

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Lake Region Water & Sewer)	File No. SR-2010-0110
Company's Application to Implement a General)	Tariff No. YS-2010-0250
Rate Increase in Water & Sewer Service)	

In the Matter of Lake Region Water & Sewer)	File No. WR-2010-0111
Company's Application to Implement a General)	Tariff No. YW-2010-0251
Rate Increase in Water & Sewer Service)	

LAKE REGION WATER & SEWER COMPANY'S
OBJECTION TO LATE FILED EXHIBIT

COMES NOW Lake Region Water & Sewer Company (LRWS) and asserts the following objections to the admission of the deposition of Robert P. Schwermann in Case No. 07CM-CC00013, Circuit Court of Camden County, offered by Intervener Four Seasons Lakesites Property Owners Association (Lakesites POA) as a late filed exhibit in the captioned case:

1. Lakesites POA does not identify with any specificity the portion or portions of the deposition it proposes to use in this matter. LRWS assumes the deposition is offered with respect to Mr. Schwermann's remarks about availability fees collected from undeveloped lots on Shawnee Bend, Lake of the Ozarks. The Commission lacks subject matter jurisdiction over the charging or collection of availability fees for infrastructure improvements in subdivision developments and therefore the exhibit is irrelevant and immaterial.

2. Mr. Schwermann is not a party to the instant case and was not a witness. Statements made by him outside of the Commission hearing are hearsay and inadmissible. Additionally, none of the parties to this case were present during the taking of Mr. Schwermann's deposition. Lakesites POA supplies no evidence that LRWS received proper notice of this deposition and since LRWS was not a party to the litigation in which the deposition

was taken, no notice would have been required. Use of the deposition in this hearing is improper and not permitted by circuit court rule. See, Rule 57.07(a).

3. The caption of the case on the face of the deposition differs from the official caption and is misleading. The Board of Directors and the voter/landowner petitioners were not adverse parties in Case No. 07CM-CC00013 but rather aligned as petitioners and represented by the same counsel. Attached as Exhibit 1 is a copy of the “Parties and Attorneys” record from <https://www.courts.mo.gov/casenet> respecting Case No. 07CM-CC00013 confirming these details.¹

WHEREFORE, LRWS respectfully requests the Commission to sustain its objections to the admission of Mr. Schwermann’s deposition in Case No. 07CM-CC00013, Camden County Circuit Court.

Respectfully submitted,

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¹ Case.net provides access to the Missouri State Courts Automated Case Management System. Pursuant to Section 490.130 RSMo 2000:

Records of proceedings of any court of this state contained within any statewide court automated record-keeping system established by the supreme court shall be received as evidence of the acts or proceedings in any court of this state.

By extension of this statute to administrative hearings, the records are admissible before the Commission.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via email, on this 15th day of April, 2010, to:

Jaime Ott at jaime.ott@psc.mo.gov;
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General Counsel's Office at gencounsel@psc.mo.gov.

/s/ Mark W. Comley



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26th Judicial Circuit (Camden, Laclede, Miller, Morgan & Moniteau Counties)

Case Header	Parties & Attorneys	Docket Entries	Charges, Judgments & Sentences	Service Information	Filings Due	Scheduled Hearings & Trials	Civil Judgments	Garnishments/ Execution
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07CM-CC00013 - IN RE: CAMDEN COUNTY PUBLIC WATER SUPPLY DIST. NO.

This information is provided as a service and is not considered an official court record.

**CAMDEN COUNTY PUBLIC WATER
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Petitioner**

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