Ms. Jones reviewed invoices for legal fees and an estimate of legal fees to be incurred to complete the case, both of which were provided by the Company as of May 31, 2010, and determined that the sum of the actual fees plus the Company's estimate is $4,000 less than the $25,000 the Company proposes to recover in this proceeding. (Staff Ex. 8.0, pp. 4-5.) Ms. Jones' adjustment is based upon updated information that was available at the time of Staff's last opportunity to file testimony in this proceeding, which was

Staff's rebuttal testimony. The evidence demonstrates that the estimated legal fees are overstated and Ms. Jones' adjustment should be accepted.

Similar to legal fees, the amounts recommended by Ms. Jones for recovery for the other components of rate case expense in this proceeding are based upon updated information provided by the Company (including estimates of the expenses to be incurred to complete the case) that was available at the time of Staff's last opportunity to file testimony in this proceeding, which was Staff's rebuttal testimony. Staff made no determination regarding the costs and estimates the Company did not present until its surrebuttal testimony.

2. 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. The 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[9]:

Year	Amount
2004	$365,280
2005	$403,321
2006	$474,787
2007	$593,320
2008	$607,134

[9] The amount for 2007 is from Staff's rebuttal testimony as the 2007 amount reflected in Staff's direct testimony was incorrect. (Staff Ex. 8.0 p. 5, Schedule 8.2.)

The gross adjustment is the difference between the five-year average and the comparable test year expenses proposed by the Company. The net adjustment reflects the removal of the overlapping effect of other staff adjustments to comparable test year expenses. (Staff Ex. 2.0, p. 10; Staff Ex. 8.0, p. 5.)

Company witness Neyzelman argues that Ms. Jones is proposing that the Commission abandon its traditional test year methodology in favor of a backward looking approach. Mr. Neyzelman mischaracterizes Ms. Jones' adjustment. That is not what Ms. Jones proposes at all. Rather, increases of the magnitude experienced in test year expenses do not appear reasonable and must be addressed. Ms. Jones' proposed adjustment is offered as a reasonable way to mitigate the large increase in test year expenses over previous years' expenses. (Staff Ex. 8.0, pp. 5-6.)

Mr. Neyzelman observes that test year expenses are consistent with 2009 expenses. This observation is incorrect as the 2008 test year expenses are 28% higher than the 2009 expenses reported in the Company's Form 22 ILCC. The 2009 expenses of $437,161 are more consistent with expenses of $403,321 reported for 2005 and $474,787 reported for 2006. (*Id.*, pp 6-7.)

Mr. Neyzelman attributes the majority of the increase in expenses to salaries and related benefits, and also observes that certain costs, such as health insurance, are increasing. (WHWC Ex. No. 2.0, pp. 8-9.) Obviously, expenses in total are not increasing or 2009 total expenses would not be 28% less than the 2008 total. Whereas test year expenses reflect the expansion of personnel that began in 2006, 2009 expenses appear to reflect the beginning of the downsizing and consolidation of positions related to the lack of capital improvements planned for future years and provide evidence that the test year level will not be sustained. (Staff Ex. 8.0, p. 7.)

Staff disagrees with Mr. Neyzelman's statement that "Staff's averaging methodology would only guarantee that the Company would never fully recover these costs." By including 2008 with its large increase in the 5-year average, Staff's adjustment takes into account the fact that costs do tend to increase over time. Further, the 5-year average on which the adjustment is based is 11.8% higher than the 2009 total reported by the Company. (*Id*., pp. 7-8.) 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 Whispering Hills. (Staff Ex. 3.0.) The Company accepted Staff's 7.79% overall cost of capital recommendation. (WHWC Ex. 2.0, p. 11 and Schedule 2.1, p. 1.)

A. Capital Structure

Since the Company is a 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 3.1.)

