

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

JEFFERSON UTILITIES, INC.,

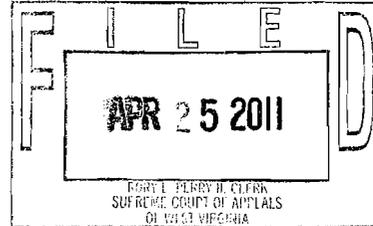
Petitioner,

Case No. 11-0505

v.

THE PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA,

Respondent.



REPLY OF INTERVENERS,
THE HOMEOWNERS ASSOCIATIONS
OF BRECKENRIDGE, DEERFIELD, GAP VIEW, MEADOWBROOK,
SHERIDAN ESTATES AND BRIAR RUN; CITIZENS FOR FAIR WATER, INC.;
AND INDIVIDUALS KAY MOORE, SCOTT TATINA AND REGINA FITE
TO BRIEF OF THE PETITIONER

Samuel F. Hanna
Hanna Law Office
WV State Bar #1580
Post Office Box 2311
Charleston, West Virginia 25328
(304) 342-2137
April 25, 2011
Counsel for the Interveners

TABLE OF CONTENTS

I. Summary Of Argument.....1

II. Statement Regarding Oral Argument And Decision.....1

III. Argument.....2

IV. Prayer.....17

TABLE OF AUTHORITIES

Cases

C & P Telephone Company v. Public Service Commission,
171 W. Va. 494, 300 S.E.2d 607, 1982 W. Va. LEXIS 687 (1982).....2

City of Charleston v. Public Service Commission,
110 W. Va. 245, 159 S.E. 38, 1931 W. Va. LEXIS 62 (1931).....2

United Fuel Gas Company v. Public Service Commission,
73 W. Va. 571, 80 S.E. 931, 1914 W. Va. LEXIS 23 (1914).....2

Statutes

W. Va. Code §24-2-12.....5

W. Va. Code §24-2-12(f).....5

Regulations

W. Va. Code § 150-1-6.3a.....9

Rules

R. App. P. 14(k).....1

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Summary Of Argument

The Commission Order of February 18, 2011, is supported by the record, is not contrary to the evidence, is not without sufficient evidence to support it, is not arbitrary, unjust or results from misapplication of legal principals.

Statement Regarding Oral Argument And Decision

Pursuant to R. App. P. 14(k), "The date for oral argument under Rule 19 or Rule 20 will be set forth in the scheduling order. Unless otherwise provided by order, the petitioner, the Commission and any respondent who filed a brief shall be entitled to present argument."

Argument

A Final Order of the Public Service Commission (Commission) based upon its finding of fact will not be disturbed unless such finding is contrary to the evidence, without evidence to support it, arbitrary, unjust or results from misapplication of legal principles. United Fuel Gas Company v. Public Service Commission, 73 W. Va. 571, 80 S.E. 931, 1914 W. Va. LEXIS 23 (1914).

Because the Commission is “experienced in rates and familiar with the intricacies of rate making” the West Virginia Supreme Court of Appeals will ordinarily not substitute their judgment for that of the Commission on controverted evidence. City of Charleston v. Public Service Commission, 110 W. Va. 245, 159 S.E. 38, 1931 W. Va. LEXIS 62 (1931).

The standard of review followed by the West Virginia Supreme Court of Appeals establishes a three-pronged analysis which focuses on 1) whether the Commission exceeded its statutory jurisdiction and power; 2) whether there was adequate evidence to support the Commission’s findings; and 3) whether the substantive result of the Commission’s order is proper. C & P Telephone Company v. Public Service Commission, 171 W. Va. 494, 300 S.E.2d 607, 1982 W. Va. LEXIS 687 (1982).

The first assignment of error by counsel for Jefferson Utilities, Inc. (JUI) is that “The Public Service Commission (“PSC” or “Commission”) erred by rejecting the findings of fact, conclusions of law and recommended decision of its Administrative Law Judge (“ALJ”) without making its own independent findings of fact and conclusions of law, contrary to the

applicable standard of review, and by denying the utility rate adjustment requested by Jefferson Utilities, Inc. (“JUI”).” The second assignment of error is that, “The PSC erred by rejecting the affiliated operation and maintenance agreement between JUI and Snyder Environmental Services, Inc. (SES) and lease agreements between JUI, SES and Lee Snyder (Mr. Snyder) and Cynthia Snyder (Mrs. Snyder) including the affiliated operation and maintenance expenses and rental expenses approved by the ALJ, which would allow JUI to recoup its legitimate business expenses through its rate structure.” Counsel for the Interveners will discuss both of these assignments of error together in this section of the reply brief. This is due to the fact that counsel for JUI makes reference to both the leases and the operation and maintenance agreement (O & M agreement) in its first assignment of error as well as the second assignment of error. Therefore, not to duplicate the argument of the Interveners, the Interveners will respond to both assignments of error together.

