

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

In the Matter of Lake Region Water and Sewer        )  
Company's Application to Implement a General        )        Case No. SR-2013-0459  
Increase in Water and Sewer Service                )

In the Matter of Lake Region Water and Sewer        )  
Company's Application to Implement a General        )        Case No. WR-2013-0461  
Increase in Water and Sewer Service                )

**LAKE REGION WATER & SEWER COMPANY'S OBJECTIONS TO  
OFFICE OF PUBLIC COUNSEL'S DATA REQUESTS**

Pursuant to Missouri Public Service Commission ("Commission") Rule 4 CSR 240-2.090(2), Lake Region Water & Sewer Company ("Lake Region") objects to the following data requests served by the Office of Public Counsel. In addition to the specific objections asserted below, each of the data requests is subject to the following general objection(s):

**General Objection: To the extent the following data requests served by the Office of Public Counsel pertain, directly or indirectly, to availability fees charged to owners of undeveloped lots within real estate developments or residential subdivisions in which Lake Region provides water and sewer service:**

- a) **Each is irrelevant and the inquiry is not calculated to lead to the discovery of admissible evidence. In its Report and Order in Case Nos. SR-2010-0110 and WR-2010-0111, the Commission determined that availability fees could not be imputed to the revenue of Lake Region, or any other utility, without the lawful promulgation of a specific rule addressing when and if imputation of such income was appropriate. The Commission opened a special workshop docket to lead the rulemaking which was anticipated, but the docket, assigned Case Nos.**

SW-2011-0042 and WW-2011-0043, was closed without recommendations. No rule has been promulgated. Whether or not Lake Region engages in the charging or collection of availability fees, which it does not, the revenue derived therefrom, the amounts thereof or means of collecting or enforcing the same are matters unquestionably irrelevant to this proceeding.

- b) Much, if not all, of the information sought in the data requests can be ascertained from the Commission's 123 page report and order in Case Nos. SR-2010-0110 and WR-2010-0111.

DR 1000: Do employees of the Public Water Supply District Number Four of Camden County still process the billing, collection and reconciliation of payments for availability fees from lot owners that have not connected to the utility system in the Shawnee Bend and Horseshoe Bend jurisdictions of the utility? If yes, please describe, in detail, who performs each of those duties and when the work occurs. If no, please identify who now performs those.

**Objection:** This request seeks information from or about a nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Lake Region does not charge or collect availability fees. Lake Region does not have direct knowledge or information concerning Public Water Supply District Four and its relationship with its staff, employees or others. The request seeks information purportedly in the possession or control of Public Water Supply District Number Four and about the operations of Public Water Supply District Number Four. Public Water Supply District Number Four is not a party to this matter.

DR 1001: If the PWSD No. 4 is still performing the billing and collection duties of availability fees for the owners of the utility, are the payments of availability fees received from lot owners that have not connected to the utility system in the Shawnee Bend and Horseshoe Bend jurisdictions of the utility still booked in the financial records of the utility? If yes, please identify and describe, in detail, all general ledger accounts by name, number and year, utilized for the processing of the availability fees subsequent to the utility's last rate case.

**Objection:** See objection to DR 1000.

DR 1002: If Company's response to OPC Data Request No. 1001 is yes, for each general ledger account identified, please identify and describe, in detail, any other costs, expenses, monies, etc., that are not availability fees that were/are also booked in each respective account.

**Objection: See objections to DR 1000 and DR 1001.**

DR 1003: It is my understanding that availability fees are billed and collected by the utility's owners only for undeveloped lots attributed to Four Seasons Lakesites, Inc., and subsequent assignees, within the Shawnee Bend water and sewer jurisdiction of the utility and that the Horseshoe Bend sewer jurisdiction does not have an availability fee. Is that correct? If no, please explain why it is not correct.

**Objection: This request seeks information within the possession, control or knowledge of nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Lake Region does not charge or collect availability fees.**

DR 1004: It is my understanding that all "lots" in the development attributed to Four Seasons Lakesites, Inc., and subsequent assignees, within the Shawnee Bend water and sewer jurisdiction of the utility have been sold. Is that correct? If no, please explain why it is not correct. If it is correct, please identify the date (month and year) that the last lot was sold.

**Objection: This request seeks information within the possession, control or knowledge of nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Sale of lots in subdivisions within which Lake Region may have customers is irrelevant to the issues in this rate case.**

DR 1005: If PWS No. 4 is still performing the billing and collection duties of availability fees for the owners of the utility, are the monthly/annual fees the same as identified in the prior rate case? If no, please explain what has changed and when.

**Objection: This request seeks information from or about a nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Lake Region does not charge or collect availability fees. Lake Region does**

**not have direct knowledge or information concerning Public Water Supply District Four and its relationship with its staff, employees or others. The request seeks information purportedly in the possession or control of Public Water Supply District Number Four and about the operations of Public Water Supply District Number Four. Public Water Supply District Number Four is not a party to this matter.**

DR 1006: If PWSD No. 4 is still performing the billing and collection duties of availability fees for the owners of the utility, are you aware of any changes or modifications, subsequent to the utility's last rate case, to the Declaration of Restrictive Covenants under which the fees are defined and assessed? If yes, please explain what has changed and when.