Staff's recommended balance of short-term debt is based on the balances over the July 2008 through June 2009 period because it is centered in time at December 31, 2008, the measurement date for the other components of the capital structure. To calculate the balance of short-term debt, Staff first 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[10] and addresses the double-counting concern the Commission raised in a previous Order.[11] Next, Staff calculated the twelve monthly averages from the adjusted monthly ending balances of short-term debt. Finally, Staff averaged the twelve monthly balances of short-term debt for July 2008 through July 2009. (Staff Ex. 3.0, pp. 3-4 and Schedule 3.2.)

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[10] *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.

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

B. Cost of Debt

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

The Company's embedded cost of long-term debt is 6.65%, which includes the annual amortization of debt expense to reflect straight line amortization of the unamortized balance over the remaining life of the outstanding issue of long-term debt. (Staff Ex. 3.0, p. 8 and Schedule 3.3.)

C. Cost of Common Equity

Staff witness Janis Freetly recommended a 9.82% cost of common equity for UI subsidiary Whispering Hills. 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. Staff 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 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. Since a DCF model incorporates time-sensitive valuation factors, it must correctly reflect the timing of the dividend payments that a stock price embodies. The companies in Ms. Freetly’s Water and Utility samples pay dividends quarterly. Therefore, 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 3.8.)

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. The risk premium methodology is consistent with the theory that investors are risk-averse and that, in equilibrium, two securities with equal quantities of risk have equal required rates of return. Staff witness Freetly used a one-factor risk premium model, the Capital Asset Pricing Model ("CAPM"), to estimate the cost of common equity. In the CAPM, the risk factor is market risk, which cannot be eliminated through portfolio diversification. (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 260 weekly observations of stock return data regressed against the New York Stock Exchange ("NYSE") Composite Index. Both the regression beta and Zacks betas employ sixty monthly observations; however, while Zacks betas regress stock returns against the S&P 500 Index, the regression beta regresses stock returns against the NYSE Index. 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[12] in comparison to the weekly data-derived Value Line betas.[13] 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. 23-28.)

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. 20-22.)

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

[12] Hereafter referred to as "monthly betas."

[13] Hereafter referred to as "weekly betas."

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. 28 and Schedule 3.9.)

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. (Staff Ex. 3.0, p. 30.) The investor required rate of return on common equity for Whispering Hills, 9.82%, is based on the average for the Water and Utility samples. (Staff Ex. 3.0, pp. 29-30.)

To assess whether the cost of common equity had significantly changed since Ms. Freetly performed the cost of common equity analyses that she presented in Docket Nos. 09-0548 and 09-0549 Consolidated, she updated those analyses to reflect market data from March 24, 2010. The updated investor required rate of return on common equity for Whispering Hills was 9.62%. Since the updated cost of common equity differed only 20 basis points from the original cost of common equity, Staff recommended the Commission authorize the same cost of common equity for Whispering Hills that Staff recommended for its sister companies in Docket Nos. 09-0548 and 09-0549 Consolidated, 9.82%. (Staff Ex. 3.0, pp. 30-31.)

V. RATE DESIGN/TARIFF TERMS

A. Uncontested Issues

1. Rate Design

The proposed tariff sheets the Company submitted with its initial filling, rebuttal and surrebuttal testimonies reflect the rate design that has been agreed upon by Staff witness Rukosuev and the Company. Staff notes, however, the rates reflected on Company's proposed tariff sheets conform to the revenue requirements the Company is advocating. Thus, the rates are not agreed upon. Staff witness Rukosuev proposed rates in his direct and rebuttal testimonies based upon Staff's proposed revenue requirements.

2. Non Sufficient Funds Charge

The Company proposed to increase the Non-Sufficient Funds (NSF) charge from $10 to $25. The proposed increase to the NSF charge was not discussed in the direct testimony of Mr. Lubertozzi, although it was presented in Eleventh Revised Sheet No.1. According to the Company's response to Staff Data Request PR 2.01, the increase is intended to enable the Company to come up to industry standards and will enable the Company to cover costs associated with NSF checks.

In direct testimony, Staff witness Rukosuev stated that, based on the information provided, his review of similar NSF charges recently approved by the Commission, the national average of NSF charges, and it's consistency with Section 3-806 of the Illinois Commercial Code, the $25 NSF charge proposed by the Company is reasonable and should be approved. (Staff Ex. 4.0, pp.10-12.)