To begin with, the Commission wrote a very detailed 26 page Commission Order dated February 18, 2011 with attachments setting forth the reasons for its decision. Counsel for JUI in referencing the O & M agreement and lease agreements states, “In this case, however, the PSC made no specific findings of fact in support of its decision to reject the O & M Agreement and Lease Agreements and to launch a wide-ranging investigation of JUI, nor did it perform any analysis of the ALJ’s detailed factual findings in support of her decision on the various issues.” (Petition, pg. 13). In Case No. 10-0974-W-PC JUI was asking the Commission to approve a new O & M agreement with SES as well as four lease agreements. In Case No. 10-1329-W-42T JUI was asking the Commission to grant it a rate

increase and modification of its tariff. Regarding Case No 10-0974-W-PC, the O & M agreements are with an entity known as SES which is solely owned by Lee Snyder, also the owner of JUI. Therefore, because Mr. Snyder owns both companies and SES provides almost all of the services for JUI, the Commission should give these agreement close scrutiny. In fact, this is a unique situation where an affiliated, non-regulated construction company performs all services necessary to operate a regulated utility company which is owned by the same party. Under the O & M agreements, JUI agrees to pay a flat fee for operation and maintenance, and a time and materials fee for other services. The lease agreements involved in this case are extremely unique as Lee and Cynthia Snyder lease part of a Lot (Lot 16) to JUI, and then an entity known as Snyder, LLC which is owned by Lee Snyder, leases Lot 17 to Lee and Cynthia Snyder and then Lee and Cynthia Snyder have an assignment of their interest in Lot 17 to JUI and then JUI subleases a portion of the lease in Lots 16 and 17 to SES. The costs associated with these agreements are one of the most important raised in this case. W. Va. Code §24-2-12 states that unless the consent and approval of the Public Service Commission of West Virginia is first obtained ... “no public utility subject to the provisions of this chapter ... (f) may, by any means, direct or indirect, enter any contract or arrangement for management, construction, engineering, supply or financial services or for the furnishing of any other service, property or thing, with any affiliated corporation, person or interest.” W. Va. Code §24-2-12 goes on to show that the commission must consider, whether “the terms and conditions thereof are reasonable and that neither party thereto is given an undue advantage over the other, and do not adversely affect the public in this state.” (emphasis added).

In this case, the Commission made specific conclusions of law regarding the O & M agreement and the leases as follows:

“1. Before a utility may enter into an agreement with an affiliate for management, construction, engineering, supply, financial or other service, the utility must first obtain the consent and approval of the Commission. W. Va. Code § 24-2-12(f). The Commission may grant its consent and approval “upon proper showing that the terms and conditions thereof are reasonable and that neither party thereto is given an undue advantage over the other, and do not adversely affect the public in this state.” W. Va. Code § 24-2-12.

2. JUI has not made a “proper showing” that the O & M Agreement and the Leases with its affiliates meet the statutory test in W. Va. Code § 24-2-12. Consequently, the Commission will not grant its prior consent and approval.

3. The Commission will initiate a general investigation of the proposed O & M Agreement and Leases as well as other issues. The Commission will require JUI to show that JUI customers are better off with an affiliate furnishing all required services as opposed to JUI employing its own personnel. In addition, the Commission will study JUI’s long-term plans to operate and rehabilitate its utility facilities, and receive further details of JUI’s current and future use of the \$12 surcharge. The Commission will also request information about future possibilities of private-public agreements.” (Commission Order, pg. 20).

