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February 14, 2000

Mr. Dale Hardy Roberts  
Executive Secretary  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. SA-2000-295**

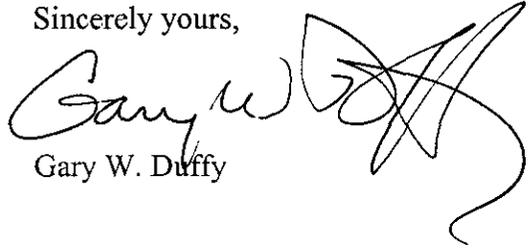
**FILED<sup>2</sup>**  
FEB 14 2000  
Missouri Public  
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and fourteen copies of a Response to Motions for Leave to Intervene Out of Time.

If you have any questions, please give me a call.

Sincerely yours,

  
Gary W. Duffy

Enclosures  
cc w/ encl:

Office of Public Counsel  
Office of the General Counsel  
John Ellinger  
John Landwehr

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

**FILED<sup>2</sup>**

FEB 14 2000

Missouri Public  
Service Commission

Case No. SA-2000-295

In the matter of the application of Lake Region )  
Water & Sewer Company for a certificate of public )  
convenience and necessity authorizing it to )  
construct, install, own, operate, control, manage )  
and maintain a centralized sewage collection and )  
treatment system in an area in an unincorporated )  
area of Camden County, Missouri, as an expansion )  
of its existing certificated area. )

**RESPONSE TO MOTIONS  
FOR LEAVE TO INTERVENE OUT OF TIME**

Comes now Lake Region Water & Sewer Company (“Lake Region” or “Applicant”), by and through its counsel, and for its response to the “Motion for Leave of Commission to Intervene Out of Time” filed on February 7, 2000, and the “Application To Intervene and Request for Leave to File Same Out of Time” filed on February 4, 2000, respectfully states as follows:

1. Applicant received copies of the separate motions on February 7, 2000. One motion is on behalf of Southwood Shores Condo Owners Association, Inc., and the other is on behalf of Bristol Bay Condominium Owners Association, Inc., The Falls Condominium Owners’ Association, Inc. and Regatta Bay Condominium Owners Association, Inc. Both pleadings make essentially the same allegations, so this response will briefly address them both.

2. Both allege that they only recently became aware of the application. The application was filed on October 22, 1999. In an order dated October 26, 1999, an intervention deadline of November 29, 1999 was established and the Commission sent copies of its order to

the normal local interests. Therefore, there was public notice of the original application, and these motions are both more than 60 days past the intervention deadline.

3. Apparently as a basis for their statement of interest in the proceeding, both motions anticipate that their privately-owned and operating sewage treatment facilities may have to be abandoned through a forced connection to the facilities of Lake Region. As the Commission well knows, there is no requirement in the Public Service Commission law that anyone within the certificated area of a public utility must take service from a Commission-regulated utility. In other words, even if a certificate is granted to Lake Region by the Commission, Lake Region has no legal authority whatsoever to compel any of the potential intervenors to abandon their sewage treatment facilities and force a connection to Lake Region facilities, or to force the condo associations to pay rates for sewer service established by the Commission. The granting of a certificate by the Commission simply establishes the boundaries within which the public utility is authorized to operate to provide service to those who wish to become customers. As a privately-owned public utility, rather than a governmental unit, Lake Region has no statutory authority to impose fees or taxes on non-customers. Therefore, to the extent that the motions imply that the condo associations will be required by the Commission to take service from Lake Region, the concerns expressed by the motions are unfounded.

4. One of the motions asserts that it is the policy of the Department of Natural Resources ("DNR") "to require private sewer systems to connect to regional systems." Lake Region understands that such a standard condition exists on some permits for sewage treatment facilities within the state. This is a condition imposed by DNR, however, on persons such as the condo associations. Therefore, it is solely up to DNR whether the condition exists and how and where it will be enforced. Lake Region assumes that DNR acts in the best interests of the state

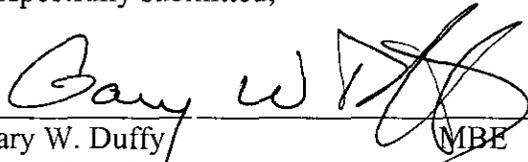
and environmental protection when it chooses to enforce such a condition. Lake Region has no information which would indicate that such a condition exists on the permits of these condo associations, or whether DNR would enforce such a condition, if it exists on such permits. Therefore, at this time, it is just speculation on the part of the condo associations that DNR might enforce such a condition, if it exists, and if and when facilities of Lake Region would become "available." As the Commission knows, the tariffs of sewer companies commonly contain "extension rules." These are used when there are customers who want service from the utility and a line extension is required. Such rules commonly require those who wish to receive the service to pay the cost of such a line extension. Therefore, it is not common for a sewer utility to construct major sewer lines in places where there are no prospects of customers due to the expense of constructing such a line with no revenue to support it. As a result of that, in order for the concerns expressed in the motions of the condo associations to really exist, it would require several different and independent events to occur. The first would be for Lake Region, on its own motion, to construct a sewer line near the facilities of the condo associations (an event which is unlikely unless there are other customers of Lake Region in the vicinity which request service) and the second would be for DNR to determine that it wants to enforce a condition which may exist in a permit issued to the condo association. Only if both of those events occur would there even be the prospect of the concerns expressed by the condo associations coming to fruition. And if those events occurred, it would only be because DNR presumably believes that it is in the public interest that the condo associations utilize a different method of sewage treatment.

5. The motions of the condo associations are untimely, well beyond the deadline established by the Commission, and do not establish a good cause for such delay. The motions of the condo associations do not establish that there is any real prospect of them being required to

abandon their facilities. Therefore they have not established that there is any real basis to expect that they would be adversely affected if they were not granted status as intervenors in this proceeding.

WHEREFORE, Lake Region prays that the Commission reject the applications to intervene.

Respectfully submitted,

  
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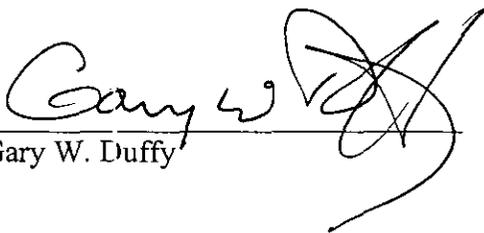
#### Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing was served by either hand delivery or posting with the U.S. Postal Service to the following counsel this 14<sup>th</sup> day of February, 2000.

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