3. New Customer Charge

The Company proposed to increase its New Customer Charge from $15 to $25. The proposed increase was not discussed in the direct testimony of Mr. Lubertozzi, although it was presented in Eleventh Revised Sheet No.1. In response to Staff Data Request PR 3.03, the Company replied that the discussion of the proposed New Customer Charge was inadvertently omitted from Mr. Lubertozzi's direct testimony.

The Company conducted a cost analysis to determine the appropriate level of the proposed charge. In response to Staff Data Request PR 5.01, the Company provided adequate documentation to support the proposed increase to its New Customer Charge. In his direct testimony, Staff witness Rukosuev recommended, based on his review of the supporting documentations, approval of the Company's proposal to increase its New Customer Charge from $15 to $25. (Staff Ex. 4.0, pp. 16-17.)

4. Billing Cycle Change

The Company proposed to change the billing cycle for customers from bimonthly to monthly. In his direct testimony, Company witness Lubertozzi listed numerous advantages for such a change. He lists the advantage of customers being able to properly budget for water utility expenses, expeditious detection of customer concerns and resolution of system problems, and shorter response times to unaccounted for water and water loss issues because those issues could be looked into and resolved on a monthly basis versus a bimonthly basis, as the primary reasons for the proposed change. (WHWC Ex. 1.0, pp. 9-10.)

In his direct testimony, Staff witness Rukosuev agreed with Company witness Lubertozzi that a switch to a monthly billing provides advantages to both customers and the company and should be approved (Staff Ex. 4.0, pp.15-16.)

5. Temporary Disconnection Charge

The Company proposed an increase to its Temporary Disconnect Charge from $15 to $37.50. The proposed temporary disconnect charge of $37.50 was not discussed in the direct testimony of Mr. Lubertozzi, although it was presented in Eleventh Revised Sheet No.1. In response to Staff Data Request PR 3.02, the Company replied that the discussion of the proposed temporary disconnect charge was inadvertently omitted from Mr. Lubertozzi's direct testimony.

The Company conducted a cost analysis to determine the appropriate level of the proposed charge. In response to Staff Data Request PR 2.05, the Company provided adequate documentation to support the proposed increase. In addition, the Company stated that it is using a centralized cash management system. (Company Response to Staff Data Request PR 2.04.) Therefore, the Company is proposing that such charges be more consistent (uniform) with those charged by other Illinois water utilities owned by its parent company. Currently, increases in similar charges are being proposed by Utilities, Inc. for its other Illinois water utilities in the following rate cases: Lake Wildwood and Apple Canyon (Docket Nos. 09-0548 and 09-0549 Cons.), Galena Territory (Docket No. 10-0280), and Northern Hills (Docket No. 10-0298).

Based on a review of the data provided by the Company, Staff witness Rukosuev determined that the proposed increase is reasonable and recommended the increase be approved. (Staff Ex. 4.0, p.14.)

6. Reconnection Fee Tariff Language

ICC Staff witness Atwood testified that the Company has a $7.00 reconnection fee described in its current Rules. Mr. Atwood noted that this reconnection fee was not listed on the Company's current or proposed rate tariff sheet. Mr. Atwood recommended that the $7.00 reconnection fee be added to its proposed rate tariff. (ICC Staff Ex. 6.0, p. 6.)

In rebuttal testimony, the Company disagreed with Mr. Atwood's recommendation to remove the reconnection fee from its current Rules and add this fee to its proposed rate tariff; instead the Company agreed with ICC Staff witness Rukosuev's recommendation. (WHWC Ex. No. 2.0, p. 11.)

Mr. Atwood, in his rebuttal testimony, stated that the Company's position regarding the reconnection fee was unclear, since the Company did not provide a specific cite of Mr. Rukosuev's direct testimony, Mr. Rukosuev's testimony did not address a reconnection fee, and because the Company had previously agreed to file the proposed ICC model Rules which do not contain any fees, rates, or charges. (ICC Staff Ex. 11.0, p. 3.) Mr. Atwood recommended that if the Company intended to continue to have the ability to charge the $7.00 reconnection fee to customers, then this fee must be added to the proposed rate tariff sheet (ILL. C. C. No. 5, Eleventh Revised Sheet No. 1). He also suggested language for the Company to use in the proposed rate tariff sheet for the reconnection fee description. (ICC Staff Ex. 11.0, pp. 3-5.)