Furthermore, regarding the lease agreements, even the Administrative Law Judge in her Recommended Decision dated January 7, 2011, had problems with these leases and stated as follows:

“Leases

No approval is needed regarding ALJ Exhibit 1-B, whereby Snyder, LLC, would lease Lot 17 to Lee and Cynthia Snyder, for the simple fact that neither party is a utility. The remaining lease agreements, ALJ Exhibit 1-A and 1-C, whereby Lots 16 and 17 would be leased to JUI and then JUI would sublease part of the property to SES, will not be approved. JUI argues that Staff “has neither addressed why the Commission should not approve the

entering into the lease agreements nor proposed an alternative.” Indeed, Commission Staff has simply objected to the Lease Agreements and left the Commission to decide what structure is appropriate. As a result, Commission Staff’s objection to proposed Lease Agreements must be rejected. (JUI OB 14). However, Staff was clear that it did not like JUI’s being the tenant to the owner and SES’s being the tenant of JUI; it is clear that Staff found the only reasonable arrangement would be for the owners to rent the lots, with the building, to SES. Mr. Snyder’s testimony indicated that he too was uncomfortable with JUI’s subleasing to SES; the only justification he could provide was that leasing the lots to JUI would provide a tax benefit (and it was not clear that JUI, rather than SES, would benefit). (See II Tr. 41). That is not a sufficient basis for the proposed complicated leasing structure, particularly since it is clear that SES is the true user of the building on the lots, which houses SES’s employees exclusively, and all vacant parts of which are considered to be SES’s. In short, it was JUI’s burden to show that the agreements were reasonable, and it did not do so.” (pg. 30)

The ALJ further discussed the leases in Findings Of Fact of the Recommended

Decision and stated as follows:

“JUI requested approval of four lease agreements, entered into evidence as ALJ Ex. 1, labeled Exhibits A through D. Situated on two properties, called Lot 16, owned by Lee Snyder and Cynthia Snyder, and Lot 17, owned by Snyder, LLC, is the new office building, with the address of 270 Industrial Boulevard, Kearneysville, West Virginia. Under Exhibit B, Snyder, LLC, would lease Lot 17 to Lee and Cynthia Snyder, and, under Exhibit A and C, Lots 16 and 17 would be leased to JUI and then JUI would sublease part of the property to SES. No entity other than SES and JUI rents space in the building. Mr. Snyder justified having JUI be the landlord to SES because it was a way to “obtain the tax benefit of the Subchapter S. Corporation, being a utility.” Mr. Snyder conceded that SES could lease the building and sublet part of it to JUI. (See ALJ Ex. 1; II Tr. 16 41, 52).” (No. 21, pg. 38).

Regarding the O & M agreement, under Conclusions Of Law of the Recommended

Decision the Administrative Law Judge stated as follows:

“The eight old agreements (Exhibit C-1) are outdated, particularly because they require JUI and SES to treat the various JUI systems as separate

entities. The undersigned agrees with Staff that an O & M agreement between SES and JUI should be based on actual expenses and that the present format denies transparency. Unfortunately, simply disapproving the proposed O & M agreement would leave the eight old agreements in force, in that no alternative to the format of the proposed O & M agreement has been offered. Accordingly, the format of the proposed O & M agreement will be retained, including the method of calculating the fee for each new customer. However, it will be ordered that the agreement will expire three years after it comes into effect, so that JUI can prepare a more precise, cost-based O & M agreement.” (No. 7, pg. 42).

In the Recommended Decision, the Administrative Law Judge further addressed the O & M agreement and stated as follows:

“Mr. Pauley’s attention was drawn to Staff Exhibit 3, much of which is here quoted, for clarity:

Snyder Environmental Services currently has affiliated contracts with JUI, whereby SES provides all the employees, equipment, and services necessary to operate the utility. JUI has no employees. In support, we have a unique situation where an affiliated, non-regulated construction company performs all services necessary to operate a regulated utility company.

There are several problems with this situation which would be troubling for any responsible utility manager. The contracts contain a flat fee per month provision for billing, collecting, meter reading, and treatment station monitoring. Any maintenance or repair work is billed separate on a time and materials basis. Actual services and costs to the utility under the flat fee are not functionally measured by SES and therefore cannot be controlled or negotiated by the utility. The SES books and records supporting the expenses of a regulated utility are protected by confidentiality agreements. Also, there is no incentive to keep the utility cost low.

Since this has been going for so long, the utility company claims that it owes millions of dollars in debt to SES. In the last rate case, in Case No. 08-0544-W-42A, this was recognized as a problem. The Commission approved stipulation in that case provided that \$2.4 million of JUI debt to SES would be treated as paid in surplus in JUI’s equity account. This amount remains a part of the Capital Structure reflected by both Staff and Company Rule 42 Exhibit - Statement C.

