

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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

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

**THE OFFICE OF THE PUBLIC COUNSEL'S STATEMENT
IN SUPPORT OF STAFF'S MOTION IN LIMINE**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Statement in Support of Staff's Motion in Limine states as follows:

1. On October 7, 2009, Lake Region Water & Sewer Company (Lake Region) initiated a general rate increase request with the Missouri Public Service Commission (Commission) for its water and sewer utility service.
2. On March 12, 2010, the Staff of the Missouri Public Service Commission (Staff) filed its *Motion In Limine* for a determination from the Commission that "availability fees" paid by customers to an affiliate of Lake Region Water and Sewer Company (Lake Region) are properly within the scope of this matter. Staff stated it was Staff's theory that water and sewer availability fees paid by Lake Region customers and received by Lake Region's affiliate should be credited against Lake Region's revenue requirement.
3. On March 15, 2010, the Commission issued an order stating that any party wishing to respond to the Motion in Limine filed by Staff shall file its response no later than 10:00 a.m. on Monday, March 22, 2010.

4. Public Counsel agrees with Staff's statement that availability charges are assessed to customers on whose lots utility plant has been laid, but the dwelling that will eventually be connected to the utility has not yet been built. Public Counsel also agrees that in past rate cases concerning this company and its predecessor in interest, availability fees have been included as revenue of the company.

5. The existence of the testimony at the local public hearing indicates that customers are very concerned about the availability fee being assessed for future utility service. There is an undeniable nexus between the regulated utility and the availability fees no matter who actually collects the fee. If not for the presence of the utility, there would be no reason to assess an availability fee as a placeholder fee until a dwelling is built and is in need of that utility service. As such, the issue of availability fees is relevant to the utility's rate increase request.

6. Public Counsel shares Staff's belief that the inclusion of availability fees in revenue is a substantive matter to be determined on the merits by the Commission, and not precluded from consideration upon procedural grounds. Therefore, Public Counsel believes the Commission should consider the customers' local public hearing testimony and hear the testimony of all the parties before it makes a determination whether the availability fees are properly within the scope of this matter.

WHEREFORE, Public Counsel respectfully supports Staff's Motion in Limine.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 19th day of March 2010:

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