

Exhibit No.:

Issue(s):

Cost of Service
Availability Fees
Management Fees
Allocated Labor Cost

Witness:

Ted Robertson

Type of Exhibit:

Direct

Sponsoring Party:

Public Counsel

Case Numbers:

SR-2010-0110 &

WR-2010-0111

Date Testimony Prepared:

August 21, 2009

DIRECT TESTIMONY

OF

TED ROBERTSON

Submitted on Behalf of
the Office of the Public Counsel

LAKE REGION WATER & SEWER COMPANY

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

January 14, 2010

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

In the Matter of Lake Region Water & Sewer)
Company's Application to Implement a General)
Rate Increase in Water & Sewer Service.)

File No. SR-2010-0110

In the Matter of Lake Region Water & Sewer)
Company's Application to Implement a General)
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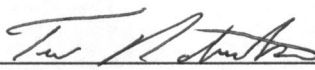
File No. WR-2010-0111

AFFIDAVIT OF TED ROBERTSON

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ted Robertson, of lawful age and being first duly sworn, deposes and states:

1. My name is Ted Robertson. I am a Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my direct testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.




Ted Robertson, C.P.A.
Public Utility Accountant III

Subscribed and sworn to me this 14th day of January 2010.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission #09754037



Jerene A. Buckman
Notary Public

My Commission expires August 23, 2013.

TABLE OF CONTENTS

Testimony	Page
Introduction	1
Availability Fees	3
Management Fees	14
Allocated Labor Costs	23

DIRECT TESTIMONY
OF
TED ROBERTSON

LAKE REGION WATER AND SEWER COMPANY
CASE NO. SR-2010-0110
CASE NO. WR-2010-0111

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Ted Robertson, P. O. Box 2230, Jefferson City, Missouri 65102.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by the Office of the Public Counsel of the State of Missouri ("OPC" or "Public Counsel") as a Public Utility Accountant III.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND OTHER QUALIFICATIONS.

A. I graduated from Southwest Missouri State University in Springfield, Missouri, with a Bachelor of Science Degree in Accounting. In November, 1988, I passed the Uniform Certified Public Accountant ("CPA") Examination, and obtained CPA certification from the State of Missouri in 1989. My Missouri CPA license number is 2004012798.

Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES WHILE IN THE EMPLOY OF THE PUBLIC COUNSEL?

1 A. Under the direction of the OPC Chief Public Utility Accountant, Mr. Russell W.

2 Trippensee, I am responsible for performing audits and examinations of the books
3 and records of public utilities operating within the State of Missouri.

4
5 Q. HAVE YOU RECEIVED SPECIALIZED TRAINING RELATED TO PUBLIC
6 UTILITY ACCOUNTING?

7 A. Yes. In addition to being employed by the Office of the Public Counsel since 1990, I
8 have attended the National Association of Regulatory Utility Commissioners Annual
9 Regulatory Studies Program at Michigan State University, and I have also
10 participated in numerous training seminars relating to this specific area of
11 accounting study.

12
13 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MISSOURI PUBLIC
14 SERVICE COMMISSION?

15 A. Yes, I have. Please refer to Schedule No. TJR-1, attached to this Direct Testimony,
16 for a listing of cases in which I have previously submitted testimony before the
17 Missouri Public Service Commission ("MPSC" or "Commission").

18
19 Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

20 A. The purpose of this Direct Testimony is to address the Public Counsel's positions
21 regarding the determination of an appropriate level of costs associated with
22 Availability Fees, and Lake Region Water and Sewer Company's ("Lake Region" or
23 "Company") Management Fees and Allocated Labor Costs.

II. AVAILABILITY FEES

Q. WHAT IS THE ISSUE?

A. The issue concerns Availability Fees being collected from ratepayers by the current shareholders of Company, and previously by prior owners/developers of the Company, that have not been part of the authorized tariffs and have not been recognized for regulatory ratemaking purposes.

Company's response to MPSC Staff Data Request No. 44.1 states, in part:

The fees assessed to the owners of undeveloped lots originated in the Declaration of Restrictive Covenants filed by the developer of the subdivision. Ownership of these fees has been outside the regulated facility since the inception of the fees.

The current shareholders of Lake Region Water & Sewer Company purchased the rights to these fees from the previous shareholder of Lake Region as noted in the attachment. At the same time the current shareholders purchased the right to the fictitious name Lake Utility Availability Fees which the previous shareholder had also used for billing these fees.

The current shareholders use the same bank account to deposit the unregulated fees as they do to deposit payments for the services rendered to the regulated utility. This was done for convenience to avoid setting up another bank account.

Lake Region Water & Sewer Company owns and maintains all of the water and sewer lines associated with the fees assessed to undeveloped lots.

2. The Company believes the availability fees assessed on the Porto Cima (Shawnee Bend) lots have been owned outside

the regulated utility since their inception. The availability fees for undeveloped lots on Horseshoe Bend are assessed by both Ozark Shores Water Company and the water district depending upon which entity owns the water line. There are no sewer availability fees on Horseshoe Bend.

3. The settlement agreement was necessary to settle a lawsuit and filed by Four Seasons Lakesites to determine the owner of availability fees on Shawnee Bend that were established after 1998.

In 1998 Four Seasons assigned the ownership of its availability fee rights on Shawnee Bend to Cindy and Roy Slates. These were assigned to Waldo Morris in 2000 and Waldo assigned them to RPS Properties and Sally Stump in 2004.

