

In the Matter of the Application of Suburban)
Water, Inc., d/b/a Suburban Water Company,)
For an Order Increasing its Rates in Leavenworth)
County, Kansas)

Docket No. 11-SUBW-448-RTS

STATE CORPORATION COMMISSION

MAR 16 2011



DIRECT TESTIMONY

PREPARED BY

SONYA A. CUSHINBERRY

ON BEHALF OF

KANSAS CORPORATION COMMISSION STAFF

1 **Q. Please state your name and your business address.**

2 A. My name is Sonya A. Cushinberry. My business address is Kansas Corporation
3 Commission, 1500 S.W. Arrowhead Rd., Topeka Kansas 66604-4027.

4 **Q. What is your position with the Kansas Corporation Commission?**

5 A. I am employed as a Managing Utility Rate Analyst. My responsibilities include the
6 analysis of issues related to class cost of service, rate design, tariff filings, and various
7 other studies for gas, electric, and water utilities.

8 **Q. What is your educational background and work experience?**

9 A. I received a Bachelor of Business Administration degree in Management from Washburn
10 University in 1982 and a Masters of Science in Management degree from Baker
11 University in 1995. I have sixteen years experience in the electric and natural gas utility
12 industries working in various customer service and regulatory positions. In March 2003,
13 I became employed by the Kansas Corporation Commission and was promoted to my
14 current position in 2010.

15 **Q. Have you previously testified before the Commission?**

16 A. Yes. I have prepared proposals, testimony, and testified to the Commission on various
17 gas, electric, and water filings as well as generic investigations.

18 **Q. What is the purpose of your testimony in this proceeding?**

19 A. In this testimony, I will address concerns the Commission expressed in its *Order on*
20 *Application* dated November 3, 2010 (“Order”), Docket No. 10-SUBW-602-TAR (“602
21 Docket”). Specifically, I will (I) discuss Staff’s findings with regard to the legality of,

1 basis for, and reasonableness of the Payment in Lieu of Taxes (“PILOT”) fee assessed by
2 the Unified Government of Wyandotte County (“Unified Government”) to the Kansas
3 City Board of Public Utilities (“BPU”), which in turn charges the PILOT fee to all its
4 retail and wholesale water customers such as Suburban Water Company (“SWC,”
5 “Suburban Water” or, “Company”), (II) discuss Staff’s findings with regard to whether
6 SWC is paying for the free water services – public fire hydrants, and city
7 interdepartmental users - that are provided by the BPU to the Unified Government, (III)
8 address the Commission’s concerns regarding whether the water SWC purchases from
9 BPU is “surplus water” that is not needed now or in the future by the City of Kansas City,
10 Kansas and or its inhabitants, (IV) discuss Suburban Water’s involvement in the BPU
11 rate proceeding, and (V) talk about the impact of the proposed rate increase to Suburban
12 customers if Staff’s recommendation is approved by the Commission.

13 **Q. What is your recommendation?**

14 A. I recommend the Commission approve SWC’s request to increase its rates by \$44,913.
15 This recommendation is further supported by Staff Witness William E. Baldry’s financial
16 analysis of the Company.

17 **Commission Concerns From The 602 Docket**

18 **Payment in Lieu of Taxes (PILOT Fee)**

19 **Q. What is the basis for the PILOT fee and why is it assessed to BPU?**

20 A. The BPU is an administrative agency authorized under K.S.A. 13-1220. It manages,
21 operates, maintains and controls the daily operations of the publicly-owned water and

1 electric plants serving the Unified Government, formerly the city of Kansas City, Kansas
2 and Wyandotte County, Kansas. As such, it is exempt from federal and state income
3 taxes as well as local property taxes. By Charter Ordinance, the BPU contributes a
4 portion of its gross operating revenues to the Unified Government. The Charter
5 Ordinance states the amount shall be no less than 5% and no more than 15% of BPU's
6 gross revenues.¹ The PILOT fee is the means by which BPU pays the Unified
7 Government a percentage of its gross operating revenues.²

8 **Q. How does the PILOT fee affect Suburban Water?**

9 A. Suburban Water purchases water at wholesale from BPU. The Unified Government
10 proposed to reduce the PILOT percentage fee each year from the 2010 rate of 12.8% to
11 11.9% in 2011, 9.9% in 2012 and 9.9% in 2013. The BPU would charge the applicable
12 PILOT fee to all its retail and wholesale water customers, including SWC.

13 **Q. What concerns did the Commission express in the 602 Docket regarding the PILOT**
14 **fee?**

15 A. The Commission conveyed several concerns regarding the PILOT in its Order. First, the
16 Commission questioned whether the BPU was a taxing authority under K.S.A. 12-147
17 which, as the Commission noted, authorizes "a taxing subdivision of the state to contract
18 for payment of service charges in lieu of taxes...only "with the owner or owners of
19 property which is exempt from the payment of ad valorem taxes under the laws of the

¹ Exhibit No. SAC 1 - Charter Ordinance No. CO-3-02, Section 2(a) and 2(b) of the Wyandotte County Unified Government, Kansas, Code of Ordinances.