Affiliated charges are the most important issue in the rate filing and the driver for the requested increase. The proposed contracts will increase the affiliated charges even further. JUI is requesting approval of a contract which increases flat fee charges from SES to \$514,844 annually (currently \$329,478 increased by \$185,366 to \$514,844) and also allow time and material charges for everything not covered by the flat fee based on the rates SES charges to third parties. Test year time and material charges were \$306,326.00.

Staff has looked at the books and schedules which SES uses to prepare its financial statements... The schedules show that SES separates all revenues and costs by jobs into two lines of business, construction/boring and treatment plant. The treatment plant line of business services JUI and around 36 other utility operations in various capacities.

All expenses of SES, except for administrative and general, are assigned to each line of business and each job for the financial statements. This is the same information used to measure, in the owner's view, how much the utilities he owns are costing SES and therefore, what the utilities should owe him. For PSC rate filing purposes, the A&G expenses of the SES financial statements are also allocated in part to JUI. Staff believes a utility cannot afford to share in all the costs of a major construction company in this scenario and still have reasonable or cost based rates.

Affiliated charges for most expenses invoiced to a utility should only be at cost. Where investment in equipment is involved, a return on that investment would also be allowed. All expenses paid for by a utility are usually available and open to the scrutiny of regulation. They are not buried in an affiliated company's records.

Staff found that, by eliminating several expenses included by SES which are inappropriate for setting rates and correcting a few allocation factors to more appropriate levels [] (sic) for the test year, SES invoices to JUI should be decreased by \$111,137. Staff adjustments 15 and 16 make the decrease at going level and eliminate the need to approve increased charges from SES for contracted services.

Confidential Exhibit DLP-1 is a schedule similar to Company Schedule A. It shows the calculations supporting the Staff Adjustments 15 and 16. This is the Staff calculation of the SES test year cost that should be charged to JUI from SES. The Exhibit reflects that there should be no Cost of Capital. SES applied bank interest rates to Trade Accounts Payable balances owed to SES for the year. This is inappropriate for the same reasons this excessive

debt was considered Paid in Capital in the last case. The Staff calculation of Return on Investment is based on the vehicles considered the most dedicated to utility service which are owned by SES and the 8.26% return from both Company and Staff Rule 42s.

Exhibit DLP-2 is the breakdown of the Staff Indirect Cost amount indicated on DLP-1 and is similar to Company Schedule B. Most of the Indirect Costs are related to the Shop. Staff allocated 4% of expenses from the shop to JUI rather than 12% to JUI based on the relative size of the vehicles and equipment fleets used in the utility verses construction. The indirect load factor on direct labor was calculated as 88% rather than the 122% used by SES.

Exhibit DLP-3 is the breakdown of General and Administrative Cost amount indicated on DLP-1 and is similar to Company Schedule C. SES allocated 17% of most G&A costs to JUI which Staff considers excessive. The allocation should be 6.7% and only applied to expenses the utility causes.

Staff recommends the new contract be disallowed. The contract also contains an escalator clause where for each new customer added to the system, the flat fee will be increased \$19.54. Also each year there would be an increase based on an inflation factor. SES needs to work on an allocation system that is more geared to allocating costs to an affiliated public utility. This means closer scrutiny in choosing which costs the utility is really responsible for and invoice only that cost. The flat rate invoice system is no longer appropriate as it will not accomplish this goal.” (pgs. 22, 23, 24)

Therefore, even the Administrative Law Judge had major concerns with both the lease agreements and the O & M agreements and the Commission properly rejected both.

Counsel for JUI also takes issue with the fact that the Commission opened a general investigation into the practices of JUI. According to the Rules Of Practice And Procedure Of The West Virginia Public Service Commission (150 CSR 1) Rule 6.3a, “The Commission may institute a general investigation of a public utility, or of any general issue affecting public utilities or other entities, on motion of the Commission, Commission Staff, or any other person. Any motion, other than the Commission’s own motion, to initiate a general

investigation shall be served on the utility in the same manner as a formal complaint is served.” Certainly the practice of JUI and SES as set forth in the evidentiary record supports such a general investigation and the Commission certainly has the authority to open such an investigation. In fact, the Commission specifically spelled out in the Commission Order the purpose and scope of the general investigation. Specifically it stated, “IT IS FURTHER ORDERED that the Commission initiates a General Investigation, Case No. 11-0235-W-GI, of JUI’s utility operations, including the proposed O & M Agreement and Leases as well as other issues. The Commission will require JUI to show that JUI customers are better off with an affiliate furnishing all required services as opposed to JUI employing its own personnel. In addition, the Commission will study JUI’s long term plans to operate and rehabilitate its utilities facilities, and receive further details of JUI’s current and future use of the \$12.00 surcharge. The Commission will also request information about future possibilities of private-public agreements.” This investigation is certainly within the scope of the Commission jurisdiction and warranted by the actions of JUI and SES in this case.

