BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Lakeland Estates Water Company, Omaha, seeking to increase water rates effective January 1, 2001.	Application No. W-006 GRANTED Entered: April 3, 2001

For the Applicant:	For the Commission:
Nicholas J. Lamme Yost, Shcafersman, Lamme, Hillis, Mitchell, Schulz & Twidwell, P.C. 81 West 5th Street Fremont, Nebraska 68025	Shanicee Knutson 300 The Atrium 1200 N Street Lincoln, Nebraska 68508

BY THE COMMISSION:

By application filed October 31, 2000, Lakeland Estates Water Company (Lakeland) seeks to increase its water rates effective January 1, 2001. Notice of the application was published in The Daily Record, Omaha, Nebraska on November 1, 2000. Notice of the hearing was published in The Daily Record, of Omaha, The Enterprise, of Blair and The Pilot Tribune, of Blair. Notice of the hearing was mailed by first class letter to the customers of Lakeland Estates Water Company on January 30, 2001, pursuant to Commission rules. A hearing on the application was held on February 15, 2001, in the basement of the new addition of the Washington County Courthouse, 1555 Colfax Street, Blair, Nebraska, with appearances as shown above.

E V I D E N C E

The applicant produced two witnesses. Mr. Ronald Henn is the owner/operator of Lakeland and has been providing service since 1970. Mr. Dennis L. Carlson is a certified public accountant and custodian of Lakeland's financial records. He prepared the financial statements offered by Lakeland.

Mr. Henn is a certified Class 3 water system operator. Lakeland is organized as a Subchapter "S" Corporation under the Internal Revenue Code. He and his wife are the sole shareholders Lakeland. Mr. Henn serves as President of Lakeland. Lakeland has approximately 343 subscribers served by four wells. A couple of the wells are about 30-years-old and in need of costly repairs.

The applicant alleges that its existing rates and charges do not provide an adequate rate-of-return on the investment in the water plant and equipment and seeks to increase rates as follows:

Type of Service	Present Rate	Proposed Rate
Minimum Charge	$6.00 + sales tax	$6.00 + sales tax
First 30,000 gallons	$2.00/1000 gallons + sales tax	$2.50/1000 gallons + sales tax
Over 30,000 gallons	$2.50/1000 gallons + sales tax	$3.00/1000 gallons + sales tax

Mr. Henn presented evidence of rates from the Papio-Missouri River Natural Resource District to demonstrate that Lakeland's rates fall below the average rate in the area. He testified that it is a comparable system for the Commission to use because it is a rural water system possessing similar attributes to Lakeland. Mr. Henn also testified that Rathbun's Regional Water Association is a comparable water delivery system, and charges higher rates than Lakeland.

Mr. Henn testified that Lakeland accrues an annual water operator salary of $6,000.00, but he has not received any payments. He testified that he does not think that amount is adequate for the time he spends running the business. He further testified that other Class 3 operators in the state receive compensation of about $30,000 per year. To support that claim, Mr. Henn presented evidence from the Nebraska Rural Water Association which conducts wage and salary surveys.

According to Mr. Henn, Lakeland owes him approximately $22,816.84 for the last fiscal year. He stated that he loaned Lakeland money because he had lost some pumps and motors for his wells. Mr. Henn testified he wished to retire soon. In his opinion, there was not a viable market for Lakeland when it operates with a four percent rate-of-return.

Upon cross-examination, Mr. Henn testified that Exhibit No. 5, used for demonstrating Lakeland's lower rates, pertained to a public rural water company. He did not know how many customers the Papio-Missouri water delivery system served. He testified that the NRD board set its rates. Mr. Henn testified that he did not keep a log of his time he spent working on Lakeland Water System business. He does not keep track of his work schedule. When asked about the wage survey, marked as Exhibit No. 7, Mr Henn testified that although the number of customers served by those water systems was substantially higher than the number of Lakeland customers, the wage survey is comparable because the operators of the larger municipal water systems do not have to cover as much distance as he does with Lakeland.

Mr. Henn testified that Lakeland received a citation recently for the level of coliform in the water. Because of that citation, Lakeland underwent several retests which it subsequently passed.

The money generated from the proposed increase, will be used for upgrading the subdivision, for a salary increase and will be used towards the repayment of loans.