² Exhibit No. SAC 2 (DR No. 21).

1 state of Kansas.”³ The Commission questioned “whether the Unified Government has
2 authority to assess a PILOT percentage on bills of its wholesale water customers like
3 Suburban that are outside the Unified Government’s jurisdiction.”⁴

4 Second, the Commission expressed concern that if the BPU has no authority to
5 assess a PILOT percentage against Suburban Water’s utility bills, allowing such charges
6 to be passed through to its customers would not result in just and reasonable rates.⁵ The
7 Commission compared its regulatory responsibility with that of the BPU, noting that the
8 Commission has a responsibility to balance the competing interests when determining
9 just and reasonable rates while BPU operates within a regulatory framework that allows it
10 to recover its own costs with no requirement that the BPU consider the impact of rates on
11 its customers.⁶

12 Third, the Commission expressed a concern that communities, and thus local
13 economies, located in Leavenworth County and served by SWC, would not receive the
14 benefits that the PILOT fee pays for while the Unified Government, located in Wyandotte
15 County, would. The Commission again questioned BPU’s authority to assess the PILOT
16 on SWC’s wholesale water purchases.⁷

17 **Q. Does Staff share the Commission’s concerns regarding the PILOT fee?**

³ Order, p. 12-13, ¶25.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*, ¶ 30.

⁷ *Id.*, ¶ 32.

1 A. Yes. Staff acknowledges and shares the Commission’s concerns. Staff also has a
2 responsibility to make sure customer’s rates are just and reasonable while considering the
3 Company’s interests. Staff understands it’s particularly important in this case given that
4 the BPU is governed by a six member Board of Directors (“BPU Board”) not regulated
5 by the KCC, but whose decisions concerning rate adjustments directly impact SWC
6 which is under the Commission’s authority.

7 K.S.A. 12-147 authorizes taxing subdivisions of the state of Kansas to enter into
8 “contracts for the payment of service charges in lieu of taxes, with the owner or owners
9 of property which is exempt from the payment of ad valorem taxes under the laws of the
10 state of Kansas and is further authorized to receive and expend revenue resulting
11 therefrom in the manner hereinafter provided.” Because BPU owned property is exempt
12 from income and property taxes, the Unified Government may assess a PILOT fee on the
13 BPU. The BPU recovers its business costs by passing this expense on to its retail and
14 wholesale customers. In this docket, SWC is seeking approval from the Commission to
15 increase its rates for water service to its customers so it can recover its costs.

16 Staff agrees with the Commission that because SWC’s customers are located in
17 Leavenworth County outside the jurisdiction of the Unified Government, SWC’s
18 customers are not directly benefiting from the income generated by the PILOT fee that
19 helps fund Unified Government operations and programs. SWC’s customers do,
20 however, benefit directly from the water SWC purchases from the BPU.

1 Also, Staff recognizes that, if the BPU were an Investor Owned Utility (IOU), it
2 would be subject to state and federal income taxes and state property taxes at a rate
3 greater than the 11.9% PILOT fee rate that the BPU recovers from its wholesale
4 customers, including Suburban Water. Therefore, Staff views the 11.9% PILOT fee as a
5 benefit to SWC’s customers when compared to higher tax costs the BPU would incur if it
6 were an IOU.

7 Suburban Water is required by contract to pay the PILOT fee as long as the
8 PILOT fee is “uniformly applicable to all wholesale customers.”⁸ Staff found that all of
9 the BPU’s retail and wholesale customers are being charged the PILOT fee.⁹ Staff views
10 the PILOT fee the same way it views purchased water costs or any other operating
11 expense; that if it’s a cost Suburban Water incurs in order to provide service to its
12 customers, and as long as the overall cost is reasonable, then the Company should be
13 allowed to recover its costs through rates.

14 **Free Water Services Provided to Unified Government**

15 **Q. What was the Commission’s concern regarding “free water services?”**

16 A. The 602 Order expressed concern that BPU’s rate schedule includes, in rates for
17 wholesale customers such as Suburban Water, charges for “free services” for the Unified
18 Government which owns BPU.¹⁰ These free services include water used in the operations
19 of the Unified Government, such as water used by city hall and city parks, and the

⁸ Contract for Water Service between Suburban and the BPU dated April 6, 2000, p. 7. (Water Contract).

⁹ Exhibit No. SAC 3 – BPU Rider W2.

¹⁰ Order, pg. 12 ¶24.