The last Assignment Of Error is that “The PSC erred by rejecting the ALJ Recommended Expenses for JUI’s insurance premiums, rent, rate case expense, and accumulated depreciation, and by reducing JUI’s expense for officer salary.”

Regarding rate case expense, counsel for JUI states that “JUI experienced substantial professional services expenses during the test year. It’s filings sought to cover these expenses as well as expected cost of the rate case, spread over five years at \$81,886 per year.” (Petition, pg. 25). This amounts to a total of \$409,430 for professional services for

these rate cases. The Commission properly found that JUI did not really explain the basis of this extraordinary fee and stated that the rate case expense should be reduced to a “more reasonable” \$30,000 per year over a five year time frame which amounts to \$150,000.

In fact, regarding rate case expense the Commission specifically stated as follows:

“Rate Case Expense

18. It is not reasonable to approve \$86,926 for annual outside services or expenses for conducting rate cases before the Commission because that amount would imply that the expenses for two rate cases that totaled over \$409,000 should be adjusted upward to a total cost level of nearly \$435,000, and then consider that cost as a normal cost to occur every five years.
19. Although the parties, and even the Commission, often refer to a rate case allowance as being an ‘amortization’ of rate case expense over some period of time, the Commission has historically allowed an increment for rate case expenses not subject to deferral or amortization.
20. Although deferral and amortization have been used for some significant non-recurring items, the Commission has not historically considered rate case expense as falling into this category. The Potomac Edison Company, Case No. 79-230-E-42T, Commission Order June 30, 1980.
21. It is reasonable to allow an amount for rate case expenses in rates on a going-forward basis, but the allowance is not intended to reflect an authorization to defer current rate case expenses and amortize the deferred amount over some number of years, West Virginia-American, Case No. 09-0900-W-42T, Commission Order March 25, 2009, at pp. 54-55.
22. Whether the Commission allows an increment for rate case expenses based on an average of three years, five years or any other period, the Commission does not authorize utilities to defer rate case expenses and amortize these expenses. Id. At p. 54.

23. Amortization of prior rate case expenses, as well as inclusion of prior case expenses booked in the test year in a prospective cost of service, are both inconsistent with the Commission treatment of rate case expenses.
24. Given the lack of clarity on the rate case expense issue in the JUI testimony and arguments and in the Recommended Decision, the Commission will adopt the Staff recommendation that the prospective rate case expense allowable for ratemaking purposes should be reduced to a more reasonable \$30,000 per year.”

Regarding depreciation, counsel for JUI states that “in previous cases, JUI had adjusted its depreciation expense claim to conform to the PSC mandated straight line method, but mistakenly had not adjusted its reserve, continuing to reflect the reserve accumulated under the accelerated method. This overstated its reserve for depreciation and understated its net plant compared to a calculation based on straight line depreciation.” (Petition, pg. 26).

The Commission properly addressed this issue and stated its reasons as follows:

- “26. JUI’s past booking of depreciation expenses presented financial results to the Commission that formed the basis for any review that the Commission may have been called upon to make regarding the financial condition of JUI.
27. An adjustment that would look backward and reduce a utility rate base that had been previously reviewed and approved by the Commission is improper and cannot be sustained. The Commission believes that utility customers are entitled to the same certainty of prior approved rate base and that it is equally improper to increase a utility rate base that had been previously reviewed and approved by the Commission.
28. The Staff Exceptions on the issue of accumulated depreciation will be granted and JUI is not authorized to restate its accumulated depreciation balance for prior periods.”