With respect to the comments regarding the quality of the Lakeland water, Mr. Henn testified that because Lakeland has a deep well, there is some iron in the water. He stated that normally, the iron can be taken out by a water softener. Mr. Henn testified that Lakeland has good quality water which surpasses all state and federal health and quality standards. He further testified that Lakeland's water does not pose any health risks. The water pressure varies with customer location. Lakeland runs between 40 to 60 psi on top of the subdivision hills with higher pressure at the bottom. He testified that the pressure is well within the levels permitted by the State Department of Health. There are some measures Lakeland could take which would alleviate the problems with water pressure; however, Mr. Henn testified that these measures would not be cost effective. Additionally, Lakeland would have to pass that cost onto its customers.

Mr. Dennis Carlson, a certified public accountant, testified next for Lakeland. He testified that he had performed an audit of Lakeland's financial records. He testified that he prepared some statements reflecting adjustments to the Commission staff's statement of plant revenue, expenses and plant investment. He introduced these as separate schedules to clarify his testimony. Mr. Carlson testified that with the proposed increase, Lakeland's overall rate-of-return would be 7.01 percent.

Mr. Carlson testified that he added some adjustments to account for repairs made in 1997, 1998, 1999 and 2000, and capitalized them in the cost of plant. This resulted in a higher plant in service. Upon cross-examination, Mr. Carlson testified that a number of adjustments that he had made were for repairs outside of the test year.

The Commission produced one witness, Mr. Steven G. Stovall, a staff accountant, who participated in a review of the financial records of Lakeland.

Mr. Stovall testified that he examined the books and records of Lakeland. He used the records and supporting documentation available from the company, reviewed the assumptions and the financial information and tested the invoices supporting plant, property and equipment and expenses. He testified that the property, plant, equipment, revenue and expenses have been accounted for on the income tax basis instead of the generally accepted accounting principles (GAAP). Mr. Stovall recalculated the property, plant and equipment in a manner consistent with GAAP.

Mr. Stovall then calculated the depreciation charges and corresponding accumulated depreciation accounts on a straight-line basis, utilizing suggested lives and salvage values consistent with those endorsed by the National Association of Regulatory Utility Commissioners (NARUC).

Mr. Stovall testified with regard to two previous Commission orders relating to water rates, in Application W-002 and Application W-004. By order entered April 4, 1995, the Commission deemed a rate-of-return of 10.23 percent fair and reasonable for Lakeland.

Several customers of Lakeland also presented testimony with respect to the proposed rate increase and the quality of water delivered by Lakeland.

O P I N I O N   A N D   F I N D I N G S

From the evidence adduced and being fully informed in the premises, the Commission finds:

Lakeland's application is governed by Neb. Rev. Stat. §75-1002 to 75-1012 and Chapter 6 of Title 291 of the Neb. Admin. Code. Pursuant to 002.05, a private water company which proposes to change any of its existing rates or charges must provide notice to its customers and to the Commission of the proposed rates or charges. When a petition containing more than 25 percent of the private water company customer signatures is filed with the

Commission, the Commission must set the matter for a public hearing to consider the proposed rate increase.

Both the applicant and the Commission staff used the same test year(the actual results for the calendar year ending on July 31, 2000). Lakeland's proposed rate base for the test year ending on July 31, 2000, consists of the following:

Water Plant in Service	$555,329.24
Accumulated Depreciation	(248,976,94)
Net Plant in Service	$306,352.30

The staff exhibits reflect an adjusted rate base before consideration of applicant's plant adjustments, as of July 31, 2000 to be $276,568.74. Staff's adjusted rate base as of July 31, 2000, consists of:

Total Plant in Service	$530,907.24
Accumulated Depreciation	(254,338.50)
Net Plant in Service	$276,568.74

The applicant took exception to some of the adjustments that the staff made. Some of the adjustments Mr. Carlson proposed were admittedly outside the test year and Mr. Carlson testified that the staff did not have access to some of the repairs and expenses attributable to applicant's plant. Upon request, the Commission received supplemental invoices for staff review and recalculation. This information was offered and received as late-filed Exhibit No. 15. The applicant's late-filed exhibit demonstrates that some of the items should be considered repairs which should not be capitalized. We find it reasonable to make an adjustment and include in the plant in service the amount of $1,023.75 for invoice number 10723067, which had been expensed in the test year. The applicant's proposed adjustments to plant totaled $24,422.00. The staff proposed to disallow $6,096.95, leaving the net addition to plant as $18,325.05. Depreciation expense and accumulated depreciation balances were adjusted accordingly. Upon review, we find the staff's adjustment to be reasonable. Further, invoice number 10723784, which reflects labor and materials for the installation of master level control units, falls outside the test year and should not be included.