1 Commission questioned BPU's "authority to avoid paying any direct charges for these
2 services and instead pass these costs through to wholesale customers."¹¹ The
3 Commission also noted that K.S.A. 13-1227 which requires the BPU to "install, repair,
4 replace and remove fire hydrants at a reasonable cost determined by the city and shall
5 provide an adequate water supply through such hydrants at a reasonable cost determined
6 by the city." This suggests that water services cannot be provided free of charge and the
7 Commission questioned the removal of "all cost of service allocated to the Unified
8 Government, Public Fire Hydrants, and Interdepartmental sales" in the cost of service
9 study performed by Black & Veatch on behalf of the BPU.¹²

10 **Q. Does Suburban Water believe it's paying for free water services for the Unified**
11 **Government?**

12 A. In response to Staff Data Request 27,¹³ Suburban responded that no cost for free water
13 services was allocated to the wholesale customer group and referred to Table 18 in the
14 cost of service study by Black & Veatch. Page 40 of the report states the following:

15 Costs associated with City and Interdepartmental service and public fire
16 protection are not recovered through direct charges, therefore, the cost of service
17 for these classes is reallocated to all other **retail** customers in proportion to their
18 allocated cost of service. (Emphasis added).
19

20 This section appears to support Suburban's opinion that only the retail customers (and
21 therefore not the wholesale customers) are paying for the free water services. To verify,
22 Staff confirmed with BPU that all of the expenses associated with free water services

¹¹ *Id.*

¹² *Id.*

¹³ Exhibit No. SAC 4 (DR No. 27).

1 provided to the Unified Government are paid for by BPU's retail customers and that none
2 of the wholesale customers, including Suburban are allocated any of these costs.
3

4 **The Extent of SWC's Involvement in the BPU's Rate Proceeding**

5 **Q. What did the Commission say about SWC's participation in the BPU rate**
6 **proceeding?**

7 A. During the technical hearing in the 602 docket held September 8, 2010, SWC's
8 consultant, Greg Wilson, testified that he had been retained by the Company to monitor
9 the BPU proceedings and while Suburban Water had intervened, the Company had not
10 submitted testimony or been involved in the BPU's technical hearings. (Tr., p.58
11 Wilson). The 602 Order stated that Article XII, p. 7 of the Water Contract between SWC
12 and BPU gives SWC the right to appeal the BPU's notice of any rate adjustment. The
13 Order also stated that "[t]o challenge a BPU decision, however, a party must be an active
14 participant before the BPU." The Commission further stated that "[m]erely intervening
15 and monitoring the BPU proceeding does not put Suburban Water in a position to
16 challenge a BPU decision through judicial review under K.S.A 13-1228c."¹⁴

17 **Q. Did SWC participate in the BPU rate proceeding?**

18 A. Yes. Mike Breuer's direct testimony in this docket details Suburban's involvement in the
19 BPU proceedings.¹⁵ To summarize, the Company took the following actions to ensure
20 SWC's interest in the BPU rate proceeding was represented:

¹⁴ Order, pg. 19 ¶36.

¹⁵ See Mike Breuer's Direct Testimony, pgs. 7-11, in the Application.

- 1 • Retained counsel and intervened in the BPU rate proceeding.¹⁶
- 2 • Hired Mr. Wilson to analyze BPU's rate increase proposal and its possible impact
- 3 on SWC's rates to its customers.
- 4 • Attended the BPU public hearings on May 3, 2010 and May 4, 2010 and provided
- 5 comments related to the proposed increases.
- 6 • Attended and participated in the BPU technical hearings on June 16, 2010, August
- 7 4, 2010, September 30, 2010, and October 6, 2010.
- 8 • Submitted written comments on September 30, 2010.¹⁷
- 9 • Responded to questions from the BPU Board Members at the technical hearing on
- 10 September 30, 2010.¹⁸
- 11 • Attended the hearing on October 6, 2010 where the Board ruled on the proposed
- 12 rates.

13 **Q. Does Staff believe SWC could have done anything differently that may have affected**
14 **the outcome in the case?**

15 A. This is a difficult question to answer. Staff's not sure if the Company could have done
16 more to influence the outcome of the proceeding, especially considering that when
17 making its final decision, the Board chose not to accept its own Staff's modified
18 recommendations, recommendations that may have resulted in reduced water rate

¹⁶ See Exhibit MB – 9 in the Application.

¹⁷ See Exhibits MB – 11 in the Application.

¹⁸ See Exhibit MB – 12, pages 12 – 29 in the Application.

1 increases in subsequent years.¹⁹ Staff understands Suburban Water operates with limited
2 resources, and in addition to the BPU proceeding, Suburban Water was pursuing the 602
3 Docket with this Commission. Staff commends Suburban Water's efforts in the BPU
4 proceeding. But, having said that, Staff would like to make a few comments about
5 SWC's delayed written participation.

6 On June 16, 2010, the Board approved the implementation of an 8% rate increase
7 in water rates to be effective July 1, 2010. (This rate increase actually became effective
8 September 1, 2010.²⁰). The Board also approved provisional rate increases in water rates
9 of 8%, 7.5% and 7.5% for 2011, 2012 and 2013, respectively. Furthermore, the Board set
10 deadlines for the filing of technical testimony related to the issues of the revenue
11 requirement, cost allocation and rate design for the 2011-2013 periods. It also requested
12 that all evidence be entered into the record by the end of September.²¹ SWC filed its
13 written comments on September 30, 2010.

14 The Commission's reference to K.S.A. 13-1228b(a) in the 602 Order indicated the
15 Commission sought a full level of participation allowed by law: the Commission appears
16 to have presumed Suburban should have "presented testimony of witnesses under oath,
17 conducted cross-examination of employees and representatives of the board, presented
18 oral arguments, and filed written briefs."²² Filing written comments at the last minute

¹⁹ See Exhibit MB – 10, Testimony of Lori Austin, witness for BPU.