**Objection: This request seeks information from or about a nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Lake Region does not charge or collect availability fees. Lake Region does not have direct knowledge or information concerning Public Water Supply District Four and its relationship with its staff, employees or others. The request seeks information purportedly in the possession or control of Public Water Supply District Number Four and about the operations of Public Water Supply District Number Four. Public Water Supply District Number Four is not a party to this matter.**

DR 1007: For the Shawnee Bend Water and Sewer jurisdiction, respectively, for each and every year that the PWSD No. 4 has processed the billing and collection duties of availability fees for the owners of the utility, please provide a listing showing the name of each lot owner billed, how many lots each owner was billed for (single lot, double lot, etc.), the amount of the water availability fee billed and collected applicable to each owner and the amount of the sewer availability fee billed and collected applicable to each owner.

**Objection: This request seeks information from or about a nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Lake Region does not charge or collect availability fees. Lake Region does not have direct knowledge or information concerning Public Water Supply District Four and its relationship with its staff, employees or others. The request seeks information purportedly in the possession or control of Public Water Supply District Number Four and about the operations of Public Water Supply District Number Four. Public Water Supply District Number Four is not a party to this matter. Additionally, it is vague and ambiguous and burdensome in that it does not narrow its requests to a definite period of time.**

DR 1008: Please provide a reconciliation of the total availability fees collected from lot owners in the Shawnee Bend Water and Sewer jurisdiction that were booked in the utility general ledger accounts, by year, for each and every year that the PWSO No. 4 has processed the billing and collection duties of availability fees for the owners of the utility. If a breakdown of the fees between water and sewer is available, please provide that too.

**Objection:** This request seeks information from or about a nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Lake Region does not charge or collect availability fees. Lake Region does not have direct knowledge or information concerning Public Water Supply District Four and its relationship with its staff, employees or others. The request seeks information purportedly in the possession or control of Public Water Supply District Number Four and about the operations of Public Water Supply District Number Four. Public Water Supply District Number Four is not a party to this matter.

DR 1010: Please provide documentation identifying the total number of "lots" that were developed by Four Seasons Lakesites, Inc., and subsequent assignees, within the Shawnee Bend Water and Sewer jurisdiction. Include within the documentation a reconciliation of the number of "lots" that are currently taking water and/or sewer services from the utility and the number of "lots" that are not currently taking water and/or sewer services from the utility.

**Objection:** This request seeks information within the possession, control or knowledge of nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Development of lots for sale and their condition in subdivisions within which Lake Region may have customers is irrelevant to the issues in this rate case.

DR 1011: It is my understanding the Section 19.3(b) of the 4th Amendment to the Declaration of Restrictive Covenants that governs the assessment of availability fees states, "The Declaration may be amended at any time by the Developer at the request or with the consent of the Board until such time as all lots are sold, at which such time the Declaration may be amended by the affirmative vote of two-thirds of the owners of all of the lots entitled to vote." Is this language still in effect? If not when was it changed or modified? If changed or modified, please provide copies of all subsequent amendments. Lastly, what is the Company's interpretation of the language and why have lot owners within the Shawnee Bend

Water and Sewer jurisdiction of the utility not voted to change the Declaration of Restrictive Covenants to eliminate the availability fees?

**Objection:** This request seeks information within the possession, control or knowledge of nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not calculated to lead to the discovery of relevant evidence. Moreover, it asks Lake Region to speculate on the intentions, conclusions or thought processes of owners of lots in subdivisions.

DR 1012: Is it the Company's belief that the purpose of the availability fees was to recover the infrastructure investment in the water and sewer systems within the Shawnee Bend Water and Sewer jurisdiction? If no, please explain, in detail, why that is not correct.

**Objection:** Inquiry about availability fees is irrelevant and not calculated to lead to the discovery of admissible evidence. Additionally, this request asks Lake Region to speculate on why real estate developers instituted an availability fee as part of a real estate development.

DR 1014: It is my understanding that on or about April 12, 2000 a previous owner of the utility assigned the availability fees rights from the utility's ownership to his personal possession (i.e., Mr. Waldo I. Morris). Is that correct? If no, please explain, in detail, why that is not correct. If my understanding is correct, by what authority did the utility consummate the financial transaction? For example, did the utility seek and receive authorization from the MPSC to effectuate the assignment? If no, why did it believe that no such authorization was required?

**Objection:** This request seeks information from or about a nonparty(ies) to this matter and therefore falls outside the scope of permitted discovery. Furthermore it is irrelevant and not reasonably calculated to lead to the discovery of relevant evidence. Lake Region does not charge or collect availability fees. The request concerns transactions between shareholders in Lake Region who are not parties to this matter.

DR 1015: Please provide a complete copy of the April 15, 2005 settlement agreement in Civil Case No. CV103-760CC.

**Objection:** This request is irrelevant and is not reasonably calculated to lead to the discovery of relevant evidence. Furthermore, the document requested is subject to a confidentiality agreement which forbids public disclosure thereof.

Respectfully submitted,

/s/ Mark W. Comley

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Attorneys for Lake Region Water & Sewer  
Company

### **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 November, 2013, to Christina L. Baker, [christina.baker@ded.mo.gov](mailto:christina.baker@ded.mo.gov).

/s/ Mark W. Comley