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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of	:	
Camplands Water, LLC, for an Increase in	:	Case No. 13-1690-WW-AIR
Its Rates and Charges.	:	

POST HEARING BRIEF

OF

CAMPLANDS WATER , LLC

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Introduction

Camplands Water LLC ("Camplands") applied to the Commission for a rate increase on July 26, 2013. It was Camplands' first request to the Commission to establish tariff rates since Case No. 85-418-WW-AIR, 28 years ago. Camplands has only two customers—Holiday Campgrounds Association ("Holiday") and Lake Village Club ("Lake").

Instead of being serviced under tariff rates, these two customers have been served under special contract rates. The current rates and charges were set for Lake in Case No. 06-9-WW-AEC. The current rates and charges were set for Holiday in Case No. 09-425-WW-AEC. This Application to the Commission was made because of the serious financial condition Camplands was facing (to be addressed later), and because of its inability to negotiate new special contracts with its two customers.

The Staff Report in this case was issued on December 30, 2013. It showed on Schedule C-2 that the unadjusted/actual test year revenue was $291,306. This included sales revenues, winterization revenues, and what has been misnomered as "construction loan" revenues. This test year revenue of $291,306 is what Camplands hoped to increase through its Application to the Commission. The Staff Report at Schedule A-1 calculated a revenue requirement at the midpoint of the Staff's rate of return range of $346,745. This is approximately a 19% increase over the revenues that existed at the time the application was filed.

In the testimony of Staff witness Willis, filed on March 20, 2014, certain changes were made to the Staff Report. In the Revised Schedule A-1 filed as a part of Mr. Willis' testimony, the new

Staff revenue requirement at the midpoint of the Staff's range was $283,725. This means that the Staff is now recommending a decrease in overall annual revenues of $7,581 or about 2.6%.

Although there was testimony filed by a number of witnesses on a variety of topics, this case boils down to three simple issues:

- What is an appropriate rate of return for Camplands;
- Have dividends been properly declared; and/or has this utility been operated appropriately, since Mr. Goldenberg has taken over the operation approximately 12 years ago?
- Is the Staff's recommended revenue requirement sufficient for this utility to be operated so that it can actually achieve a 10% rate of return?

Rate of Return

Holiday spent a great deal of time and effort calculating that under the Staff's rate of return the return on equity would be on the order of 52%. Holiday would have the Commission ignore its long standing policy to grant a 10% rate of return (not return on equity as Holiday proposes) for small utilities.[1] The Staff has no objection to applying the Commission's long-term policy of using a 10% rate of return for small utilities.[2]

With respect to this generic rate of return of 10%, Holiday asked a number of questions during cross-examination and did not get answers that were supportive of its position. Staff witness

[1] See testimony of Holiday witness Monie beginning on page 4 as well as numerous places in the transcript.
[2] Tr @ 65

Mahmud was asked if he knew of other utilities that received such a high return on equity of 52% and he stated that he knew of other utilities that come close to that figure.[3]

Staff witness Mahmud was asked if "a company would get a government-subsidized loan with a low interest rate so that the company could take large dividends", and he responded that AEP was given a large government-subsidized loan: "It had no relationship with declaring the dividends."[4]

Staff witness Mahmud was asked if he knew "that historically the Commission has granted the generic rate of return for small utilities bearing the same characteristics as Campland Water." He responded that in Christi Water Company, the utility had a cost of debt of 4.78%.[5]

Although Holiday does not like the Commission's generic policy of granting all small utilities a rate of return of 10%, this does not mean that the policy should change. Staff witness Mahmud adequately described his rationale for recommending the continuation of the Commission policy to grant a generic rate of return for small utilities such as Camplands.[6]

Debt to Equity Ratio and Dividend Policy

The Debt to Equity Ratio

Holiday[7] called into question the capitalization of Camplands and specifically its test year debt to equity ratio of 84|16. This is only a red herring. It is a logical fallacy that attempts to lead the Commission towards a false conclusion. Yes, the debt to equity ratio was 84|16 during the test

[3] Tr@ 70.
[4] Tr @ 76 and 77
[5] Tr @ 82.
[6] See testimony of Staff witness Mahmud at page 3.
[7] See testimony of Holiday witness Monie beginning on page 13.

year. Yes, that is a great deal of debt compared to the equity. Yes, the shareholders have been drawing cash out of the utility. However, there are two important facts with respect to this debt to equity ratio and the dividend policy that are not recognized by the Staff and Holiday.