²⁰ See Exhibit No. SAC 5 (DR No. 5).

²¹ See Exhibit MB – 13, page 6, lines 7 – 15 in the Application.

²² Order ¶36.

1 does not meet this standard. But again, Staff is not sure it would have made a difference
2 in the outcome of the proceeding.

3 **The BPU’s Supply of “Surplus Water” to SWC**

4 **Q. What concerns did the Commission express regarding “surplus water”?**

5 A. The Water Contract between the BPU and Suburban Water states that Suburban Water is
6 being supplied with surplus water produced by the BPU that is not required for use within
7 the corporate limits of the Unified Government.²³ The contract provides for a 20-year
8 primary term and automatically renews for additional one-year terms unless either party
9 provides notice to terminate at least 6 months in advance.²⁴ The 602 Order stated that
10 “[n]o evidence in the record supports a finding that water being purchased, or to be
11 purchased in the future by Suburban Water constitutes surplus BPU water, which is water
12 not needed now or in the future for the city and its inhabitants for domestic and industrial
13 purposes and for public use in the city.”²⁵

14 **Q. Did Suburban address the Commission’s concerns regarding “surplus water”?**

15 A. Yes. In response to Staff Data Request No. 22, Suburban Water provided a copy of an e-
16 mail it received from the BPU stating that it would have surplus water in 2020 and that
17 BPU is including all current wholesale customers in its future master planning process for
18 capital improvements. The e-mail also said that the Missouri River Basin still had
19 surplus water to develop water rights and that development of future water rights will

²³ See Exhibit MB – 16, Water Contract, Article I, pg. 1 in the Application.

²⁴ Article XIII, page 7 of the Water Contract

²⁵ Order, ¶19.

1 include BPU's wholesale water customers.²⁶ Mr. Breuer's testimony stated that since
2 the BPU's water sales had decreased the last several years, BPU has been able to add the
3 City of Tonganoxie as a wholesale customer. He also pointed out that SWC had not faced
4 any significant interruptions of service from the BPU and that SWC considers the BPU to
5 be a reliable source of supply.²⁷

6 **Q. Did Staff discover additional information that supports the BPU's statements**
7 **regarding its "surplus water" supply and its ability to meet its customer's needs?**

8 A. Yes. Staff's analysis of the BPU's water supply was very informative, and based on
9 information discussed below Staff believes that the BPU is capable of providing reliable
10 water service to all of its customers, including Suburban Water.

11 **Q. Please explain Staff's findings.**

12 A. Staff found that the BPU is a member of the Kansas River Water Assurance District No.
13 1, and as such, has access to a continuous and steady supply of water.

14 **Q. What is the Water Assurance Program?**

15 A. The Water Assurance Program Act was enacted in 1986.²⁸ This act provided the basis
16 for the forming of three river water assurance districts in Kansas. Over the years, the
17 State of Kansas has acquired water rights to stored water in federal reservoirs, and
18 subsequently marketed that stored water to industries and municipalities. In the case of
19 assurance districts, a group of industries and municipalities who have rights to water from

²⁶ See Exhibit No. SAC 6 (DR No. 22).

²⁷ Mike Breuer Direct Testimony, pg. 15, lines 19 – 23, and pg. 16, lines 1 – 6.

²⁸ K.S.A. 82a-1330, *et seq.*

1 a river located downstream of the federal reservoirs, pool their resources to purchase
2 storage space in the reservoirs. The storage space and the water contained within that
3 space can be used or released during periods of drought to assure that the members of the
4 District will have enough water to meet their demands.

5 There are currently three assurance districts in Kansas:

- 6 • The Kansas River Water Assurance District No. 1, composed of cities and
7 industries along the Kansas River from Junction City to Kansas City, Kansas, has
8 storage space in Milford, Tuttle Creek and Perry Reservoirs.²⁹
- 9 • The Marias des Cygnes River Water Assurance District No. 2 has storage space in
10 Melvern and Pomona Reservoirs, and provides water to cities and industries
11 along the Marias des Cygnes River.
- 12 • The Cottonwood/Neosho River Water Assurance District No. 3 has storage space
13 in Marion, Council Grove, and John Redmond Reservoirs.

14 As a member of the Kansas River Water Assurance District No. 1, BPU has an unlimited
15 water supply. The Missouri River, Kansas River, Tuttle Creek, Lake Perry, and Milford
16 Lake would all have to dry up before the BPU would run out of water supply options.

17 **Q. Is Staff convinced the BPU has enough water to meet the needs of Suburban Water?**

18 A. Staff cannot, nor can anybody else for that matter, be 100% assured that BPU will have
19 enough water to meet the future needs of Suburban Water's or other wholesale
20 customers. From Staff's independent analysis and the evidence presented by Suburban

²⁹ See Exhibit No. SAC 7.

1 Water, Staff believes the possibility of BPU not having adequate water reserves to meet
2 the needs of the Company is pretty remote.

