

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
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
RESPECTING ISSUES OTHER THAN AVAILABILITY FEES

Procedural History and Preliminary Matters

On October 7, 2009, Lake Region Water & Sewer Company ('Lake Region' or 'Company') submitted to the Commission tariff sheets designed to implement a general rate increase for water and sewer service provided to customers in its Missouri service area. The tariff sheets were designed to produce an aggregate annual water and sewer revenue increase of approximately \$331,223 and had effective dates of November 6, 2009.

On October 8, 2009, the Commission issued its Suspension Order and Notice in which it suspended the proposed tariff sheets until September 6, 2010. Also on October 8, 2009, Lake Region filed Substitute Tariff Sheets to reflect an error in the Company's initial filing. On October 9, 2009, the Commission issued its Second Suspension Order and Notice. The specific tariff sheets suspended were: PSC MO No. 1 (Water) First Revised Sheet No. 4, Replacing Original Sheet No. 4 and First Revised Sheet No. 5, Replacing Original Sheet No. 5; PSC MO No. 2 (Sewer) Second Revised Sheet No. 6, Replacing First Revised Sheet No. 6, and Second Revised Sheet No. 5, Replacing First Revised Sheet No. 7. Subsequently, the following parties requested, and were granted, intervention: Four Seasons Lakesites Property Owners Association,

Inc. (Lakesites POA), and Four Seasons Racquet and Club Condominium Property Owners Association, Inc. (Racquet Club).

On December 1, 2009, the Commission adopted the parties' proposed test year of the twelve month period ending on December 31, 2008, updated for known and measureable changes through September 30, 2009. The Commission also decided that should it be determined that a true-up proceeding is necessary, the true-up period shall run through March 31, 2010 to reflect any significant and material impacts on Lake Region Water & Sewer's revenue requirement.

In preparation for the evidentiary hearing, Lake Region, Lakesites POA, the Office of Public Counsel (Public Counsel), Racquet Club, and Staff filed on March 16, 2010 a Unanimous Stipulation of Undisputed Facts (SUF) and all stipulated facts are made part of this order whether or not repeated herein.

Specifically, in the SUF, the parties agreed that there was no dispute respecting the information contained within the Staff Accounting Schedules-Utility Service, filed on January 14, 2010, and subsequently updated as of February 8, 2010 to correct a revenue calculation error and a miscommunication between Lake Region and Staff regarding Payroll resulting in adjusted increased revenue requirements of \$18,125 for Horseshoe Bend Sewer, \$108,076 for Shawnee Bend Sewer and \$20,549 for Shawnee Bend Water, subject however to specific information on the topics of Management Fees and Availability Fees.

Additionally, in the SUF the parties stipulated that the information contained within the Staff's Cost of Service Report-Utility Services, filed on January 14, 2010 and updated and adjusted on February 8, 2010, as noted in the preceding paragraph, is the cost of service of Lake

Region subject however to specific information on the topics of Management Fees, and Availability Fees.

Only three issues, identified below, remained for hearing following the parties' stipulations in the SUF.

On March 29 through 31, 2010, the Commission conducted a hearing during which it received evidence on the issues of executive management fees and availability fees. On April 26, 2010, the Commission conducted a true-up hearing to address Lake Region plant additions and rate case expense.

Findings of Fact

1. Lake Region is a corporation organized under the laws of the State of Missouri in good standing with its principal place of business at 62 Bittersweet Road, Lake Ozark, Missouri 65049.

2. Lake Region possesses a certificate of convenience and necessity issued by the Commission on December 31, 1973, in PSC Case No. 17,975, to provide water and sewer service in Missouri. The Company is a water corporation pursuant to Section 386.020(52) RSMo (2009), a sewer corporation pursuant to Section 386.020(49) RSMo (2009), and subsequently a public utility within the meaning of 386.020(42) RSMo (2009); thereby subject to the jurisdiction of the Commission pursuant to Section 386.250(3) and (4) RSMo (2009) respectively.

3. Lake Region provides water service to approximately 600 customers and sewer service to approximately 600 customers in its Shawnee Bend service area; and sewer service to approximately 140 customers in its Horseshoe Bend service area. The supporting infrastructure

for these customers includes two wells, an elevated water storage tank, sewage pumping stations and a wastewater treatment plant.

4. Lake Region also provides sewer service to approximately 140 customers in the area known as Horseshoe Bend. The Company operates and maintains three sewage pump stations and four wastewater treatment plants in this area. The majority of Lake Region's customers are single family residential. However, approximately 40% of the Company's revenues are derived from commercial sewer customers located in the Horseshoe Bend area.