In surrebuttal testimony, the Company agreed with Staff that the Company's reconnection fee should not be in the Rules and should be added to the Company's proposed rate tariff sheet. However, the Company disagreed with the amount of the reconnection fee of $7.00, instead arguing that the fee should be $37.50. (The reconnection fee amount is discussed below in *B. Contested Issues*, 1. Disconnect/Reconnect Charges.) The Company also proposed alternative rate tariff language related to the reconnection fee. (WHWC Ex. No. 3.0, pp. 13-16.)

At the evidentiary hearing, Staff provided Company response to Staff data request WHA 2.01 where Staff proposed revised rate tariff language for the reconnection charge and the temporary disconnect fee. The Company agreed with the following proposed revised rate tariff language: (Staff Cross Exhibit 2.)

> RECONNECTION CHARGE: If water service is disconnected by the utility for any reasons as outlined in Section 17 of the Rules, Regulations, and Conditions of Service, the customer will be assessed a charge of ______ dollars ($__.__), which will be paid by the customer before water service will be restored. This charge will be waived automatically one time per calendar year. Customers who request to be reconnected within nine (9) months of disconnection will be assessed an appropriate base facilities charge for the service period the customer was disconnected. This charge will be paid by customers before water service will again be restored.
>
> TEMPORARY DISCONNECT FEE: If water service is disconnected at the customer's request, the customer will be assessed a charge of thirty-seven dollars and fifty cents ($37.50), which will be added to the customer's next water bill. Customers who request to be reconnected within nine (9) months of disconnection will be assessed an appropriate base facilities charge for the service period the customer was disconnected. This charge will be paid by customers before water service will again be restored.

B. Contested Issues

1. Disconnect / Reconnect Charges

The tariff sheets submitted by the Company with its initial filling reflect a $37.50 fee for a Temporary Disconnect Charge (as discussed previously). In his rebuttal testimony, Staff witness Rukosuev recommended that the Company provide in surrebuttal testimony updated tariff sheets that reflect its positions in the rebuttal phase of this proceeding so that he will have the opportunity to review and evaluate their content. After reviewing Company's surrebuttal testimony along with the updated tariff sheets, Mr. Rukosuev noticed that the Company included new tariff terms and charges such as a Reconnection Fee ($37.50) and an After Hours Call-Out Charge ($106.00).

In his surebuttal testimony, Company witness Neyzelman stated, "[i]n my rebuttal testimony, I inadvertently confused the "Reconnection Fee" with the "Temporary Disconnect Charge" thus as stated in Mr. Atwood's Rebuttal Testimony, the Company would no longer be able to charge its customers the Reconnection Fee." (WHWC Ex. No. 3.0, p. 13.) Mr. Neyzelman further stated that "[t]he Company agrees with Staff witness Atwood's recommendation that the Reconnection Fee should not be in the Rules and Regulations and that it should be in the Company's Rate Tariff. Although, the Company disagrees that the Reconnection Fee should be $7.00." (*Id*., p. 14.)

In support of his rational to increase the Reconnection Fee to $37.50, Mr. Neyzelman additionally states:

> [i]n Docket 10-0280, filed by Galena Territory Utilities, Inc., (Whispering Hills' sister company), Staff witness Rukosuev did not oppose the proposed Reconnection Fee increase from $7.00 to $37.50. In Consolidated Dockets 09-0548 & 09-0549, filed by Apple Canyon Utility Company and Lake Wildwood Utilities Corporation, (also Whispering Hills' sister companies), Staff witnesses Rukosuev and Boggs did not oppose the proposed Reconnection Fee increase from $20.00 to $37.50. Secondly, the $7.00 Reconnection fee does not adequately cover the costs associated with the field personnel performing the task. The Company would like to recover the current average cost of labor for one hour of employee time to provide these services.