Prior to 2004 Cindy and Roy Slates, and subsequent buyer Waldo Morris claimed that they owned all rights to availability fees originated by the Four Seasons Lakesites contracts and property owners association covenants on Shawnee Bend. Four Seasons Lakesites claimed that they had only assigned rights to areas built before 1998 and that they still owned the rights to all availability fees originated after 1998. Therefore disputed rights included only Shawnee Bend subdivision built after 1998.

Four Seasons Lakesites filed a lawsuit to determine ownership of the contested fees. The terms of the settlement are confidential however the parties of the lawsuit have agreed to release the assignment portion of the settlement which names RPS Properties and Sally Stump as owners of the rights to these fees. A copy of this assignment is attached which includes the names of the disputed subdivisions.

4. The company was not involved in the decision making process when the developer instituted the fees. The company speculates the fees were instituted in order to recoup a portion of the developer's investment in the utility property as such investment is recorded on the regulated company's books as Contribution in Aid of Construction and therefore is not a part of rate base.

The current owners of the availability fees purchased them from the previous shareholder of Lake Region Water &

Sewer Company in a transaction separate from the stock purchase of Lake Region.

Q. WHEN WERE THE AVAILABILITY FEES FIRST ASSESSED AND COLLECTED, AND TO WHAT EXTENT IN THE SERVICE AREAS OF THE COMPANY?

A. Public Counsel does not yet have the answers to these questions. I currently have several data requests outstanding which I hope will further shed light on the activities and costs associated with this issue.

However, my review of a prior case filed by the predecessor of the Company does present some interesting information on the topic. For example, in the *Application* filed by Four Seasons Lakesites Water & Sewer Company ("FSLWS"), Case No. WA-95-164, which was the case where FSLWS requested a Certificate of Convenience and Necessity for the eastern half of the area known as "Shawnee Bend," it states, on page two:

The Company intends to charge a \$10 per month fee for water availability, and a \$15 per month fee for sewer availability. The availability fee for water/sewer will terminate when the lot is connected to the water system and will terminate when the lot is connected to the sewer system. A lot owner will not be required to pay availability fees if water or sewer is not available for use.

The Pro Forma financials provided with the *Application* also show that the availability fees would generate a cash flow each year from undeveloped lot owners. The cash flow for the water operation was estimated at \$46,560, \$45,120,

1 \$43,680 and \$19,200 for years 1995, 1996, 1997 and 2004, respectively. For the
2 sewer operation the cash flow estimated was \$69,840, \$67,680, \$65,520 and
3 \$28,800 for years 1995, 1996, 1997 and 2004, respectively. Presumably, the fees
4 were also assessed and collected for years 1998 through 2003 and all years
5 subsequent to 2004 since the current owners of Lake Region are continuing the
6 policy today.

7
8 Q. WAS THE MPSC STAFF AWARE IN CASE NO. WA-95-164 THAT FSLWS
9 INTENDED TO CHARGE UNDEVELOPED LOT OWNERS THE AVAILABILITY
10 FEES?

11 A. Yes. MPSC Staff witness, Mr. Gregory R. Meyer, filed Rebuttal Testimony in Four
12 Seasons Lakesites Water & Sewer Company, Case No. WA-95-164, in which he
13 discusses the Staff's interpretation of the availability fees in detail. Beginning on
14 page five of his testimony he states:

15
16 Q. Please describe Staff's understanding of an availability fee.

17
18 A. An availability fee is established by a developer and is charged
19 to a lot owner when that lot has the capability of receiving
20 water and sewer service. In other words, the water and sewer
21 mains and production and treatment facilities have been
22 constructed, but no service is being provided as of yet. For
23 Four Seasons Lakesites, Inc., the monthly availability fee is
24 ten dollars for water service and fifteen dollars for sewer
25 service in the Grand Point Subdivision. Attached as Schedule
26 2 to this rebuttal testimony are selected pages from the
27 "Declaration of Restrictive Covenants" which describes the
28 payment of water availability fees. Also attached as Schedule
29 3 is an "Addendum to Contract For the Sale of Lots – Grand
30 Point Subdivision" which describes the payment of sewer
31 availability fees.

1
2 Q. What is the purpose of an availability fee?

3
4 A. The purpose of an availability fee is to defray the operation
5 and maintenance costs of a utility during the growth or
6 development of the system. Availability fees reduce the
7 financial risk a utility encounters in the early years of operation.
8 To the extent that a developer must subsidize the utility in the
9 first years of operation, availability fees reduce the developer's
10 risk also.

11
12 Q. Of the 400 lots that Grand Point subdivision was designed for,
13 how many lots are currently sold?

14
15 A. As of March 20, 1995, 163 lots have been sold. This
16 represents annual revenues of approximately \$20,000 for
17 water and \$29,000 for sewer from availability fees.

18
19 Q. Please describe the Staff's position regarding availability fees.

20
21 A. The Staff recommends that availability fees not become part of
22 the Company's tariffs. Instead, the **Staff asserts that the**
23 **Developer and the Company need to enter into a written**
24 **agreement whereby the Developer assigns the right to the**
25 **Company to bill and receive availability fees.**

26
27 Q. How should the Company account for the availability fees
28 received?

