

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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| 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 |) | |

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| 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
RESPONSE TO MAY 19, 2010 ORDER OF THE COMMISSION**

Comes now Lake Region Water & Sewer Company (Lake Region) and submits the following to the Commission:

1. On May 18, 2010, the Commission's Staff filed revenue requirement scenarios in response to the Commission's April 8, 2010 "Order Directing Discovery and Directing Filing" ("Order"). Lake Region had earlier filed a revenue requirement scenario addressing the Order on April 30, 2010.

2. By order dated May 19, 2010 the Commission directed Lake Region to respond to Staff's Scenarios, and to provide a side-by-side comparison of its scenario to Staff's.

3. At the outset, Lake Region reasserts its objection that the Commission lacks subject matter jurisdiction over availability fees or charges. In the cases in which the Commission squarely addressed its regulatory control over such fees it ruled that they were outside the scope of its authority. As an additional preliminary matter, Lake Region points the Commission to page 3, line 8 of Staff's filing where it repeats its standard complaint that neither the Company nor its shareholders have provided necessary information regarding availability fees. The record is very clear that the Company does not own the rights to these fees, does not bill these fees and does not collect these fees. The shareholders are not parties to this case and

Staff has authored objectionable¹ data requests presuming they are. Lake Region has supplied information to the extent required by the discovery rules of the Commission.

4. With respect to Lake Region's response to Staff's Scenarios, during his direct examination on March 31, 2010, Dr. Vernon Stump testified:

Q Let me ask you this: In past cases before the Commission or with the Staff, has the Staff made offsets to costs when availability fees are included in company revenues?

A Yes, sir. Yes, they have.

Q And do you have -- can you identify the cases that you know of where that treatment was given to availability fees?

A Yes, I can. In Case No. WR-92-59, which was a rate case with Lakesites Water & Sewer Company, at that time, the Staff removed the availability fees from the revenue stream, and they also reduced the rate base a certain amount as an offset for the reduction of the availability fees.

Q Now, with respect to -- are there other cases where those -- that kind of treatment was made?

A Only that in -- in the next rate case that Ozark Shores had in -- I believe that was in '97, '98 and '99, it took a couple of years to get that done, the availability fees were then added back into the revenue stream of the company. But the Staff also added additional rate base to the company.

Q And do you remember what case number that was?

A I have that case. And it is Case No. WR-98-990.²

Q So what I'm understanding from your -- your statements today is that there are two cases that you know of where the Staff removed availability fees and reduced rate base. But then in the next case, they added the availability fees back into revenue and increased the rate base?

A That's correct.

Tr. 560-561.

¹ Lake Region's objections to Staff's data requests have not been overruled.

² It has since been determined that this case number was joined with work papers prepared for purposes of Case No. 99-183, the actual case number of the rate case to which Dr. Stump refers.

5. In his true up rebuttal testimony, Mr. Summers provides a list of the cases in which availability fees have been given the treatment testified to by Dr. Stump. As confirmed in these cases, without exception the Commission has endorsed inclusion of both the availability fees and the associated plant investment or the exclusion of both the availability fees and the associated plant investment.

6. Lake Region supplied Staff copies of the work papers for WR-92-59 and WR-98-990 (in actuality Case No. WR-99-183) in response to Staff's Data Request 111 and in those work papers are found the application of the two historic methods of treating availability fees. In its May 18, 2010 filing, Staff provided just the work papers connected to "WR-98-990." With this submission, Lake Region is supplying the Commission with the Report and Order in Case No. WR-92-59 along with the associated work papers in that case. They are attached as Schedule 3 to this response.

7. Lake Region has prepared a side by side comparison to only Staff's Scenario 1. Staff's Scenario 1 has the elements requested by the Commission's Order of April 8, 2010. The Commission will observe that Staff Scenarios 2 and 3 are not responsive to the Order. Lake Region will supplement its response to the May 19, 2010 order if the Commission deems its current response incomplete.

8. There are three primary differences between Company's filing of April 30, 2010 and Staff's Scenario 1:

Uncollectible Rate

- a. Staff assumed a 10% uncollectible rate based upon Dr. Stump's estimate during the evidentiary hearing. Company used 100% of the revenue contained in Mr. Featherstone's testimony.

CIAC Calculation

- b. Staff discovered a mistake in their Contributions in Aid of Construction (CIAC) calculation which has affected their case, and there may be a small difference in the allocation of CIAC between the two filings. Staff has provided their work papers to the Company but they have not been reviewed in detail by Lake Region and the Company will assume the Staff CIAC amounts are correct for purposes of this comparison.

Rate of Return

- c. The largest difference between the two filings is in the rate of return. Lake Region's filing utilizes the debt amount which it assumed had been agreed to by Staff in this Case. Given that the debt amount was stipulated in this case, then any additional rate base will be funded through equity. Company revised the capital structure and re-calculated the Total Weighted Rate of Return Including Income Tax to reflect this additional equity.

9. The attached Schedule 1, which is incorporated herein by reference, sets forth the side by side comparison of the two filings. Each line difference is explained at the bottom of each page except for the pages on which the weighted return is calculated.

10. Lake Region has prepared Schedule 2, attached hereto and incorporated by reference herein, in which Staff's revenue and CIAC numbers are used. The capital structure shown on Schedule 2 assumes that the additional rate base is funded by debt at the same rate previously stipulated to by the parties. This Schedule also illustrates the point of Dr. Stump's and Mr. Summers' respective testimonies at hearing that if availability fee revenue is

appropriately matched or offset with the correct rate base the impact on the rate relief necessary for Lake Region is approximately the same as excluding the availability fees and treating the plant investment as contributed. The total company revenue requirement as noted on Page 1 of Schedule 2 is \$178,691 versus the \$179,131 stated in the first column of the table on Page 5 of Staff's filing. Based on this analysis it appears that the Staff's approach in Case No. WA-95-164, the case in which the Commission approved Lake Region's certification of the Shawnee Bend service area, was not, and is not, unreasonable.

11. As the Commission will ascertain from its examination of every other case that has involved treatment of availability fees, the affected public utility had legal ownership of and the right to collect the fees. Lake Region does not own and has no right to collect or use the availability fees on Shawnee Bend, an undisputed fact which apparently Staff, Public Counsel and the Four Seasons POA continue to disregard.

12. Staff, Public Counsel and Four Seasons POA are not advocating that the Commission tariff the availability fees charged on Shawnee Bend fees and take regulatory jurisdiction over them. Rather, these parties propose that the Commission artificially reduce the Company's rates by imputing the revenue from these fees. Lake Region cannot cover its expenses with fictional revenue. As Lake Region has no legal right to the fees, the effect of imputing availability fee revenue will curtail actual cash flow the Company needs to meet its obligations. If Lake Region is crippled financially there will be a corresponding decline in its quality of service. The public interest cannot be served in this way.

Respectfully submitted,

/s/ Mark W. Comley

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via email, on this 26th day of May, 2010, to:

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/s/ Mark W. Comley