

Exhibit No.:	_____
Issue:	Availability Fees
Witness:	John R. Summers
Sponsoring Party:	Lake Region Water & Sewer Company
Case Nos.:	SR-2010-0110 and WR-2010-0111

LAKE REGION WATER & SEWER COMPANY

Case Nos. SR-2010-0110 and WR-2010-0111

SURREBUTTAL TESTIMONY

OF

JOHN R. SUMMERS

Four Seasons, Missouri
March, 2010

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

In the Matter of Lake Region Water)	
& Sewer Company for Authority)	Case No. WR-2010-
to File Tariffs Increasing Rates for)	Case No. SR-2010-
Water and Sewer Provided to)	
Customers in the Company's)	
Missouri Service Area)	

AFFADAVIT OF JOHN R. SUMMERS

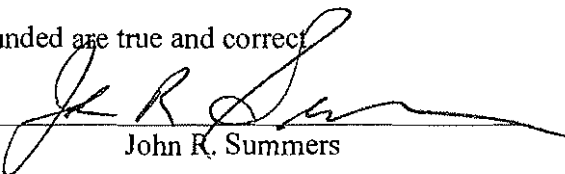
STATE OF MISSOURI)
) ss
VILLAGE OF FOUR SEASONS)

John R. Summers, being first sworn on his oath, states:

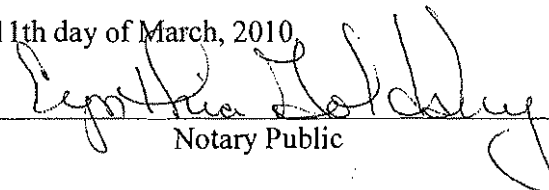
1. My name is John R. Summers. I work in The Village of Four Seasons, Missouri, and I am employed by Public Water Supply District Number Four of Camden County as General Manager.

2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of Lake Region Water & Sewer Company consisting of 4 pages, all of which have been prepared in written form for introduction into evidence in the above referenced dockets.

3. I here by swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.


John R. Summers

Subscribed and sworn before me this 11th day of March, 2010.


Notary Public

My commission expires:

10/31/11

1 A. No he does not.

2 **Q. On Page 11 of Mr. Merciel's testimony he mentions two other utilities that have**
3 **included availability fees in their tariffs. Was the tariffing of availability fees by**
4 **the two utilities he refers to ---Peaceful Valley Service Company (Peaceful**
5 **Valley) and I.H. Utilities, Inc. (IH)--- appropriate based upon your**
6 **understanding of the Commission's rules and authority?**

7 A. No it could not be. As I testified in my Rebuttal Testimony, my understanding is that
8 the Commission has declined to include availability fees within its regulatory
9 responsibility or jurisdiction. In addition to the Commission's conclusion in the
10 Report and Order in Case Nos. WC-2006-0082 and WO-2007-0277, which I quote on
11 Page 6, Lines 1 through 14 of my Rebuttal Testimony, the Commission has expressed
12 a similar conclusion in its Report an Order in *In the Matter of the Application of*
13 *Central Jefferson County Utilities, Inc., for an Order Authorizing the Transfer and*
14 *Assignment of Certain Water and Sewer Assets to Jefferson County Public Sewer*
15 *District and in Connection Therewith, Certain Other Related Transactions*, Case No.
16 SO-2007-0071, et al. at page 36. In brief, the Commission's historical determinations
17 are that it lacks jurisdiction and authority over availability fees or developer imposed
18 connection fees. The Peaceful Valley and IH availability fee tariffs involve a real
19 estate transaction and do not involve a utility service and are not properly part of their
20 tariffs.

21 **Q Did you submit data requests to the Staff and Mr. Merciel concerning the**
22 **Commission's authority to tariff availability fees?**

1 A. Yes, I did. I submitted a series of data requests, Data Requests 0077 through 0093,
2 which asked for, among other things, the Commission rules or regulations and
3 applicable statutes that would involve tariffing of availability fees.

4 **Q. What was the response to your data requests.**

5 A. Staff filed general objections to each including an objection that the data requests
6 were irrelevant and not calculated to the discovery of relevant evidence. I have
7 attached as JRS Surrebuttal Schedule 1 a copy of *Objections of Staff of the Missouri*
8 *Public Service Commission to Lake Region Water & Sewer Company's Data Requests*,
9 and I have attached as JRS Surrebuttal Schedule 2 copies of Staff's responses to
10 LRWS's Data Requests 0077 to 0093. The Commission will notice that for some of
11 the responses, Staff supplied partial answers to the inquiry but for most, Staff stood
12 on its objection to the data request.

13 **Q. As exhibits to his Rebuttal Testimony, Mr. Merciel included over 110 pages of**
14 **documents pertaining to the restrictive covenants of certain subdivisions served**
15 **by the company. On Page 15, Lines 1 through 6 Mr. Merciel refers to language**
16 **from the Third Amended and Restated Declaration of Restrictive Covenants.**
17 **What is his interpretation of that language?**

18 A. On Page 16, Lines 4 and 5 of his Rebuttal Testimony he states that lot owners "likely
19 believed that indeed the Commission would provide oversight of availability
20 charges."

21 **Q. Mr. Summers, are you aware of any authority of the Commission to take**
22 **authority over a practice or charge of a utility for the reason that property**
23 **owners expected the Commission to provide oversight?**

1 A. No, I do not and Mr. Merciel does not recite any such authority in his testimony.

2 **Q. On Page 10, Lines 10 through 13 of his Rebuttal Testimony, Mr. Merciel states**
3 **that he believes the developer should recover capital costs and operational**
4 **subsidies through sales prices for lots and not through recurring fees to some lot**
5 **owners and not others. Are the sales prices paid for subdivision lots always that**
6 **inclusive?**

7 A. No, and I would agree with Mr. Merciel at Page 7, Lines 10 and 11 of his Rebuttal
8 Testimony where he testifies that “The value of any given lot, anywhere, is what it is,
9 based on any number of factors including utility availability.” Like Mr. Merciel, I
10 believe that the availability of utilities does not necessarily increase the value of the
11 lot to a point where the developer may adequately recover either capital costs or
12 operational subsidies from lot sale price alone.

13 **Q. Does this conclude your Surrebuttal Testimony?**

14 A. Yes, it does.