29
30 A. The receipt of availability fees would be treated as revenue
31 and would help cover the operations and maintenance
32 expenses of the Company.

33
34 Q. Who is responsible for the collection of availability fees?

35
36 A. The Developer should continue to assume responsibility for
37 collection of unpaid availability fees. To the extent availability
38 fees are paid currently, these funds would flow directly to the
39 Company.

40
41 Q. Who should be responsible for paying availability fees?

42
43 A. The Staff has developed two alternatives regarding the
44 payment of availability fees.
45

Alternative one would require only those lots that have been sold by the Developer to be responsible for paying availability fees. In this case, the Developer would not be responsible for paying availability fees on unsold lots. However, under this scenario, the Developer would be required to contribute sufficient funds to cover any loss in operations of the Company. The Developer would be required to continue to cover any loss in operations of the Company until the system has sufficient customer numbers to operate with reasonable rates being charged. The Developer also would reimburse the Company for any uncollected availability fees. The Developer would be required to reimburse to the Company on April 1 any unpaid availability fees that were billed during the previous calendar year. For example, on April 1, 1996, the Developer would pay the Company any unpaid availability fees from the twelve months ending December 31, 1995.

The Staff has developed the above scenario because of the affiliated relationship that exists between the Developer (Four Seasons Lakesites, Inc.) and the Company (Four Seasons Lakesites Water and Sewer Company). To the extent that this affiliated relationship ceases to exist, the Staff would propose that the second alternative be adopted.

The second alternative would require that all lot owners, including the Developer, pay availability fees. In this scenario, the Developer would not be required to cover any losses that might occur from operating the Company. However, the Developer would still be required to reimburse the Company for unpaid availability fees from lot owners. The Developer would not have to guarantee the financial viability of the Company because of the larger revenue stream that would be produced under this scenario.

Q. Does the Staff have a preference from the above two alternatives?

A. Yes, at this time the Staff would recommend that the Company choose the first alternative due to the affiliated relationship.

Q. Did the Staff consider that the Company could generate revenues in excess of expenses with the recognition of the availability fees? If so, what proposals would the Staff have regarding these profits?

1 **A. Yes, the Staff has considered the possibility that the**
2 **Company may generate excessive revenues with the**
3 **recognition of the availability fees. The Staff's**
4 **recommendation concerning these profits would depend**
5 **on what alternative the Company chooses regarding the**
6 **payment of availability fees. If the Developer agreed to be**
7 **responsible for the financial viability of the Company, the**
8 **Developer should be able to share excess profits with the**
9 **Company. If the Developer is not responsible for the**
10 **financial viability of the Company, then no sharing of**
11 **excess profits should be allowed. The Staff would also**
12 **contend that any excess revenues that remain with the**
13 **Company in either case should be used to reduce the**
14 **current and future investment base (plant in service) of**
15 **the Company.**

16
17 The Staff anticipates conducting this earnings review to
18 determine if excess profits exist during the second quarter of
19 each year for the previous calendar year. The Staff believes
20 that this review is necessary for the protection of present and
21 future customers.

22
23 **Q. Lastly, can a lot owner be denied their request for water/sewer**
24 **service due to the fact that they had not paid all or any of their**
25 **availability fees?**

26
27 **A. No, since the Staff is not recommending tariffing of the**
28 **availability fees, a potential water/sewer customer should not**
29 **be denied a request for service from the Company. This**
30 **position is consistent with 4 CSR 240-13.050 Discontinuance**
31 **of Service, and with the practice of other utilities in the state**
32 **that bill unregulated charges for affiliates.**

33
34 (Emphasis added by OPC.)
35
36

37 **Q. MR. MEYER'S TESTIMONY REFERENCES A "DECLARATION OF**
38 **RESTRICTIVE COVENANTS." WHAT DOES THE DOCUMENT STATE**
39 **REGARDING THE WATER OPERATION AVAILABILITY FEES?**

40 **A. Attached as Schedule 2 to Mr. Myer's Rebuttal Testimony, the document states, in**
41 **part:**

IX. WATER SYSTEM AND SEWAGE TREATMENT SYSTEM.

A. The Owner of each lot agrees to pay the owner of the water works system to be constructed within the Development, a minimum monthly availability charge for water, water service and the accommodations afforded the owners of said lots by said water works system, commencing upon the availability of water in a water works system distribution main provided for the lot and continuing thereafter so long as water is available for use, whether or not tap or connection is made to a water works system distribution main and whether or not said owner actually uses or takes water. No charge will be made to the lot owners for the right to connect to the water system. Each lot owner will bear the cost of the service line from his building into the water main. The said owner or owners of said water works system will be a privately owned public utility authorized by a Certificate of Public Convenience and Necessity issued by the State of Missouri Public Service Commission to operate water works systems.

The aforementioned amounts of said availability charges, times and methods of payment thereof by said owners and other matters shall be as provided in Schedules of Rates and Rules, Regulations and Conditions of Services for Water Services filed and published by said public utility or utilities which said Missouri Public Service Commission, or any successor Regulatory Body of the State of Missouri, in accordance with law and passed to file or formally approved by said Commission as the then effective Schedule of Rates and Rules, Regulation and Conditions of Service of said public utility or public utilities, or if not so provided, as determined by the owner of the Water Works System. **The amounts of said availability charges and other charges are subject to change hereafter by order of said Missouri Public Service Commission or its successors...**

(Emphasis added by OPC.)