Regarding rent, counsel for JUI argues, “Because JUI and SES both occupy the Snyder building, it is necessary to calculate and apportion a fair rental.” (Petition, pg. 22). However, the building that Mr. Snyder built to house both SES and JUI employees are located on lots 16 and 17. Lot 17 is owned by Snyder, LLC while Lot 16 is owned by Lee and Cynthia Snyder. Lee and Cynthia Snyder lease Lot 17 from Snyder, LLC and then Lee and Cynthia Snyder lease the building to JUI which then subleased a portion of the building to SES. As testified to at the hearing, there is only one employee of JUI and that is Lee Snyder. Mr. Snyder is also the president of SES and therefore he would have to rent space in the building even if JUI did not. Mr. Snyder stated that he entered into such an unusual arrangement upon professional advice although no attorney nor any other professional was called as a witness to explain why it was done in this manner. Mr. John Womack, the comptroller of SES was called to testify and he stated that no study was done that he knows of to determine if it was cheaper for JUI to hire its own employees instead of going through SES. Lee Snyder stated that neither he nor his wife pay rent to Snyder, LLC but they pay taxes on the building annually. He stated that under the lease arrangements SES pays JUI part of the total rent and then JUI pays the remaining balance. Mr. Snyder agreed that under the agreements JUI was in the rental business. It is interesting to note that Mr. Snyder also stated that he was the owner of several other utilities who have an address at the same building as JUI and that SES employees also do business for these utilities but that these utilities pay no rent and Mr. Snyder is not paid any salary. There was never a sufficient explanation given as to why JUI ratepayers should be asked to pay rent and the salary of Mr.

Snyder when other utilities that he owns get by free. In other words, JUI ratepayers are being asked to subsidize the rent, expenses and salary of both JUI and SES employees that do work for JUI and other utilities owned by Lee Snyder because the other utilities have not, for some unknown reason, decided to pay rent or salary to Mr. Snyder. Only Mr. Snyder knows the reason for this.

It should be noted that JUI had never paid rent before and never requested any kind of reimbursement for any costs associated with housing. Under the lease agreements that JUI is asking this Commission to approve, JUI agrees to reimburse Lee and Cynthia Snyder “for the cost of utilities for the demised premises including propane, fuel, telephone service, heat, air conditioning, water, sewer, trash collection, janitorial services, repair and maintenance, the cost of lease improvements and electricity for normal use.” The leases also state that JUI would have to reimburse Lee and Cynthia Snyder for “all property taxes, special assessments associated with the demise premises during the month following the payment of such taxes by the landlord.” Such costs should be deemed unreasonable as JUI should be a tenant of the building, not a landlord, and not have to pay utilities or property taxes as that is usually the landlords obligation. In addition, under this arrangement, if SES for whatever reason fails to make these substantial payments to JUI, JUI would still be responsible for the total monthly rent. The bottom line, is that the leases are not an arms length transactions and are not in the best interest of the ratepayers of JUI. In addition, as previously stated, Mr. Snyder is the owner of other utilities which also allegedly at least have a mailing address if not an office in this building and pay no rent whatsoever. Therefore, the Commission should not allow any rent to be paid and the JUI ratepayers should not be

making payments to subsidize the space for Mr. Snyder even though his other utilities pay no rent whatsoever.

However, the Commission specifically found the following under Conclusions Of Law regarding rent:

“Rent

5. The ALJ’s decision to split the difference in the Staff recommended rent and the JUI requested rent is not supported by the evidence.

6. Rental based on the Staff owners’ investment calculation of \$2.4 million is reasonable.

7. The Staff cost numbers and work space allocation support a facilities investment allocation of approximately \$250,000, resulting in a net annual occupancy cost of \$27,000. The Staff allocation based on numbers and space requirements for employees working directly, and nearly exclusively, on JUI-related activities, and on observations of work areas and other areas within the shared space required for SES employees that provide work areas and other areas within the shared space required for SEs employees that provide services to JUI, but not exclusively, is the more reasonable allocation and will be adopted.

8. The proper level of building rent expense for this case is \$6,602 per month.” (pg. 21).

Finally, the Commission expressly addressed officers salary under Conclusions Of Law when it stated as follows:

“Lee Snyder’s JUI salary

11. The ALJ’s rationale for denying any amount of salary to Mr. Snyder on grounds that he will collect profits as owner is not reasonable because evidence presented in the case indicates that Mr. Snyder devotes considerable and expertise to operating JUI. Dec. 1, 2010 Tr. Pp. 68; 126 (Griffith testimony); pp. 144-46; 167-67; 197 (Womack testimony); p. 230 (McFarland testimony); pp. 234; 252-54; 278;79 (Snyder testimony); Company Exh. No. 12.