5. Lakesites POA is a nonprofit corporation organized under Missouri law that represents approximately 7100 property owners on the Shawnee Bend and Horseshoe Bend peninsulas some of whom receive water and sewer service from Lake Region. Lakesites POA's principal office is located at 36 Vintage Landing, Four Seasons, MO 65049.

6. The Racquet Club is a Missouri not-for-profit corporation organized and operating under Missouri law, in good standing. Racquet Club's principal office and place of business is located at 251 Racquet Club Drive, Box 2370, Lake Ozark, Missouri, 65049. Racquet Club is classified as a commercial customer of Lake Region, located within its Horseshoe Bend service area.

ISSUES AT HEARING

The parties listed three issues for hearing before the Commission:

1. **What is the appropriate level of executive management compensation to be included in LRWS's revenue requirement for setting LRWS's rates?**
2. **Should charges for availability fees collected from owners of undeveloped lots in LRWS's service territory and billed and retained by an affiliate company be classified as LRWS revenue or applied against rate base?**
3. **If the Commission finds charges for availability fees of undeveloped lots are not to be classified as LRWS revenue, or applied against rate base, then what costs should be identified and excluded from LRWS's cost of service?**

Executive Management Compensation

7. Lake Region is managed by an executive team. The Company uses a management approach developed by Dr. Vernon Stump that is derived from his many years of experience in this industry.

8. Lake Region is unique in that it does not have any employees. Lake Region contracts with the Public Water Supply District No. 4 of Camden County (Water District) to operate and manage the day-to-day operations of the Company. The shareholders of Lake Region are Ms. Sally Stump and RPS Properties, L.P. Ozark Shores Water Company (Ozark Shores) which, like Lake Region, has no employees, operates under contract with the Water District as well. North Suburban Public Utility is the sole shareholder of Ozark Shores. The executive management group develops the strategies of the water and sewer companies and supervises a general manager who handles the day-to-day operations of the companies.

9. Dr. Vernon Stump, Robert Schwermann and Brian Schwermann make up the executive management group.

10. Dr. Stump is a professional engineer registered in the State of Missouri. He earned a PhD from the University of Missouri and has been actively involved in the water and sewer industries for the past 38 years. He has extensive experience in the ownership, management and operation of water and wastewater facilities as shown on Exhibit 1 of his rebuttal testimony received as LRWS Ex. 2.

11. Robert Schwermann graduated from the University of Kansas-Wichita in 1964 with a BS-BA degree and has been actively involved in the development and ongoing operations of utility systems for the past 45 years.

12. Brian Schwermann graduated from Kansas State University with dual Bachelor of Science degrees in Finance and Accounting and has been involved in the water and sewer industries for the past 23 years.

13. The Executive Management Group interacts with the Water District staff and provides executive management oversight on a variety of advanced operational, technological and financial issues that are not generally expected to occur in the normal course of day-to-day operations.

14. Dr. Stump represents the operational-technical side of the business, while the Schwermanns (Mr. Robert Schwermann and Mr. Brian Schwermann) collectively represent the financial side of the business.

15. In September 2009, Dr. Stump became President of Lake Region.

16. Brian Schwermann is currently the Secretary and Treasurer of the Company.

17. The duties of the executive management group differ from those a board of directors might be expected to do. Among the types of activities Dr. Stump and Messrs. Schwermann perform which would not normally be the responsibilities of Board members are:

- Developing and implementing plans to install a new lift station and force main.
- Planning the implementation of a new automated meter reading system.
- Identifying solutions for water pressure issues.
- Arranging the financing of capital projects and on-going operations.
- Maintaining the accounting system, tax reporting requirements and overall records of the company.
- Maintaining ongoing relationships with lending institutions and outside auditors.

- Meeting and negotiating with representatives of the Company's largest customer to resolve a dispute regarding an inflow and infiltration (I&I) issue.
- Attending industry meetings and open discussions such as the Small Utility Meeting hosted by the MoPSC on December 14, 2009.
- Maintaining the utility operations in accordance with the Missouri Department of Natural Resources' permits, rules and regulations.

18. Lake Region initially sought \$99,695 in executive management fees as an addition to revenue requirement but during opening statements on March 29, 2010, its counsel advised the Commission that upon review of the Staff's audit results, and further opportunity to examine the issue, Lake Region became aware that this amount should be split between Lake Region and Ozark Shores and recommends that the appropriate amount of management fees and expenses to which it is entitled in this matter is \$49,847.00.