Q. MR. MEYER'S REBUTTAL TESTIMONY ALSO REFERENCES AN "ADDENDUM TO CONTRACT FOR THE SALE OF LOTS – GRAND POINT SUBDIVISION"

1 WHICH DESCRIBES THE PAYMENT OF SEWER AVAILABILITY FEES. WHAT
2 DOES THE DOCUMENT STATE REGARDING THE SEWER OPERATION
3 AVAILABILITY FEES?

4 A. Attached as Schedule 3 to Mr. Myer's Rebuttal Testimony, the document states, in
5 part:

6
7 The monthly fee for undeveloped lots shall be \$15.00 per month per
8 lot. When the underground central sewer system is available to the
9 Purchaser's lot, **the monthly fee will then be used for**
10 **construction, operation, maintenance and eventual hookup to**
11 **the underground central sewer system.**

12
13 (Emphasis added by OPC.)
14
15

16 Q. DID THE MPSC STAFF REITERATE ITS POSITION IN THE *HEARING*
17 *MEMORANDUM* FILED IN THE CASE ON APRIL 14, 1995?

18 A. Yes. Beginning on page three of the document, Staff states:

19
20 In land sales documents, purchasers of lots in the Grand Point agree
21 to pay water and sewer availability fees when water and sewer
22 services are available to their lots. **The Commission Staff**
23 **proposes that the developer contribute sufficient funds to cover**
24 **any loss in Company operations, in lieu of paying availability**
25 **fees on unsold lots and also reimburse the Company for any**
26 **uncollected availability fees. Under this proposal, the Company**
27 **and the developer would share any excess revenues from the**
28 **availability fees. Under the Commission Staff's alternate**
29 **proposal, the developer would pay availability fees and**
30 **reimburse the Company for unpaid availability fees from other**
31 **lot owners.**

32
33 (Emphasis added by OPC.)
34
35

1 Q. DID THE COMPANY OPPOSE THE AVAILABILITY FEES RECOMMENDATION
2 PRESENTED BY MR. MEYER IN HIS REBUTTAL TESTIMONY?

3 A. Yes. On page two of the aforementioned *Hearing Memorandum* it states,
4

5 Since the Commission does not have jurisdiction over "availability
6 fees" or the developer, the Company opposes the proposal of staff
7 regarding the developer's obligations on availability fees. These
8 matters should be left to negotiations between the developer and the
9 utility.
10
11

12 Q. WERE MR. MEYER'S PROPOSALS DECIDED IN THE FINAL STIPULATION
13 AND AGREEMENT AUTHORIZED BY THE COMMISSION IN CASE NO. WA-95-
14 164?

15 A. No. On page four of the Staff's *Suggestions In Support of Unanimous Stipulation*
16 *and Agreement* it states:
17

18 13. An availability fee is established by a developer and is charged to the
19 owner of a lot that is not connected to an available water or sewer
20 main. The Rebuttal Testimony of Staff witness Meyer recommends
21 that availability fees currently be treated as revenue to help cover the
22 operations and maintenance expenses of the Company. Availability
23 fees are not addressed in the Stipulation. The Staff proposes to treat
24 the availability fees as revenue when it conducts future reviews of the
25 Company's earnings.
26
27

28 Q. DOES PUBLIC COUNSEL KNOW HOW MANY UNDEVELOPED LOTS WERE
29 ASSESSED THE AVAILABILITY FEES ON A YEARLY BASIS?

30 A. No. I have data requests outstanding requesting this information; however, I did
31 review a letter filed in Four Seasons Lakesites Water & Sewer Company, Case No.

1 WA-95-164, from Mr. Kent A. Benson, a representative of RealtyList-Anchor, to Mr.
2 David L. Rauch the former Executive Secretary of the MPSC. The letter references
3 that he had visited the Shawnee Bend site and that they had plans for nearly 5,000
4 lots. If that information is accurate, the amount of availability fees assessed will
5 have amounted to significant sums of money on a yearly basis.

6
7 Q. WHAT ARE PUBLIC COUNSEL'S CONCERNS REGARDING THE AVAILABILITY
8 FEES?

9 A. Public Counsel's primary concerns are, 1) is the assessment and collection of the
10 availability fees within the regulatory responsibility of the Commission, 2) should a
11 non-regulated entity be allowed to charge regulated ratepayers fees which have
12 been clearly delineated, by the MPSC Staff and owner/developer, as being charged
13 for the purpose of access, whether taken or not, to a regulated water works system
14 distribution main or underground central sewer system, and 3) should the
15 availability fees assessed and collected, for all years in effect, in all areas of the
16 Company's regulated service area, be determined and utilized to reduce the
17 operation and maintenance and investment costs incurred by the regulated utility?

18
19 Q. WHAT IS THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE?

20 A. Public Counsel believes that the availability fees assessed and collected, current
21 and past, should be remitted to the regulated utility to meet the needs of its
22 authorized operation and maintenance, and to the extent those needs are/were

satisfied, the excess should be used to reduce the regulated utility's investment costs.

III. MANAGEMENT FEES

Q. WHAT IS THE ISSUE?

A. The issue pertains to costs Company has booked in its Uniform System of Accounts ("USOA") General Ledger Account No. 922 Management Fees and Account No. 232 A/P LUAF (management fees).