3 **Staff's Analysis of Proposed Rate Increase and its Customer Impacts**

4 **Q. Did Staff review Suburban Water's application?**

5 A. Yes.

6 **Q. What is Staff's recommendation?**

7 A. Staff Witness William E. Baldry examined Suburban's application and determined the
8 Company is currently operating at a deficit. (See Staff Witness William Baldry's Direct
9 Testimony.) Based on that analysis, Staff recommends a rate increase of \$44,913 be
10 approved for Suburban.

11 **Q. What price is SWC currently paying BPU for its wholesale water purchases?**

12 A. Suburban Water is currently paying a customer charge of \$160.00, \$2.05 per 1,000
13 gallons of water purchased, and a PILOT fee percentage of 11.9%.

14 **Q. What price is SWC currently charging its retail customers for water purchases?**

15 A. Suburban Water's retail customers are currently paying the rates established by the
16 Commission in Suburban's last rate case, Docket No. 07-SUBW-1352-RTS. They pay a
17 \$20.00 customer charge which includes the first 1,000 gallons of water used, plus \$7.33
18 per 1,000 gallons for any additional gallons used.

19 **Q. Do Suburban customers currently pay a PILOT fee in their rates?**

20 A. Yes. A PILOT fee percentage of 9.9% is embedded in the \$7.33 per 1,000 gallons rate.

1 **Q. If the Commission approves the rate increase, what will be the impact to SWC's**
2 **customers?**

3 A. Currently, a residential customer using 5,000 gallons of water per month is paying
4 approximately \$49.32. If Staff's proposed increase is accepted, that same customer will
5 pay approximately \$51.44 per month which results in an increase of \$2.12 per month.

6 **Q. Does this conclude your testimony?**

7 A. Yes.

8

9

10

Docket No. 10-SUBW-602-TAR
Exhibit SAC - 1

Wyandotte County - Unified Government, Kansas, Code of Ordinances >> Appendix A - CHARTER ORDINANCES AND RESOLUTIONS >> ->> ->> ->> CHARTER ORDINANCE NO. CO-3-02 >>

CHARTER ORDINANCE NO. CO-3-02

A Charter ordinance relating to the board of public utilities; amending section (a) and section 18 of Charter Ordinance No. CO-5-01 of the Unified Government of Wyandotte County/Kansas City, Kansas; and repealing original Sections 9(a) and 18 of Charter Ordinance No. CO-5-01.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That section 9(a) of Charter Ordinance No. CO-5-01 of the Unified Government of Wyandotte County/Kansas City, Kansas be and the same hereby is amended to read as follows:

Section 9.

(a) In the general election each qualified elector of the city shall be entitled to vote on the election of the at-large position or positions to be filled. Of the two candidates nominated from each such at-large position the candidate receiving the highest number of votes in the general election shall be elected as board member from the at-large position.

Section 2. That section 18 of Charter Ordinance No. CO-5-01 of the Unified Government of Wyandotte County/Kansas City, Kansas be and the same hereby is amended to read as follows:

Section 18.

(a) As hereinafter directed, the board is hereby empowered to transfer to the unified government a percentage or other portion of the gross operating revenue of each utility.

(b) The amount to be transferred to the unified government under this section shall be determined by resolution by the unified government in an amount not less than five percent nor more than 15 percent of its gross revenues for such fiscal year. The determination of the percentage of gross operating revenues to be paid for a fiscal year shall be made by the unified government, with written notice to the board on or before the September 1 preceding the date of implementation. The governing body of the unified government and the board shall, prior to any determination increasing the payment in lieu of taxes hereunder, meet and confer to discuss any proposed increase. If the unified government fails to so determine or fails to so notify the board of its determination on or before the first day of September of any year, the board shall set over a percentage of gross operating revenues which shall be no less than that set over the preceding year.

(c) From and after the effective date of this ordinance, the set over of revenues to the unified government shall be made monthly by no later than the tenth day of the second month following each month in which the gross operating revenues are collected. For each fiscal year, following the receipt of the year's audit by the board, a determination of the total amount of revenues which should have been set over based on total gross operating revenues shall be made, and any reconciliation and adjustment between that amount and the amount which had been previously set over for the fiscal year shall be determined and such reconciliation and adjustment shall be made by adjusting the payment made in the month following receipt of the audit, upward or downward as necessary, except that this reconciliation shall be done no later than the month of June.

Section 3. If any provision of this Charter Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or application of the Charter Ordinance which can be given effect without the invalid provisions or application and to this end the provisions of this Charter Ordinance are declared to be severable.

Section 4. That original section (a) and section 18 of Charter Ordinance No. CO-5-01 of the Unified Government of Wyandotte County/Kansas City, Kansas, be and the same are hereby repealed.

Section 5. This ordinance shall be published once each week for two consecutive weeks in the Wyandotte Echo.

Section 6. This is a Charter Ordinance and shall take effect 61 days after final publication unless a sufficient petition for a referendum is filed and a referendum held on the ordinance as provided in article 12, section 5, subdivision (c)(3), of the Constitution of the State of Kansas, in which case the ordinance shall

become effective if approved by a majority of the electors voting thereon.

PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, NOT LESS THAN TWO-THIRDS OF THE MEMBERS ELECT VOTING IN FAVOR THEREOF, THIS 19th DAY OF NOVEMBER, 2002.

Carol Marinovich

Mayor/CEO

ATTEST:

Tom G. Roberts

Unified Government Clerk

Approved as to Form:

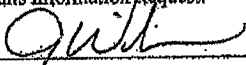
N. Cason Boudreau

Deputy Chief Counsel

Docket No. 11-SUBW-448-RTS
Exhibit SAC - 2

VERIFICATION OF RESPONSE

I have read the foregoing Information Request and answer(s) thereto and find the answer(s) to be true, accurate, full and complete, and contain no material misrepresentations or omissions to the best of my knowledge and belief, and I will disclose to the Commission Staff any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: 

Date: February 4, 2011

Suburban Water Co.
Docket No. 11-SUBW-448-RTS
KCC Information Request Answers

Request No. 21
RE: PILOT

1. See attached Kansas Statutes, Chapter 27, Article 2, Payments in Lieu of Taxes, Statute 27-207: Payments based on estimated costs of services.
2. See attached page 33, Unified Government Annual Financial Statements, Section 9, and Payment in Lieu of Taxes.
3. See attached KCK-BPU Adopted 2010 Budget statement of the PILOT

KSA 27-207: Payments based on estimated costs of services.

Page 1 of 1

Kansas Statutes

search

Browsable and searchable archive of 2009 Kansas Statutes Annotated (K.S.A.)

Chapter 27: Federal Jurisdiction

Article 2: Payments In Lieu Of Taxes

Statute 27-207: Payments based on estimated costs of services. The amount of any payment of sums in lieu of taxes may be based on the estimated cost to each political subdivision, for and on whose behalf an agreement is entered into, of performing services for the benefit of a project during the period of an agreement, after taking into consideration the benefits to be derived by the political subdivision from such project, but shall not be in excess of the taxes which would result to the political subdivision for said period if the real property of the project within the political subdivision were taxable.

History: L. 1941, ch. 202, § 7; April 12.

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other financing sources while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

8. Fund equity

In the fund financial statements, governmental funds report reservations of fund balance for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. Designations of fund balance represent tentative management plans that are subject to change.

Reservations of fund balance. The fund balances of the governmental fund types include the following reservations, which represent amounts that are not appropriable or are legally segregated for a specific purpose:

- Reserved for encumbrances - used to segregate a portion of fund balance legally restricted for the future payment of outstanding encumbrances.
- Reserved for alcohol diversion - used to segregate a portion of fund balance legally restricted for special alcohol programs.

Designations of fund balance. The fund balances of the governmental fund types include the following designations, which represents tentative management plans that are subject to change:

- Designated for restricted sales taxes - used to segregate a portion of fund balance for local sales tax pledged for capital improvements.

9. Payment-in-lieu of taxes (PILOT)

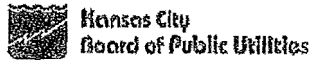
The BPU is exempt from federal and state income taxes and local property taxes because it is an administrative agency of the Unified Government. However, the BPU is required by a Charter Ordinance to pay a percentage of gross operating revenues to the Unified Government. The Charter Ordinance established a range of 5.0 to 15.0%. Currently, the payment-in-lieu of taxes is established at 9.9%, which amounted to approximately \$21,540,269 during 2009. The PILOT is collected by the BPU through incorporation in the rates as a supplemental rate rider. Effective January 1, 2010, the PILOT will increase to 12.8% of gross revenues.

In addition to these payments, the BPU also contributes free services to the Unified Government, such as street lighting, fire hydrant services, traffic signals, and collection of sewer and trash charges. These service contributions approximated \$13,304,682 or 5.7% of the BPU's total revenue for 2009.

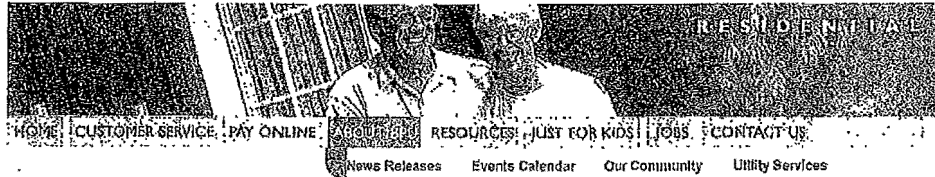
10. Pending Governmental Accounting Standards Board statements

GASB Statement No. 51, "Accounting and Financial Reporting for Intangible Assets," was issued in June 2007. This statement provides guidance on identifying, accounting for, and reporting intangible assets. The new standard characterizes an intangible asset as an asset that lacks physical substance, is nonfinancial in nature, and has an initial useful life extending beyond a single reporting period. It further states that these assets should be classified as capital assets. The provisions of this statement are effective for the Unified Government's year ending December 31, 2010.