However, Staff witness Rukosuev contends that the Company did not propose a change to its Reconnection Fee in its initial filing, as was properly done in the other Utilities, Inc. cases, but only proposed a change to its Temporary Disconnect Charge. At the evidentiary hearing Staff witness Rukosuev stated:

> In my understanding the company filed an increase for the temporary connect. This is the charge that I was referring to in my direct testimony that's the charge I was referring to only. I'm not referring to the reconnection fee. The reconnection fee language, so to say the first line in the tariffs the company filed under temporary connect, has a charge of $37-1/2 per reconnection, so the company referred to the word "reconnection" under a temporary disconnection. This is why I asked the question, but I referred only to the temporary disconnection charge in my direct testimony.
>
> Tr. at 33

Mr. Rukosuev argues that it would be unreasonable to correct such a blunder so late into this proceeding. It should be noted that in a previous case filled by Utilities Inc., Lake Wildwood and Apple Canyon (Docket Nos. 09-0548 and 09-0549 Cons.), the Company made an analogous mistake. The following is a quote from the Proposed Order:

> Staff also mentions that the tariff sheets submitted as Exhibit A reflect a $25 fee for the New Customer Charge. The Companies‘ current tariffs reflect a $15 New Customer Charge and the Companies did not propose a change to the New Customer Charge in its filing or testimony. Staff maintains that the Companies‘ tariffs should continue to reflect a $15 New Customer Charge. We agree with Staff on this issue as well. Therefore, the Companies tariffs should continue to reflect a $15 New Customer Charge.
>
> Docket 09-0549 and 09-0549 Cons, Proposed Order at 30.

Therefore, Staff witness Rukosuev maintains his position that the Company's tariffs should continue to reflect a $7 Reconnection Fee, and, if it so wishes, the Company can file for an increase to this charge in its next rate case.

Furthermore, the After Hours Call-Out Charge ($106.00) was inappropriately raised as an issue. This tariff term and its associated charge were added in the surrebutal testimony of Mr. Neyzelman and thereby eliminated any opportunity for Staff to respond to the issue in pre-filed testimony. Accordingly, this issue should be summarily dismissed.

VI. MISCELLANEOUS - UNCONTESTED

A. Rules, Regulations, and Conditions of Service Tariffs

In direct testimony, the Company proposed that its Rules, Regulations, and Conditions of Service tariffs for water service ("Rules") be updated. (WHWC Ex. 1, pp. 11-12.)

However, ICC Staff witness Atwood noted in his direct testimony that the Company's direct testimony did not discuss what specific changes the Company proposed to make to its Rules. ICC Staff witness Atwood also noted that the Company's tariff filing in this proceeding did not include any proposed changes or updates to its Rules. (ICC Staff Ex. 6.0, pp 4-5.) Mr. Atwood recommended that the Company's current Rules be replaced with the ICC model Rules, included as Attachment A to his direct testimony. (ICC Staff Ex. 6.0, pp. 5-6.) Mr. Atwood recommended that the Commission order the Company to file his proposed ICC model Rules, within five (5) days of the final Order, with an effective date of not less than five (5) working days after the date of filing, for service rendered on and after their effective date, with individual tariff sheets to be corrected within that time period, if necessary. (ICC Staff Ex. 6.0, p. 6.)

In rebuttal testimony, the Company agreed with Staff's recommendation for the Company to replace its current Rules with the proposed ICC model Rules. However, the Company requested five (5) business or working days after the final Order is issued to file the proposed ICC model Rules. (WHWC Ex. No. 2.0, p. 11.)

In rebuttal testimony, Staff agreed with the Company that the Company should file the proposed ICC model Rules within five (5) business days of the final Order, with an effective date of not less than five (5) working days after the date of filing, for service rendered on and after their effective date, with individual tariff sheets to be corrected within that time period, if necessary. (ICC Staff Ex. 11.0, p. 6.)