Q. IS USOA ACCOUNT NO. 922 MANAGEMENT FEES UTILIZED TO RECORD THE AVAILABILITY FEES DISCUSSED PREVIOUSLY?

A. No. Company's response to MPSC Staff Data Request No. 48 states,

1. The purpose of Lake Utility Availability is to provide a name for the shareholders of Lake Region Water & Sewer Company to collect the availability fees on undeveloped lots in Porto Cima. For convenience in using the same bank account the shareholders also use this name to deposit the management fees from Lake Region Water & Sewer Company for service rendered by the shareholders.
2. The name is merely a fictitious name registered with the Secretary of state. The rights to the name were purchased from the previous Lake Region shareholders who also used it for the collection of the availability fees. It has no corporate structure.
3. There is no board of directors for Lake Utility Availability.

1 Q. WHAT IS THE AMOUNT OF MANAGEMENT FEES BOOKED DURING
2 CALENDAR YEAR 2008?

3 A. Company booked \$240,000 (\$20,000 per month) to the expense and account
4 payable accounts (Source: GL). Subsequently, the Company reduced the account
5 payable account by \$115,000 which represents payments made. Furthermore,
6 though different from the allocation in Company's 2008 Annual Report to The
7 Commission, Company's workpapers in the instant case show that it has allocated
8 the \$240,000 to its water and sewer operations as follows, 1) Horseshoe Bend
9 Sewer \$114,439.75, 2) Shawnee Bend Sewer \$64,305.52, and 3) Shawnee Bend
10 Water \$61,254.73.

11
12 Q. WHAT IS THE AMOUNT BOOKED FOR THE NINE MONTHS-ENDED
13 SEPTEMBER 30, 2008?

14 A. Company booked \$180,000 (\$20,000 per month) to the expense and account
15 payable accounts (Source: GL). Subsequently, the Company reduced the account
16 payable account by \$85,000 which represents payments made. Also, the allocation
17 of the costs between Lake Region's various utilities has not yet been determined;
18 however, for its instant filing it allocated the calendar year 2008 costs based on
19 revenues.

20
21 Q. WHAT DO THE ANNUAL COSTS REPRESENT?

22 A. Company's response to MPSC Staff Data Request No. 49 states, in part:
23

The Company accrues monthly expense of \$20,000 for payment of debt service and management fees for services rendered by the shareholder group as more fully explained in the spreadsheet attached to the response to Data Request 44.

Q. WHAT DOES THE RESPONSE TO MPSC STAFF DATA REQUEST NO. 44 STATE?

A. Company's response to MPSC Staff Data Request No. 44 states, in part:

The management fees referenced on the Company's books are paid to Lake Utility Availability which is a fictitious name registered with the Secretary of State for accounting and tax purposes for the shareholders of Lake Region Water & Sewer Company. From this group the company receives accounting, financial and operations support from various shareholders and their designees. A portion of the management fees also goes to pay debt service. Attached is a spreadsheet containing the rationale for the amount of the management fees.

Q. WHAT DOES THE AFOREMENTIONED SPREADSHEET SHOW?

A. The spreadsheet provides a breakdown of the annual management fees charged to expense. The breakdown is, 1) annual compensation of \$23,040 to Vern, Bob and Brian, 2) annual travel costs of \$18,000 (\$500 per month for each), 3) annual corporate office costs of \$12,000 (\$1,000 per month), and annual debt service costs of \$140,825.74 (i.e., \$1,755,000 multiplied by 5.5%). The total of these amounts is \$239,945.74

Q. IS THERE AN ERROR IN THE DEBT SERVICE COST ALLOCATION?

1 A. Yes, there appears to be an error. \$1,755,000 multiplied by 5.5% equals \$96,525
2 not the \$140,825.74 shown.

3
4 Q. DID COMPANY SUBSEQUENTLY MODIFY ITS REQUEST FOR MANAGEMENT
5 FEES?

6 A. Yes. Company's response to OPC Staff Data Request No. 10 states, in part:

7
8 The amount identified as management fees on the Company's books
9 represent the debt service payment for the loan taken out in the name
10 of the shareholders which financed the acquisition of the Company as
11 well as an amount designed to reimburse the shareholders
12 management group for their time and expenses in managing the
13 utility property. During discussion with MPSC Staff Company
14 recognized that the management fee portion pertaining to debt
15 service included the interest on debt twice as it was also included in
16 the return calculation. Company removed this amount during the
17 filing for Known & Measurables. A copy of this filing is included.
18
19

20 Q. WHAT WAS THE EFFECT OF THE DEBT SERVICE COST CORRECTION ON
21 THE NET OPERATING INCOME OF THE UTILITIES?

22 A. The Company's correction of the double-counting of its alleged debt service costs
23 increased the net operation income of the Lake Region Water & Sewer operations
24 by \$140,826 (i.e., Water \$36,615, HB Sewer \$66,188 and SB Sewer \$38,023
25 based on Company's allocation of the costs). In other words, by reducing
26 expenses by \$140,826 Company increased its net operating income and reduced
27 its requested rate increase for each of the utilities.
28

1 Q. DOES PUBLIC COUNSEL BELIEVE COMPANY'S CORRECTED DEBT SERVICE
2 COST AMOUNT IS REASONABLE?

3 A. OPC believes that the reasonable debt service cost amount is yet to be determined.
4 Regarding the debt service cost, Company's response to MPSC Staff Data
5 Request No. 44.1 states, in part:

6
7 d). The calculation provided in the spreadsheet operates on the
8 assumption that the shareholders paid approximately 1.3
9 times rate base for the company and leveraged it 100%. As
10 noted by John Summers in conversation the company
11 believes this cost is included in error and the correct amount
12 for ratemaking is included in the return on rate base
13 calculation in the original workpapers. This duplication was
14 corrected in the filing for known and measureable change
15 made by the Company December 7, 2010 (sic).
16

17 (OPC Note: The spreadsheet referenced was provided in Company's
18 responses to MPSC Staff Data Request No. 44 and OPC Data
19 Request No. 10.)
20
21

22 Company's original filing debt service cost included interest cost on debt which
23 exceeded the actual book value of the Company at acquisition by current
24 shareholders. Public Counsel would recommend that the Commission not
25 authorize Company any recovery of the acquisition premium or its related debt
26 service costs. Furthermore, Public Counsel recommends that the authorized
27 revenue requirement of the Lake Region utilities be based on the actual book
28 values of the utilities, their actual capital structures and the debt/equity returns
29 associated with those capital structures and not on the personal debt issuances of
30 shareholders.
31

1 Q. WHAT SERVICES DOES COMPANY ALLEGE ARE PROVIDED BY THE
2 SHAREHOLDERS AND THEIR DESIGNEES?

3 A. Company's response to MPSC Staff Data Request No. 44.1 states, in part:

4
5 Vernon Stump, Robert Schwermann and Brian Schwermann control all
6 budgeting process, including operational and capital projects, all money
7 spent by the company, and all financing related to the operations of Lake
8 Region Water and Sewer Company. The Lake Region Water and Sewer
9 Company retains an operator to provide daily operational and maintenance
10 services. Vernon Stump, Robert Schwermann and Brian Schwermann
11 provide all financial organization, engineering direction, and management
12 control. They negotiate annual contracts with the operator, establish
13 compensation levels, establish insurance coverage and benefits to be
14 provided to the operator, and establish staff levels. They approve, and
15 develop all capital improvement projects, capital replacements and oversee
16 these projects. They also work with their consulting engineer to develop
17 capital projects and follow through to completion. They handle all corporate
18 accounting functions and corporate funding.
19
20

21 Q. WHAT IS THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE?

22 A. Public Counsel believes that, in addition to the fact that the costs being charged
23 appear excessive and unnecessary for a utility the size of Lake Region and that the
24 utilities operations have been contracted out, the management activities described,
25 by the Company, are more representative of those performed by a utility's Board of
26 Directors rather than employees. Therefore, Public Counsel recommends that the
27 Commission authorize a reasonable level of annual Board of Directors fees be
28 included in the Company's cost of service and that the remaining management fees
29 booked be disallowed.
30

31 Q. BY WHOM IS LAKE REGION OWNED?

1 A. Company's response to MPSC Staff Data Request No. 41 states, in part:

2
3 Lake Region is owned equally by RPS Properties, Inc. and Sally
4 Stump. RPS Properties is a partnership for the Schwermann family
5 and Robert Schwermann is the General Partner.
6
7

8 Q. DOES LAKE REGION HOLD REGULARLY SCHEDULED BOARD OF
9 DIRECTORS MEETINGS?

10 A. Yes. Company's response to MPSC Staff Data Request No. 39 provided copies of
11 the Board of Directors meeting minutes for the last two years to-date. The minutes
12 show that an annual meeting was held on March 20, 2008 and March 20, 2009.
13 The documents also show that prior to September 1, 2009 Robert P. Schwermann
14 was a director and President of the Company, Sally J. Stump was a director and
15 William B. Schwermann was Secretary/Treasurer. Effective September 1, 2009
16 Robert P. Schwermann resigned his position as President of the Company and was
17 replaced by Vernon L. Stump.
18

19 Q. DOES PUBLIC COUNSEL HAVE A RECOMMENDATION AS TO THE LEVEL OF
20 ANNUALIZED BOARD OF DIRECTORS FEES THAT SHOULD BE INCLUDED IN
21 THE INSTANT CASE?

22 A. Yes. Since there are only two Directors on the Company's board, and the new
23 Company President who I believe it likely should also attend board meetings, the
24 annual level of Board of Director fees should be determined by multiplying the
25 number of directors, plus the President of the Company, by the number of times the

1 Board of Directors regularly meets and a reasonable fee per meeting. Public
2 Counsel believes further that a reasonable meeting fee, for a utility of Lake
3 Region's size and operation, should not exceed \$200 per meeting per person.
4 Since the Board of Directors meets once per year and there are two directors and
5 the President of the Company, I recommend that \$600 be included in the instant
6 case cost of service. Further, I recommend that the remaining management fees
7 booked be disallowed.

8
9 Q. IS THERE ANOTHER ISSUE REGARDING THE MANAGEMENT FEES?