- How did this utility get a debt to equity ratio that was so high?
- Is the utility's dividend policy inappropriately contributing to this high debt to equity ratio?

As recognized by Staff witness Mahmud[8], Camplands is a small, family-owned utility. It is not like the large utilities in Ohio where the Commission may expect a debt to equity ratio of 60|40 or even 50|50. So far, Camplands has never had an annual income as high as $300,000 per year. This is a small utility, where little changes can have a large impact. The debt to equity ratio must be considered in relationship to the size of the utility and what is going on in the utility.

Contrary to the concerns and desires of Holiday to have Camplands lower its debt to equity ratio to 60|40, Camplands had a debt to equity ratio of 0|100 (no debt and all equity) just a few years ago in 2009[9]. No one complained at that time that Camplands should have gone out and acquired some debt so that it could approach an "ideal" debt to equity ratio of 60|40 or even 50|50.[10]

The reason for the large shift in the debt to equity ratio for this small utility was known, and even approved by the Commission in Case No. 09-640-WW-AIS. The Commission approved a loan agreement between Camplands and the Ohio Environmental Protection Agency and the Ohio Water Development Authority. The loan was for a total principle of $879,950 to be repaid over

[8] See testimony of Staff witness Mahmud at page 3.
[9] See Supplemental and Rebuttal testimony of Camplands witness Yankel at page 4.
[10] Tr @ 112.

20 years at an interest rate of 2%. The total interest to be paid over this time period is $192,026. Neither in Case No. 09-640-WW-AIS nor in the present case was there any negative comments about the procurement of this loan—a loan to improve water quality at the facility with an interest rate of 2% speaks for itself.[11]

There is nothing wrong with the loan. Camplands started repaying the loan in 2011. The loan payments are $53,177 per year.[12] The principle payment is $44,000 ($879,950 / 20 = $43,998) per year.[13] The debt payment will automatically bring down the debt by $44,000 per year or 5% of the loan amount. The debt to equity ratio will automatically be reduced by the simple repayment of the loan. Camplands has already paid approximately $132,000 in principle payments over the years 2011, 2012, 2013, and 2014. In fact, the debt to equity ratio from the test year (84|16) has already been reduced by reducing the debt by $66,000 (the total of $44,000 paid in 2013 and the first payment of $22,000 that was paid in January 2014). The fact that another $66,000 in debt payment has already occurred since the test year, is indicative of the fact that this debt to equity ratio is rapidly approaching the 60|40 recommendation made by Holiday and will continue to fall until it once again becomes 0|100.

Camplands could not have secured the loan without it resulting in a major shift in its debt to equity ratio. Holiday's suggestion that its "ideal" debt to equity ratio of 60|40 could be approached faster if Camplands stopped paying dividends is mathematically correct, but it would be confiscatory on the part of the Commission to order such a freeze on dividends. A debt to equity ratio has its place among Ohio's larger utilities, but it makes no sense for a utility the size of Camplands, that secures a loan for a major construction project. The new water treatment

[11] Tr @111-112.
[12] Tr 26
[13] Tr @ 111.

plant would not have been built if there wasn't a loan of $879,950 (compared to a utility with revenue less than $300,000 per year). A loan this large could not be taken by a small utility such as Camplands without greatly shifting the debt to equity ratio.

The debt to equity ratio is consistently dropping with each loan payment made, and does not need to be artificially reduced by requiring that Camplands stop dividend payments in order to help reduce this ratio even faster.

The Dividend Policy

In support of Holiday's[14] position that the debt to equity ratio should be reduced by curtailing dividends[15], it sites to the fact that retained earnings has significantly dropped in 2011 and 2012.

Holiday's witness Monie[16] cited two reasons why the debt to equity ratio is high. One reason he gives is the infrastructure project was financed 100% with debt—this was addressed above. The second reason he gave for the high debt to equity ratio was:

> that the owners of Camplands have been receiving significant withdrawals of Capital from Camplands Water. For example, in 2011 and 2012, the owners withdrew a total of $105,000. Since these withdrawals significantly exceeded the earnings of Camplands Water, the withdrawals, necessarily, reduce the Equity.

This is another red herring that attempts to lead the Commission toward a false conclusion. Yes, there was a significant reduction in equity at the end of 2011 and 2012, but this reduction had nothing to do with the dividend policies of the owners of Camplands.