VII. 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.

August 13, 2010

Respectfully submitted,

____

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Whispering Hills Water Company
Statement of Operating Income with Adjustments
For the Test Year Ending December 31, 2008

Line No.	Description	Company Rebuttal Pro Forma Present (Co. Sch. 2.1)	Staff Adjustments (Appendix A Page 2)	Staff Pro Forma Present (Cols. b+c)	Company Rebuttal Proposed Increase (Co. Sch. 2.1)	Staff Gross Revenue Conversion Factor	Proposed Rates With Staff Adjustments (Cols. d+e+f)	Adjustment To Proposed Increase	Staff Pro Forma Proposed (Cols. g+h)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	Water Service Revenues	$ 668,569	$ -	$ 668,569	$ 572,551	$ (723)	$ 1,240,397	$ (218,074)	$ 1,022,323
2	Miscellaneous Revenues	10,863	-	10,863	-	-	10,863	-	10,863
3	Total Operating Revenue	679,432	-	679,432	572,551	(723)	1,251,260	(218,074)	1,033,186
4	Uncollectible Accounts	11,522	-	11,522	9,867	(13)	21,376	(3,758)	17,618
5	Maintenance Expenses	348,354	(26,637)	321,717	-	-	321,717	-	321,717
6	General Expenses	175,951	(7,699)	168,252	-	-	168,252	-	168,252
7	Depreciation	192,256	-	192,256	-	-	192,256	-	192,256
8	Amortization of CIAC	(27,823)	-	(27,823)	-	-	(27,823)	-	(27,823)
9	Taxes Other Than Income	37,834	(1,355)	36,479	573	(573)	36,479	-	36,479
10	-	-	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-	-	-
14		-	-	-	-	-	-	-	-
15	Total Operating Expense								
16	Before Income Taxes	738,094	(35,691)	702,403	10,440	(586)	712,257	(3,758)	708,499
							-		-
17	State Income Tax	(12,190)	2,683	(9,507)	41,050	(26)	31,517	(15,645)	15,872
18	Federal Income Tax	(52,628)	11,586	(41,042)	177,234	(111)	136,081	(67,548)	68,533
19	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
20	Total Operating Expenses	673,276	(21,422)	651,854	228,724	(723)	879,855	(86,951)	792,904
21	NET OPERATING INCOME	$ 6,156	$ 21,422	$ 27,578	$ 343,827	$ -	$ 371,405	$ (131,123)	$ 240,282
22	Staff Rate Base (Appendix A, Page 3, Column (d))								$ 3,084,494
23	Staff Overall Rate of Return (ICC Staff Exhibit 3.0, Schedule 3.1)								7.79%
24	Revenue Change (Col. (i) Line 3 minus Col. (d), Line 3)								$ 353,754
25	Percentage Revenue Change (Col. (i), Line 24 divided by Col. (d), Line 3)								52.07%

Whispering Hills Water Company

Adjustments to Operating Income

For the Test Year Ending December 31, 2008

Line No.	Description	Interest Synchronization (Appendix A Page 6)	Rate Case Expense (Sch. 8.1)	Test Year Expenses (Sch. 8.2)	Operations Employee Expenses (Sch. 8.3)	Rate Case Expense SFIO Consulting (Appendix A Page 9)	(Source)	(Source)	Total Operating Statement Adjustments
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(j)	(k)
1	Water Service Revenues	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Miscellaneous Revenues	-	-	-	-	-	-	-	-
3	Total Operating Revenue	-	-	-	-	-	-	-	-
4	Uncollectible Accounts	-	-	-	-	-	-	-	-
5	Maintenance Expenses	-	-	(9,265)	(17,372)	-	-	-	(26,637)
6	General Expenses	-	2,351	(5,924)	(5,326)	1,200	-	-	(7,699)
7	Depreciation	-	-	-	-	-	-	-	-
8	Amortization of CIAC	-	-	-	-	-	-	-	-
9	Taxes Other Than Income	-	-	-	(1,355)	-	-	-	(1,355)
10	-	-	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-	-	-
14		-	-	-	-	-	-	-	-
15	Total Operating Expense								
16	Before Income Taxes	-	2,351	(15,189)	(24,053)	1,200	-	-	(35,691)
								-	
17	State Income Tax	78	(172)	1,109	1,756	(88)	-	-	2,683
18	Federal Income Tax	337	(741)	4,787	7,581	(378)	-	-	11,586
19	Deferred Taxes and ITCs Net	-	-	-	-	-	-	-	-
20	Total Operating Expenses	415	1,438	(9,293)	(14,716)	734	-	-	(21,422)
21	NET OPERATING INCOME	$ (415)	$ (1,438)	$ 9,293	$ 14,716	$ (734)	$ -	$ -	$ 21,422