Depreciation should be adjusted as a result of Exhibit No. 15 accordingly. The post-hearing adjustment for depreciation due to the invoices examined in Exhibit No. 15 minus what we deem to be repairs, should be adjusted in the amount of $841.35 as a current depreciation expense.

The Commission has not approved depreciation rates for private water companies. However, the depreciation rates utilized in the staff's calculation are the suggested rates, lives and salvage values related to a Class "C" water company as adopted by NARUC. The applicant's accountant did not object to the staff's method of calculating depreciation, but suggested that the staff over-depreciated some of the items. We find the staff calculations and post-hearing adjustments with respect to depreciation are fair and reasonable.

Therefore, we find that the appropriate adjusted rate base should be as follows:

Plant in Service	$549,232.29
Accumulated depreciation	(256,842.77)
Net Plant in Service	$292,389.52

Applicant requests an increase to the water operator wages as part of the proposed increase.

Evidence was offered by the Commission staff which shows that a historical analysis of the wage expense, adjusted for known and measurable changes, yields an annual revenue requirement of $6,000. This amount has remained constant despite the Commission's last review of Lakeland where it ordered that $13,844 be allocated to the water operator salary.

Applicant requests that a revenue requirement associated with annual salary be increased to comparable rates with other water operators as demonstrated by Exhibit No. 7. Mr. Henn testified that the average salary for comparable water operators is $30,000. Mr. Henn testified that he did not know what other responsibilities the supervisors had and admitted that the wage survey covered mostly municipal water companies with larger populations. Mr. Henn's duties are limited to providing water only. Mr. Henn testified that he had more geographic territory to cover than the municipal water company operators had. Mr. Henn testified that, at times, 80 percent of his time is spent in his duties as a Class 3 water operator. However, the amount of time Mr. Henn spent on

Lakeland was also dependent upon the demands of his development company.

While the staff objected to the admittance of Exhibit Nos. 12 to 14 which were submitted by the applicant's accountant, we will overrule the objection and admit the Exhibit Nos. 12 to 14 into evidence giving that evidence the appropriate consideration. Exhibit Nos. 13 and 14 were offered to show that to earn a rate-of-return of 10.23 percent, the applicant would have to double the proposed increase. We do not find it appropriate or fair to the Lakeland customers to grant the applicant higher rates than those proposed in the October application. Taking into account the proposed increase and without the requested increase in the operator's wages, Lakeland would realize about a 10.53 percent rate-of-return. With a $9,000 adjustment to the operator wages, Lakeland would earn 7.46 percent rate-of-return.

Review of an applicant's proposed rate increase should be based on considerations of reasonableness in light of the circumstances individual to each case. Typically, when a company like Lakeland takes on additional investments and undergoes expansion, the result is a lower rate-of-return.

The financial statements demonstrate that during the test period, Lakeland earned a rate-of-return of approximately 4.17 percent. The proposed rate increase will generate a rate-of-return of 7.46 percent. We find that proposed increase places the applicant in a reasonable position. Therefore, having considered all of the evidence, we are of the opinion that the proposed increase of $.50/1000 gallons for the first 30,000 gallons and $.50/1000 gallons over 30,000 gallons is fair and reasonable and the application should be granted.

We also wish to address the Lakeland customers who presented testimony at the hearing. Many of Lakeland's customers raised legitimate concerns with respect to water quality issues. While we are concerned about public safety; unfortunately, we do not have the jurisdiction nor the expertise to investigate and cure water quality defects. We urge those customers who have serious fears as to the safety of their water to address these fears to the appropriate authority.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. W-006 be, and it is hereby, granted and Lakeland Estates Private Water Company be, and it is hereby, authorized to charge and collect the schedule of allowed rates set forth in the Opinion and Findings.

MADE AND ENTERED at Lincoln, Nebraska this 3rd day of April, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Deputy Director

//s//Frank E. Landis
//s//Daniel G. Urwiller