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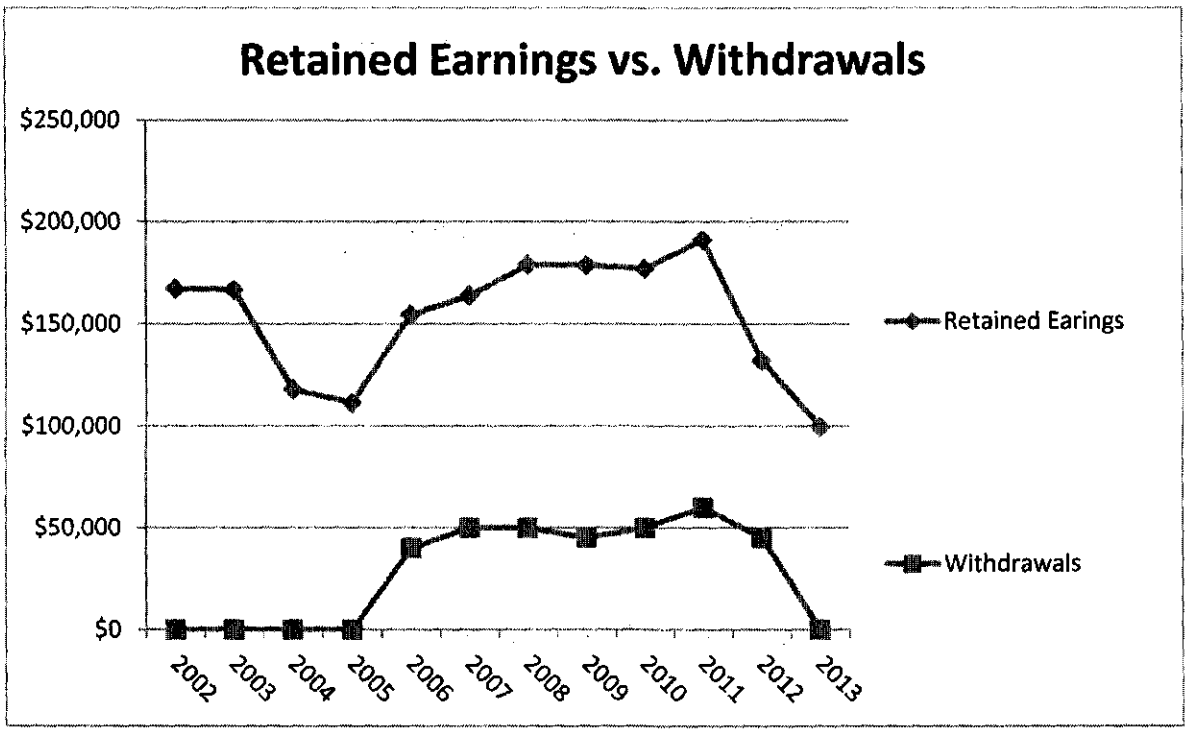
[14] See Holiday witness Monie testimony at page 14.
[15] See Holiday witness Monie testimony at page 15.
[16] Id.

It is inappropriate to look at only two years of dividends paid and to declare that the owners should stop making such withdrawals. A much better approach is to look at the level of dividends that have been declared over a longer period of time. On behalf of Camplands, Mr. Yankel took such a longer term look with the graph presented below:[17]



This graph represents the timeframe when Mr. Goldenberg has been a minority stock holder and president of the utility. The upper graph represents retained earnings at the beginning of each year. The lower graph represents the dividends that were taken at the end of each year. As pointed out by Mr. Monie, there was a significant drop in retained earning between the beginning of 2012 (the end of 2011) and the beginning of 2013 (the end of 2012). This drop in retained

[17] See testimony of Camplands witness Yankel at page 6 of his Supplemental and Rebuttal Testimony.

earnings was $91,568—approximately 50% of the retained earnings available at the beginning of 2011.

As Mr. Monie pointed out in his testimony, there was a total of $105,000 of dividends declared over the 2011-2012 timeframe. However, as pointed out by Mr. Yankel[18], looking at these two years in isolation does not adequately reflect the utility's dividend policy. From the above graph it can be seen that in the first four years of Mr. Goldenberg being president, no dividends were taken. There was an obvious belief that the financial integrity of the utility did not support the payment of any dividends at that time. Not taking a dividend at that time was clearly prudent. After that initial period, dividends were taken each year from 2006 until 2012 at between $40,000 and $60,000 per year for an average of $48,571 per year—approximately $50,000 per year.[19] As can be seen from the above graph, with dividends of approximately $50,000 being paid between 2006 and 2010, the retained earnings showed a steady overall increase. This dividend policy of paying approximately $50,000 per year was quite appropriate and sustainable, given the increase in retained earnings that took place.