Whispering Hills Water Company
Rate Base
For the Test Year Ending December 31, 2008

Line No.	Description	Company Rebuttal Pro Forma Rate Base (Co. Sch. 2.1)	Staff Adjustments (Appendix A Page 4)	Staff Pro Forma Rate Base (Col. b+c)
	(a)	(b)	(c)	(d)
1	Gross Plant in Service	$ 5,312,847	$ -	$ 5,312,847
2	Less: Accumulated Depreciation	(1,419,620)	(33,090)	(1,452,710)
3	-	-	-	-
4	Net Plant	3,893,227	(33,090)	3,860,137
5	Additions to Rate Base			
6	Cash Working Capital	68,817	(4,461)	64,356
7	Customer Deposits	(295)	-	(295)
8	Adjustment to Rate Base Allocations	685	-	685
9	Deferred Charges	-	-	-
10	-	-	-	-
11	-	-	-	-
12	-	-	-	-
13	-	-	-	-
14	-	-	-	-
15	-	-	-	-
16	Deductions From Rate Base			
17	Contributions in Aid of Construction	(402,927)	22,327	(380,600)
18	Accumulated Deferred Income Taxes	(444,209)	(15,580)	(459,789)
19	-	-	-	-
20	-	-	-	-
21	-	-	-	-
22	-	-	-	-
23	Rate Base	$ 3,115,298	$ (30,804)	$ 3,084,494

Whispering Hills Water Company
Adjustments to Rate Base
For the Test Year Ending December 31, 2008

Line No.	Description	Working Capital (Appendix A Page 8)	Other Rate Base Components (Sch. 7.9)	(Source)	(Source)	(Source)	(Source)	(Source)	Total Rate Base Adjustments
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(k)
1	Gross Plant in Service	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
2	Less: Accumulated Depreciation	-	(33,090)	-	-	-	-	-	(33,090)
3	-	-	-	-	-	-	-	-	-
4	Net Plant	-	(33,090)	-	-	-	-	-	(33,090)
	-								
5	Additions to Rate Base								-
6	Working Capital	(4,461)	-	-	-	-	-	-	(4,461)
7	Customer Deposits	-	-	-	-	-	-	-	-
8	Adjustment to Rate Base Allocations	-	-	-	-	-	-	-	-
9	Deferred Charges	-	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-	-	-
14	-	-	-	-	-	-	-	-	-
15	-	-	-	-	-	-	-	-	-
16	Deductions From Rate Base	-	-	-	-	-	-	-	-
17	Contributions in Aid of Construction	-	22,327	-	-	-	-	-	22,327
18	Accumulated Deferred Income Taxes	-	(15,580)	-	-	-	-	-	(15,580)
19	-	-	-	-	-	-	-	-	-
20	Deferred Federal Income Taxes	-	-	-	-	-	-	-	-
21	Deferred State Income Taxes	-	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-	-	-
	-								
23	Rate Base	$ (4,461)	$ (26,343)	$ -	$ -	$ -	$ -	$ -	$ (30,804)

Whispering Hills Water Company
Revenue Effect of Adjustments
For the Test Year Ending December 31, 2008