GASB Statement No. 53 "Accounting and Financial Reporting for Derivative Instruments" was issued in June 2008. This statement is intended to improve how state and local governments report information about derivative instruments, financial arrangements used by governments to manage specific risks or make investments, in their financial statements. The statement specifically requires governments to measure most derivative instruments at fair value in their financial statements. The guidance in this



Serving the Water and Electric Needs of Kansas City



12-17-2009 BPU Adopts 2010 Budget

Reduces spending, cuts staffing, maintains quality dependable utility services

(KANSAS CITY, Ks.) — The Kansas City Board of Public Utilities (BPU) Board of Directors approved the 2010 Annual Budget for the publicly-owned electric and water utility at its December 16, 2009 Board meeting. The budget was adopted following a series of public budget hearings and strategic board meetings held throughout the month of December. The 2010 budget, totaling \$278.6 million, is \$26 million less than the 2009 budget of \$303.3 million, an 8.1 percent reduction in spending by the utility. BPU eliminated three staffing positions in its 2010 budget, downsizing from 681 to 678 staff positions. This is the 5th straight year of staffing reductions at the utility, from 722 positions in 2006 to 678 next year, a total reduction of 44 staff positions. "The 2010 budget reflects a \$25 million reduction in spending from 2009, and the elimination of additional BPU staff positions," stated Lorella Colombet, BPU Board President. "Staff has held the line on 2009 expenses and was told to reduce their 2010 budgets by at least 5%. In addition there will be no cost of living increases for non-bargaining employees. We approved a bare-bones budget for 2010."

Highlights of the 2010 Budget include:

- Provides \$278.6 million for operations, capital, debt service, and payment-in-lieu of taxes (PILOT) requirements in 2010.
- A number of pass-through costs that do not necessarily reflect additional spending by the utility are also incorporated into the budget. For example,
 - The payment-in-lieu of taxes (PILOT), which requires BPU to pay a portion of its revenue to the Unified Government for city operations and programs, increased approximately \$3.7 million or 15.45% over 2009 (from \$23.6 to \$27.3 million) following an increase from 9.8% to 12.6% which is a 2.8 percent increase in the PILOT as part of the 2010 UG Budget.
 - Fuel and purchased power costs, which are solely dependent on market costs, are projected to decrease \$20.7 million in 2010.

During the past twelve months, BPU experienced a number of challenges due to the ongoing economic crisis including, among other things: increased building costs; volatile fuel costs; lower demand for energy; and fluctuating wholesale energy costs. In addition, abnormally cooler and wetter weather resulted in lower than expected utility revenues for the period. "Like so many others, BPU has reduced spending and staffing as a result of national economic market conditions," stated Don Gray, BPU General Manager. "We are prepared to adjust and react as necessary throughout 2010 to ensure BPU continues meeting all of the community's electric and water utility requirements."

Additional 2010 budget highlights include:

- The \$278,651,000 annual budget provides for the following: \$176.2 million for general operations; \$34.2 million for debt service; \$27.3 million for the PILOT transfer to the Unified Government, and; \$42.0 million in capital improvements.
- Major capital projects for 2010 include:
 - Piper West to Wolcott Transmission line
 - East Fairfax Substation
 - Wolcott Substation
 - Automated Meter Reading Implementation
 - Power plant projects
 - Water meter replacement program
 - Water main replacements

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Docket No. 11-SUBW-448-RTS
Exhibit SAC - 3

Water Rate Rider		
WATER PAYMENT TO CITY IN-LIEU-OF TAX RIDER RIDER W2	BOARD OF PUBLIC UTILITIES KANSAS CITY, KANSAS	Page 1 of 1

APPLICATION:

To all customers (wholesale and retail) from which the Board of Public Utilities (BPU) of the City of Kansas City, Kansas is required to collect or remit a percentage of revenue as a payment "in-lieu-of-tax" to the Unified Government of Wyandotte County/Kansas City, Kansas or to any other agency having authority to impose a gross receipts tax or fee on the sale of water.

BILLING:

Billings for payment of this "in-lieu-of-tax" or such other fees shall be included with the regular billings for water service and shall be in amount sufficient to compensate the BPU for any amount it is required to collect or remit.

AMOUNT:

The amount of "in-lieu-of-tax" or such other fees as may be imposed or required to be paid shall be calculated as follows:

T = the total amount of "in-lieu-of-tax" = (B)(r)
where:

B = amount of bill as calculated in accordance with the effective rate excluding any gross receipts taxes.

r = the "in-lieu-of-tax" (or such other fee) rate applicable to the billing. On January 1, 2011, this rate was 11.9%. The Unified Government of Wyandotte County/Kansas City, Kansas establishes the "in-lieu-of-tax" as outlined in its Charter Ordinance. The ordinance states the "in-lieu-of-tax" can be no less than 5 percent and no more than 15 percent of gross revenues.

OTHER PROVISIONS:

All terms and conditions in conflict herewith are hereby superseded, otherwise all terms and conditions of the currently applicable rate schedules shall remain in full force and effect.