As Mr. Monie points out in 2011 and 2012, there was a total of $105,000 of dividends paid out and retained earnings decreased significantly. What Mr. Monie fails to mention is that in 2013, after two large drops in retained earnings, no dividends were paid in 2013. The stopping of dividends in 2013 was also an appropriate move on the part of the shareholders. Mr. Monie points to the drop of $91,568 in retained earnings between 2011 and 2012 as a problem that needs addressing. Given the fact that the dividend policy of paying roughly $50,000 was appropriate and sustainable before 2011 and the fact that dividends were stopped in 2013, the

[18] See testimony of Camplands witness Yankel at page 8 of his Supplemental and Rebuttal Testimony.
[19] See Supplemental and Rebuttal Testimony of Anthony Yankel, Attachment A.

problem is obviously not the dividend policy. The approximate $50,000 in dividends was not paid in 2013 because the $53,000 loan payment had to be made.

The question remains, what happened in 2011 and 2012 to cause the retained earnings to drop $91,586, and why couldn't dividends be paid in 2013? The answer was provided by Mr. Yankel.[20] Very simply, in 2011, 2012, and 2013, Camplands had a loan payment of $53,000 ($44,000 principle and $9,000 interest), that it did not have previously. The drop in "Equity" that Mr. Monie cited[21] was a drop in retained earnings of $91,568 over 2011 and 2012. This drop in retained earnings is on a par with, but less than, the loan payments over these two years of $106,000. The loan payments are the problem, not the dividend policy.

Holiday[22] suggests that it may be appropriate to have the Commission order that there be a freeze on dividends being paid. This is what the stockholders did on their own in 2013 due to the dire cash flow position that the utility was facing because of the loan payments. As demonstrated by Mr. Yankel[23], because of the lack of paying a dividend in 2013, at year end 2013 there was $49,887 of cash on hand, but if it would have paid what was a sustainable dividend of $50,000 per year between 2010 and 2013, it would have had only $4,887 of cash on hand. Very simply, the loan payment is now being paid by depriving the stockholders of a return on their investment.

Holiday's suggestion is confiscatory. Holiday would have dividends frozen in order to make the loan payment, instead of these payments being covered by rates.

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[20] See testimony of Camplands witness Yankel at page 5-9 of his Supplemental and Rebuttal Testimony.
[21] See Holiday witness Monie testimony at page 14.
[22] See Holiday witness Monie testimony at page 15.
[23] See testimony of Camplands witness Yankel at page 11-12 of his Supplemental and Rebuttal Testimony.

Staff witness Willis concurs that the paying of dividends since the debt payments began may not have been appropriate in his mind.[24] In hindsight, we all know now that the dividends could not continue to be paid once the debt payments of $53,000 per year started. During 2011 and 2012, Camplands was trying to obtain a rate increase through new special contracts with its two customers. In hindsight, Camplands now knows that that did not happen. For this reason, Camplands applied to the Commission in 2013 for a rate increase, and because no rate increase came in 2013, dividends were suspended. The fact that under test year revenues that either the debt payment could be made, or a dividend payment could be made (but not both), is now known to all. Simply, under present rates, with the debt payment of $53,000, there is no money to pay dividends and thus the rate of return for Camplands is at or below zero.

The Staff's Recommended Revenue Requirement

There were a number of revenue requirement issues raised in the Staff Report and the Staff's testimony to which Camplands took exception. Among these is the reduction of Mr. Goldenberg's salary of $25,000 per year to a figure of $15,600 based upon some very limited conversation with one individual and no questions proposed to Mr. Goldenberg who should have the best idea of what he does, who he deals with, and what time he spends.[25]. Of equal importance is the Staff's inappropriate classification of over $100,000 of rate base as CIAC. These specific adjustments made by the Staff mask the underlying problem for Camplands. Staff's standard method for calculation of a revenue requirement does not adequately address the problems of a very small utility with a very large loan. Camplands simply needs more cash.

[24] Tr @115.
[25] Tr @ 107.

Camplands was making an adequate return for its stockholders while increasing retained earnings until the loan payments of $53,000 started. As stated by the Staff during cross-examination[26] and as addressed above, the Staff recognized that during the test year that the dividend payments should not have been made given the fact that the debt payment needed to be made. Both dividend payments and loan payments could not be made under existing rates. Without addressing this major change in Camplands' financial position, the Staff's recommended revenue requirement misses the mark. In this case of a family-owned utility that has acquired a loan that has significantly changed its financial position, individual adjustments do not mean a great deal—what is important is the overall revenue requirement of Camplands.