Line No.	Description		Per Company	Staff Adjustments	Per Staff
	(a)		(b)	**(c)**	(d)
1	Present Revenues		$ 679,432 [(1)]	**$ -**	$ 679,432 [(2)]
2	Proposed Increase		572,551 [(3)]	(218,797) [(4)]	353,754 [(5)]
3	Proposed Revenues		$ 1,251,983	$ (218,797)	$ 1,033,186
4	% Increase		84.27%		52.07%
5	Staff Adjustments:				
6	Rate of Return (Applied to Company Rate Base)			$ (178,456)	
7	Operations Employee Expenses	Appendix A, Page 2		(24,475)	
8	Test Year Expenses	Appendix A, Page 2		(15,455)	
9	Other Rate Base Components	Appendix A, Page 4		(2,823)	
10	Gross Revenue Conversion Factor	Appendix A, Page 1		(723)	
11	Working Capital	Appendix A, Page 8		(478)	
12	Rate Case Expense	Appendix A, Page 2		2,392	
	Rate Case Expense - SFIO Consulting	Appendix A, Page 9		1,221	
13	Interest Synchronization	Appendix A, Page 6		-	
14	Total Revenue Effect of Staff Adjustments			$ (218,797)	

Sources:
(1) Appendix A, page 1, column (b), line 3
(2) Appendix A, page 1, column (d), line 3
(3) Appendix A, page 1, column (e), line 3
(4) Appendix A, page 1, columns (f) + (h), line 3
(5) Appendix A, page 1, column (i), line 24

Whispering Hills Water Company
Interest Synchronization Adjustment
For the Test Year Ending December 31, 2008

Line No.	Description	Amount	
	(a)	(b)	
1	Staff Rate Base	$ 3,084,494	(1)
2	Weighted Cost of Debt	3.47%	(2)
3	Synchronized Interest Per Staff	107,032	
4	Company Interest Expense	108,101	(3)
5	Increase (Decrease) in Interest Expense	(1,069)	
6	Increase (Decrease) in State Income Tax Expense		
7	at 7.300%	$ 78	
8	Increase (Decrease) in Federal Income Tax Expense		
9	at 34.000%	$ 337	

(1) Source: Appendix A, Page 3, Column (d).
(2) Source: ICC Staff Exhibit 3.0, Schedule 3.1.
(3) Source: Company Schedule 2.1, page 9, column (b), line 3

Whispering Hills Water Company
Gross Revenue Conversion Factor
For the Test Year Ending December 31, 2008

Line No.	Description	Rate	Per Staff With Bad Debts	Per Staff Without Bad Debts
	(a)	(b)	(c)	(d)
1	Revenues		1.000000	
2	Uncollectibles	1.7233%	0.017233	
3	State Taxable Income		0.982767	1.000000
4	State Income Tax	7.3000%	0.071742	0.073000
5	Federal Taxable Income		0.911025	0.927000
6	Federal Income Tax	34.0000%	0.309749	0.315180
7	Operating Income		0.601276	0.611820
8	Gross Revenue Conversion Factor Per Staff		1.663130	1.634468

Whispering Hills Water Company
Adjustment to Working Capital
For the Test Year Ending December 31, 2008

Line No.	Description	Amount	Source
	(a)	(b)	(c)
1	Maintenance Expenses	$ 321,717	Appendix A, column (d), line 5
2	General Expense	168,252	Appendix A, column (d), line 6
3	Taxes Other Than Income	36,479	Appendix A, column (d), line 9
4	Less Real Estate Taxes	(11,600)	Response to Staff data request JMO 1.01, tab "Linked TB"
5	Operating Expenses Subject to Working Capital Allowance	514,848	Sum of lines 1, 2, 3, and 4
6	Divisor (1/8)	0.125	
7	Working Capital Allowance Per Staff	64,356	Line 5 times line 6
8	Working Capital Allowance Per Company	68,817	Company Schedule 2.1, page 12, column (b), line 7
9	Staff Adjustment	$ (4,461)	Line 7 less line 8

Whispering Hills Water Company
Rate Case Expense - SFIO Consulting
For the Test Year Ending December 31, 2008

Line No.	Description (a)	Amount (b)
1	Rate Case Expense - SFIO Consulting	$ 6,000
2	Amortization Period	5
3	Test Year Expense (Line 1 / Line 2)	$ 1,200

Sources:

Line 1: Transcript page 45