Effective: 01/01/2011
Supersedes Rider W2 Effective: 05/01/2006

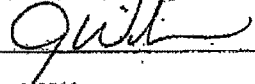
Docket No. 11-SUBW-448-RTS

Exhibit SAC - 4

VERIFICATION OF RESPONSE

I have read the foregoing Information Request and answer(s) thereto and find the answer(s) to be true, accurate, full and complete, and contain no material misrepresentations or omissions to the best of my knowledge and belief, and I will disclose to the Commission Staff any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: _____

A handwritten signature in cursive script, appearing to read "G. Williams", is written over a horizontal line.

Date: February 4, 2011

Suburban Water Co.
Docket No. 11-SUBW-448-RTS
KCC Information Request Answers

Request No. 27

RE: Free Water Services to the Unified Government – Retail Customers Only

1. Yes, you are correct. No Free Services or Public Fire Protection was allocated to the wholesale customer group. See attached table 18.

COST ALLOCATIONS

KANSAS CITY BOARD OF PUBLIC UTILITIES
WATER RATE STUDY

Table 18
Comparison of Allocated Cost of Service
with Revenue Under Existing Rates
Test Year 2013

Line No.		(1)	(2)	(3)	(4)	(5)
		Allocated Cost of Service \$	Adjustment \$	Adjusted Cost of Service \$ (1) + (2)	Revenue Under Existing Rates \$	Indicated Revenue Adjustment (3) / (4)
INSIDE CITY						
1	Residential	18,655,900	5,246,500	23,902,400	17,438,800	37.1%
2	Commercial (a)	8,885,100	2,432,200	11,317,300	8,588,100	31.8%
3	Industrial	3,531,800	966,800	4,498,600	3,017,200	49.1%
4	Public Authority	115,900	31,700	147,600	108,600	35.9%
5	Schools	456,800	125,000	581,800	434,100	34.0%
6	City	1,694,200	(1,694,200)	0	0	0.0%
7	Public Fire Hydrant	2,136,900	(2,136,900)	0	0	0.0%
8	Private Fire Connections	128,500		128,500	320,700	-59.9%
9	Total Inside City	35,605,100	4,971,100	40,576,200	29,907,500	35.7%
OUTSIDE CITY						
10	Residential	710,700	212,800	923,500	768,000	20.2%
11	Commercial (a)	343,900	102,900	446,800	394,100	13.4%
12	Public Authority	1,200	400	1,600	1,800	-11.1%
13	Schools	3,400	1,000	4,400	3,800	15.8%
14	Public Fire Hydrant	98,600	(98,600)	0	0	0.0%
15	Private Fire Connections	29,800		29,800	74,600	-60.1%
16	Total Outside City	1,187,600	218,500	1,406,100	1,242,300	13.2%
17	Wholesale	938,700	(173,800)	764,900	563,600	35.7%
18	Interdepartmental	5,015,800	(5,015,800)	0	0	0.0%
19	Total	42,747,200	0	42,747,200	31,713,400	34.8%

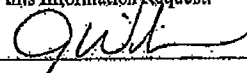
(a) Includes Temporary Public Fire (Rate Code 10H).

Docket No. 11-SUBW-448-RTS
Exhibit SAC - 5

VERIFICATION OF RESPONSE

I have read the foregoing Information Request and answer(s) thereto and find the answer(s) to be true, accurate, full and complete, and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to the Commission Staff any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: _____

A handwritten signature in cursive script, appearing to read "Quill", written over a horizontal line.


Date: February 4, 2011

Docket No. 11-SUBW-448-RTS
Exhibit SAC - 6

VERIFICATION OF RESPONSE

I have read the foregoing Information Request and answer(s) thereto and find the answer(s) to be true, accurate, full and complete, and contain no material misrepresentations or omissions to the best of my knowledge and belief, and I will disclose to the Commission Staff any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Information Request.

Signed: _____



Date: February 4, 2011

Suburban Water Co.
Docket No. 11-SUBW-448-RTS
KCC Information Request Answers

Request No. 22
RE: BPU Contract

1. See attached email response from James Epp, BPU Manager Water Department

Greg Wilson

From: James Epp <jepp@bpu.com>
Sent: Thursday, January 27, 2011 8:43 AM
To: Greg Wilson
Cc: Chris Stewart; Durward M. Johnson; Steve Green
Subject: RE: KCC Data Request

Thank you, Greg. Yes, we believe BPU will have surplus water in 2020 and BPU is including all current wholesale water customers in its future master planning process for capital improvements. Also, the Missouri River Basin still has surplus water to develop Water Rights and we anticipate this to continue beyond the 2020 time period. Development of future water rights will include BPU's wholesale water customers.

Please let me know if you have any additional questions.

Thank you, Jim

From: Greg Wilson [mailto:greg12@sprynet.com]
Sent: Tuesday, January 25, 2011 2:16 PM
To: James Epp
Subject: KCC Data Request

Jim;

The KCC is asking Suburban if the BPU believes that the BPU will still have surplus water when Suburban's contract expires in 2020? Can you help me answer this request?

Thanks

Gregory L Wilson, CPA

Twenty-First Century
Management Consultants
Office: 913-856-4731
Cell: 913-706-0794
FAX: 913-856-4731
Email: greg12@sprynet.com

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Docket No. 11-SUBW-448-RTS
Exhibit SAC - 7

Kansas River Water Assurance District