10 A. Yes. Company's response to MPSC Staff Data Request No. 50 provided
11 information that Lake Region has included in its cost of service personal medical
12 insurance premiums for Vern and Sally Stump. It states:

13
14 Q. Why is Lake Region and/or Ozark shores paying the personal
15 medical insurance of Vern and Sally Stump? Have Vern and
16 Sally Stump reimbursed Lake Region or Ozark Shores for the
17 personal medical insurance?
18

19 A. The insurance premiums for Vern and Sally Stump are paid by
20 Ozark Shores Water Company and 50% is charged to Lake
21 Region Water & Sewer Company. The insurance premiums
22 are considered a part of the management fees and are not
23 reimbursed.
24
25

26 Q. WHAT IS THE AMOUNT BOOKED FOR THE STUMP'S INSURANCE DURING
27 CALENDAR YEAR 2008?

1 A. Company booked \$1,311.25 to USOA Account No. 655 Insurance (Water) and
2 \$1,311.25 to USOA Account No. 759 Other Insurance (Sewer) for a total annual
3 cost of \$2,622.50 (Source: GL).

4
5 Q. DO THE WORKPAPERS COMPANY PROVIDED TO SUPPORT ITS RATE
6 INCREASE REQUEST SHOW IT ALSO ALLOCATED THESE COSTS TO ITS
7 UTILITIES BASED ON REVENUES?

8 A. Yes.

9
10 Q. WHAT IS THE AMOUNT BOOKED FOR THE NINE MONTHS-ENDED
11 SEPTEMBER 30, 2009?

12 A. Company booked \$2,142 to USOA Water Account No. 655 Insurance (Water) and
13 \$2,142 to USOA Sewer Account No. 759 Other Insurance (Sewer) for a total
14 annual cost of \$4,284 (Source: GL).

15
16 Q. WHAT IS THE PUBLIC COUNSEL'S POSITION REGARDING RATEPAYERS
17 REIMBURSING LAKE REGION FOR THE PERSONAL MEDICAL INSURANCE
18 COSTS OF VERN AND SALLY STUMP?

19 A. Public Counsel recommends that the costs be disallowed from the determination of
20 the utility's cost of service. Mr. Stump until recently held no apparent position with
21 the utility (he became President of the Company on September 1, 2009) and Mrs.
22 Stump is one of only two shareholders and directors of the utility. Clearly, in my
23 opinion, the Stump's, through their ownership and positions with the utility, are

attempting to take advantage of ratepayers by having them pay for personal expenses that they incur.

IV. ALLOCATED LABOR COSTS

Q. WHAT IS THE ISSUE?

A. This issue concerns the annual amount of labor costs allocated to Lake Region by the Public Water Sewer District #4 ("PWSD #4") which Public Counsel believes is excessive considering the number of customers served by the utility.

Q. WHY DOES PWSD #4 ALLOCATE LABOR COSTS TO THE REGULATED UTILITIES?

A. Company's response to OPC Data Request No. 14 provided several contracts for labor between PWSD #4 and the Company. The latest contract, dated January 2009, identifies that the parties have contracted to have PWSD #4 operate the Company and Company will reimburse PWSD #4 the wage and benefit costs of its personnel hired to operate Lake Region.

Q. WHAT IS THE LABOR COST AMOUNT COMPANY BOOKED DURING CALENDAR YEAR 2008?

A. Company booked \$110,700 to USOA Water Account No. 637 PWSD#4 Labor (Water) of which \$18,450 was then capitalized to USOA Account No. 333 New Services (Water) and \$110,700 to USOA Account No. 737 PWSD#4 Labor (Sewer) of which \$8,100 was then capitalized to USOA Account No. 333 New Services

(Water) for a total annual expense amount of \$194,850 and a total annual capitalized amount \$26,550 (Source: GL). The total annual charges for calendar year 2008 equal \$221,400 (i.e., water \$110,700 plus sewer \$110,700).

Q. DO COMPANY'S WORKPAPERS IN THE INSTANT CASE CORROBORATE THE AMOUNTS IDENTIFIED IN THE PREVIOUS Q&A?

A. The total amounts, yes; however, Company's workpapers show a different allocation of the costs due to its splitting of the costs based on the revenues of the utilities. For example, the workpapers show the following allocation of expense booked, 1) Horseshoe Bend Sewer \$92,910.77, Shawnee Bend Sewer \$52,208.05 and Shawnee Bend Water \$49,731.18. In essence, Company moved a significant sum from the water operation to the sewer operations. Furthermore, Company's workpapers allocated the balance in USOA Account No. 333 New Services (Water) to the Shawnee Bend sewer operation in its entirety. Public Counsel does not know why the Company chose such an odd allocation, but does not believe it to be appropriate.

Q. DOES PUBLIC COUNSEL BELIEVE THAT THE COMPANY'S WORKPAPER'S ALLOCATION OF THE LABOR EXPENSE IS APPROPRIATE?

A. No. Revenue is not an appropriate driver for the allocation of the expense; it should be based on actual costs for a reasonable amount of actual time worked for each water and sewer operation.