12. Staff does not adequately support the proposed reduction of Mr. Snyder's salary from the amount allowed in the 2008 JUI rate case. Nor does JUI adequately support a proposed 38 percent increase in salary. The Commission will allow a direct salary level of \$40,000 in the JUI cost of service." (pg. 21).

Mr. Snyder, pursuant to the last rate case, is being paid \$40,000.00 annually in salary for the services he provides to JUI. Mr. Womack testified to the percentage of time that Mr. Snyder allegedly spent on SES and JUI business. However, it is interesting to note, as previously stated, that Mr. Snyder is also the owner and sole employee of other utilities yet Mr. Womack in his calculation did not provide any time spent by Lee Snyder on these other utilities and therefore his methodology must be seen as flawed. In addition, these services by Mr. Snyder would still have to be provided by SES to JUI even if Mr. Snyder was not in any way associated with JUI. Therefore, there seems to be a duplication of his services in the estimate provided by Mr. Womack. In addition, there has been no showing that he has spent more time on his duties from the 2008 rate case in which it was agreed that his salary would be \$40,000.00.

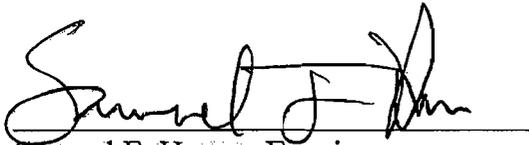
In summary, the Commission Order of February 18, 2011 was based upon the evidence of record and the applicable law and should not be disturbed.

PRAYER

Wherefore, the Interveners pray that this Honorable Court deny the appeal of the Petitioner, Jefferson Utilities, Inc. and for such further relief as this Court deems fit and proper.

Respectfully submitted,

HOMEOWNERS ASSOCIATIONS OF
BRECKENRIDGE, DEERFIELD, GAP VIEW,
MEADOWBROOK, SHERIDAN ESTATES
AND BRIAR RUN; CITIZENS FOR FAIR
WATER, INC.; AND INDIVIDUALS KAY
MOORE, SCOTT TATINA and REGINA FITE
By counsel

A handwritten signature in black ink, appearing to read "Samuel F. Hanna", written over a horizontal line.

Samuel F. Hanna, Esquire
State Bar No. 1580
Post Office Box 2311
Charleston, West Virginia 25328-2311
(304) 342-2137

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CERTIFICATE OF SERVICE

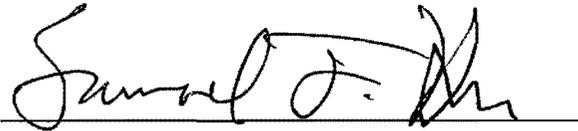
I, SAMUEL F. HANNA, counsel for the Homeowners Associations of Breckenridge, Deerfield, Gap View, Meadowbrook, Sheridan Estates and Briar Run; Citizens For Fair Water, Inc.; and individuals Kay Moore, Scott Tatina and Regina Fite do hereby certify that service of the foregoing **REPLY OF INTERVENERS HOMEOWNERS ASSOCIATIONS OF BRECKENRIDGE, DEERFIELD, GAP VIEW, MEADOWBROOK, SHERIDAN ESTATES AND BRIAR RUN; CITIZENS FOR FAIR WATER, INC.; AND INDIVIDUALS KAY MOORE, SCOTT TATINA AND REGINA FITE TO BRIEF OF THE PETITIONER** has been made upon the following parties by depositing the same in the regular course of the United States Mail, first class postage pre-paid on this the **25th day of April, 2011**:

Ancil G. Ramey, Esquire
E. Dandridge McDonald, Esquire
Steptoe & Johnson, PLLC
P. O. Box 1588
Charleston, WV 25326-1588

Ronald E. Robertson, Jr., Staff Attorney
Legal Division
Public Service Commission of West Virginia
201 Brooks St.
Charleston, WV 25301

James Casimiro III, Esq.
Jefferson County Prosecutor's Office
P.O. Box 729
Charles Town, WV 25414

Ms. Sandra Squire, Executive Secretary
West Virginia Public Service Commission
Post Office Box 812
Charleston, West Virginia 25323

A handwritten signature in black ink, appearing to read "Samuel F. Hanna", written over a horizontal line.

Samuel F. Hanna