The Staff's answer to how Camplands was to make its debt payment of $53,000 per year came from Mr. Willis. He stated that the debt payment should come out of depreciation expense.[27] However, this statement is completely opposite the Staff Report and the revised Staff recommended revenue requirement contained in Mr. Willis' testimony. On Staff Revised Schedule C-2, the test year depreciation was $73,289 and the Staff adjusted out $53,994 of depreciation expense (essentially the level of the debt payment). Only $19,295 of depreciation expense is left in the Staff's proposed revenue requirement. This amount is designed to reflect the depreciation expense for all of Camplands' plant, not just the new plant that was installed as a result of the $879,950 loan. Mr. Willis' position was that the $53,000 debt payment should come from depreciation expense, but the Staff only allowed $19,295 for future depreciation of all of Camplands' plant. This is an obvious disconnect.

[26] Tr @ 115.
[27] Tr @ 112.

Holiday makes a similar error of omission during the cross-examination of Mr. Yankel[28] and the Redirect Examination of Mr. Monie[29]. Holiday suggests that during the test year, Camplands had a net income of $12,788 and had $73,289 of depreciation expense ($86,077). Out of this total, Holiday suggests that Camplands could have paid the loan payment of $53,177 and had $32,895 left over. Holiday makes two important errors regarding this position. First, depreciation recorded under existing rates is a non-cash item. Second, as stated above, on a going forward basis, the Staff removed $53,994 of this depreciation expense. If Camplands had its test year revenues of $291,306 plus the $53,994 of depreciation expense that has been removed by the Staff, it would have been able to make its debt payment and pay dividends.

As stated above, the unadjusted/actual test year revenue was $291,306 and the Staff Report proposed a revenue requirement of $346,745 for a net increase of $55,439. This would have covered the $53,000 of annual loan payments. However, the Staff testimony[30] proposes a new revenue requirement at the midpoint of the Staff's range of only $283,725—$7,581 less than the unadjusted/actual test year revenue.

Camplands' financial position and the loan payments are presently being shored up by the stockholders not being paid any dividends. Although Camplands does not agree with the rate base calculated by the Staff[31], at a 10% rate of return, the Staff's proposed rate base should yield a return of approximately $75,000 per year.[32] This return should be more than sufficient to continue the previous dividend policy of paying out $50,000 per year. However, the existing revenues were insufficient to sustain retained earnings in 2011 and 2012 and dividends had to be

[28] Tr 29-34.
[29] Tr 123-124.
[30] See Staff witness Willis testimony at Schedule A-1.
[31] A rate base of $747,583 is listed by Staff witness Willis testimony at Schedule A-1.
[32] See testimony of Camplands witness Yankel at page 9-10 of his Supplemental and Rebuttal Testimony.

suspended in 2013. A reduction of $7,581 over unadjusted/actual test year revenues as proposed by the Staff certainly does not address the inability to pay any dividends and maintain the utility's retained earnings. Cash is running out to pay O&M expenses and for needed capital improvements.

It is uncontested that Camplands' financial position was appropriate until 2011 when the massive loan payments were required to be paid. What level of revenue would bring Camplands back to its financial position prior to 2011? Using the method employed by the Staff that is used for large utilities does not get to the root of the problem. Very simply, the unadjusted/actual test year revenues of $291,306 were insufficient to sustain the historical dividend payments because of the loan repayment of $53,000 per year. Camplands needs a rate increase of at least $53,000 per year over the unadjusted/actual test year revenues of $291,306 for a total revenue requirement of $343,306. This revenue requirement is slightly less than the original revenue requirement proposed in the Staff Report of $346,745.

IN SUMMARY, Camplands is a very small utility with a very unique, large loan. The normal method for calculating a revenue requirement for a large utility does not apply. The results of operation for Camplands over 2011, 2012, and 2013 demonstrate that (given the loan payments of $53,000 per year) the actual test year revenue was insufficient to pay what was historically a sustainable dividend payment. Without an increase of at least $53,000 over unadjusted/actual test year revenues, Camplands will not be able to pay any dividends, cover O&M expense, and make capital improvements. This is completely contrary to the Commission's policy of allowing a 10% rate of return (after expenses) for small utilities.

3 Respectfully submitted this 24th day of April, 2014.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served the Camplands Water LLC Post Hearing Brief on the following parties of record either by ordinary first class mail or personal service this 24th day of April, 2014:

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