1 Q. WHAT IS THE LABOR COST AMOUNT COMPANY BOOKED FOR THE NINE
2 MONTHS-ENDED SEPTEMBER 30, 2009?

3 A. Company booked \$38,425 to USOA Water Account No. 637 PWSD#4 Labor
4 (Water) and \$115,275 to USOA Account No. 737 PWSD#4 Labor (Sewer) for a
5 total year to-date expense amount of \$153,700 (Source: GL). Which if Company
6 continues booking the same amounts it is currently booking, will approximate an
7 annual expense amount of, including any later capitalized amounts, \$204,400.
8

9 Q. HOW MANY CUSTOMERS DOES LAKE REGION SERVE?

10 A. According to the Company's workpapers provided in the instant case, it serves
11 approximately 142 sewer customers in its Horseshoe Bend area, 601 sewer
12 customers in its Shawnee Bend area and 632 water customers in its Shawnee
13 Bend area. Most, if not all, of the sewer customers in the Shawnee Bend area are
14 also likely to be water customers of the utility.
15

16 Q. WHY DOES PUBLIC COUNSEL BELIEVE THE LABOR CHARGES ARE
17 EXCESSIVE?

18 A. The labor charges in calendar year 2008 were slightly less than a quarter of a
19 million dollars and the charges likely to be incurred during calendar year 2009 will
20 be only slightly less than calendar year 2008. Public Counsel has never known a
21 utility of this size to have incurred such large annual labor costs. For example, if
22 you add the number of current customers for both the Horseshoe Bend and
23 Shawnee Bend areas, that total approximates 774 customers (i.e., 142 plus 632).

1 Dividing the 2008 labor costs by 774 customers (i.e., \$221,400 divided by 774)
2 provides an average annual cost per customer of approximately \$289 or an
3 average monthly cost of approximately \$24 (i.e., \$289 divided by 12). The same
4 calculations for calendar year 2009 will approximate an average annual labor cost
5 of \$264 and an average monthly labor cost of \$22.
6

7 Q. WHAT DOES PUBLIC COUNSEL RECOMMEND THAT THE COMMISSION DO
8 REGARDING THIS ISSUE?

9 A. Public Counsel recommends that the Commission authorize and include in the
10 Company's cost of service, for the instant case, an annual labor cost which
11 approximates, but does not exceed, that of similar sized utilities with similar sized
12 operations within the State of Missouri.
13

14 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

15 A. Yes, it does.
16
17

**CASE PARTICIPATION
OF
TED ROBERTSON**

Company Name	Case No.
Missouri Public Service Company	GR-90-198
United Telephone Company of Missouri	TR-90-273
Choctaw Telephone Company	TR-91-86
Missouri Cities Water Company	WR-91-172
United Cities Gas Company	GR-91-249
St. Louis County Water Company	WR-91-361
Missouri Cities Water Company	WR-92-207
Imperial Utility Corporation	SR-92-290
Expanded Calling Scopes	TO-92-306
United Cities Gas Company	GR-93-47
Missouri Public Service Company	GR-93-172
Southwestern Bell Telephone Company	TO-93-192
Missouri-American Water Company	WR-93-212
Southwestern Bell Telephone Company	TC-93-224
Imperial Utility Corporation	SR-94-16
St. Joseph Light & Power Company	ER-94-163
Raytown Water Company	WR-94-211
Capital City Water Company	WR-94-297
Raytown Water Company	WR-94-300
St. Louis County Water Company	WR-95-145
United Cities Gas Company	GR-95-160
Missouri-American Water Company	WR-95-205
Laclede Gas Company	GR-96-193
Imperial Utility Corporation	SC-96-427
Missouri Gas Energy	GR-96-285
Union Electric Company	EO-96-14
Union Electric Company	EM-96-149
Missouri-American Water Company	WR-97-237
St. Louis County Water Company	WR-97-382
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Laclede Gas Company	GR-98-374
United Water Missouri Inc.	WR-99-326
Laclede Gas Company	GR-99-315
Missouri Gas Energy	GO-99-258
Missouri-American Water Company	WM-2000-222
Atmos Energy Corporation	WM-2000-312
UtiliCorp/St. Joseph Merger	EM-2000-292
UtiliCorp/Empire Merger	EM-2000-369
Union Electric Company	GR-2000-512
St. Louis County Water Company	WR-2000-844
Missouri Gas Energy	GR-2001-292
UtiliCorp United, Inc.	ER-2001-672
Union Electric Company	EC-2002-1
Empire District Electric Company	ER-2002-424

**CASE PARTICIPATION
OF
TED ROBERTSON**

Company Name	Case No.
Missouri Gas Energy	GM-2003-0238
Aquila Inc.	EF-2003-0465
Aquila Inc.	ER-2004-0034
Empire District Electric Company	ER-2004-0570
Aquila Inc.	EO-2005-0156
Aquila, Inc.	ER-2005-0436
Hickory Hills Water & Sewer Company	WR-2006-0250
Empire District Electric Company	ER-2006-0315
Central Jefferson County Utilities	WC-2007-0038
Missouri Gas Energy	GR-2006-0422
Central Jefferson County Utilities	SO-2007-0071
Aquila, Inc.	ER-2007-0004
Laclede Gas Company	GR-2007-0208
Kansas City Power & Light Company	ER-2007-0291
Missouri Gas Utility, Inc.	GR-2008-0060
Empire District Electric Company	ER-2008-0093
Missouri Gas Energy	GU-2007-0480
Stoddard County Sewer Company	SO-2008-0289
Missouri-American Water Company	WR-2008-0311
Union Electric Company	ER-2008-0318
Aquila, Inc., d/b/a KCPL GMOC	ER-2009-0090
Missouri Gas Energy	GR-2009-0355
Empire District Gas Company	GR-2009-0434
Lake Region Water & Sewer Company	SR-2010-0110
Lake Region Water & Sewer Company	WR-2010-0111