19. A review of the 2008 Annual Reports for Aqua Missouri, Aqua RU, Inc. and U S Water Company show that the amounts recorded for salary and benefits for top management and/or management fees for those companies range from \$31,562 to \$87,200 with the average being \$56,826. Lake Region's recommendation of the management fees to include in this case is below that average.

20. Additionally, Lake Region's recommended amount for management fees translates per customer to \$35.60. In his surrebuttal testimony in this matter, Staff witness William Harris analyzed management fee expenses paid by companies comparable in size and revenue to Lake Region. In comparison to the cost of management customers pay in like sized water and sewer utilities as shown on Mr. Harris's schedule, the Commission finds and determines that it is just and reasonable.

Availability Fees (for filing of July 16, 2010)

ISSUES AT TRUE UP HEARING

Plant Additions

21. At the prehearing conference held November 9, 2009, Lake Region first advised the parties that construction of a sewer pumping station and sewer force main in the Horseshoe Bend service area would be completed outside the test year.

22. The plant addition was necessary to allow Lake Region to take over processing of wastewater on Horseshoe Bend from a municipality that provided this service under a contract. The facilities were put in service on March 10, 2010 and Lake Region was able to terminate the contract.

23. The project was inspected by Staff Engineer Martin Hummel who confirmed that it was operational and in service. The total amount for this plant addition, which is an addition to Staff's calculation as of September 30, 2009, is \$242,603. No party has objected to this amount and it is approved.

Rate Case Expense

24. The total amount of rate case expense Lake Region has incurred through May 2010 is \$42,997. Office of the Public Counsel (OPC) argues that so much of this expense representing legal expenses incurred by Lake Region in contesting requests for information about or relating to the issue of availability fees should be disallowed. OPC's arguments are rejected. The Commission finds and determines that \$42,997 is, at this time, the appropriate amount to include in the Company's revenue requirement for rate case expense.

25. Staff and Lake Region recommend that these expenses be amortized over a three year period. OPC has recommended a five year recovery period.

26. Lake Region anticipates seeking rate relief again before this Commission in the next five years or less. The Commission determines that a three year amortization is reasonable and appropriate.

Availability Fees (for filing of July 16, 2010)

CONCLUSIONS OF LAW

The Missouri Public Service Commission has reached the following conclusions of law:

27. Lake Region is a public utility, is a water corporation pursuant to Section 386.020(52) RSMo (2009), a sewer corporation pursuant to Section 386.020(49) RSMo (2009), and subsequently a public utility within the meaning of 386.020(42) RSMo (2009); thereby subject to the jurisdiction of the Commission pursuant to Section 386.250(3) and (4) RSMo (2009) respectively.

28. Section 393.140(11), RSMo 2009, gives the Commission the authority to regulate the rates that Lake Region may charge its customers for water and sewer services. When Lake Region filed tariffs designed to increase its rates, the Commission exercised its authority under Section 393.150, RSMo 2009, to suspend the effective date of those tariffs.

29. In determining the rates that Lake Region may charge its customers, the Commission is required to determine that the proposed rates are just and reasonable. Lake Region has the burden of proving that its proposed increase is just and reasonable.

DECISION

After applying the facts as it has found them to its conclusions of law, the Commission has reached the following decisions regarding the issues identified by the parties.

Executive Management Fees

The sum of \$49,847.00 shall be included in Lake Region's cost of service and shall be recovered in its rates.

Plant Additions.

An addition to Lake Region's plant in service of \$242,603 is approved.

Rate Case Expense

Lake Region shall be allowed to recover in its rates rate case expenses in the amount of \$42,997.00 amortized over three years.

IT IS THEREFORE ORDERED:

1. That the tariff sheets filed by Lake Region Water & Sewer Co. and assigned tariff number Tariff Nos. YS-2010-0250 and YS-2010-0251, are rejected.
2. That Lake Region Water & Sewer Co. is authorized to file tariffs sufficient to recover revenues as determined by the Commission in this order.
3. That any pending motions that the Commission has not specifically ruled upon are denied.
4. That this report and order shall become effective on _____, 2010.

Respectfully submitted,

/s/ Mark W. Comley

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Attorneys for Lake Region Water & Sewer Co.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via email, on this 24th day of June, 2010, to:

Jaime Ott at jaime.ott@psc.mo.gov;
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/s/ Mark W. Comley