

**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                )  
Rate Increase in Water & Sewer Service.                    )        **File No. WR-2010-0111**

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**POST-HEARING BRIEF - PART 1 OF THE  
OFFICE OF THE PUBLIC COUNSEL**

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**POST-HEARING BRIEF – PART 1 OF THE OFFICE OF THE PUBLIC COUNSEL**

COMES NOW the Office of the Public Counsel (Public Counsel) and states for its Post-Hearing Brief – Part 1 as follows:

**A. What is the appropriate level of executive management compensation to be included in Lake Region Water & Sewer Company's revenue requirement for setting Lake Region Water & Sewer Company's rates?**

When determining what the appropriate level of executive management compensation the Missouri Public Service Commission (Commission) must first determine exactly what the executive management group does and what benefit is actually being provided to the customers of Lake Region Water & Sewer Company (Lake Region). The Staff of the Missouri Public Service Commission (Staff) has recommended that the executive management compensation be set at \$27,901/year for the services of Mr. Stump, Mr. Robert Schwermann and Mr. Brian Schwermann to Lake Region. (Exhibit Staff-9 – Surrebuttal Testimony of V. William Harris, P. 2, L. 15-17 & P. 15, L. 15-16) Lake Region originally requested \$99,695/year but later offered testimony in support of \$56,741.43/year in executive management fees. (Exhibit LRWS-3 – Surrebuttal Testimony of Vernon Stump, P. 3, L. 19-23 & P. 4, L. 1-7) Lake Region witness Mr.

Stump stated that this amount would pay the executive management group \$64/hour “which is a standard rate that would be charged for executives around Missouri.” (Tr. P. 131, L. 14-18) But, the evidence shows that given the size of the utility and the small amount of time actually spent on utility issues, the amounts recommended by Staff and Lake Region are excessive.

The evidence shows that Mr. Stump, Mr. Robert Schwermann and Mr. Brian Schwermann are not actually providing executive services to Lake Region. Just because they call themselves an executive management group does not mean that is what they really do or should dictate how much they are compensated. The name “executive management group” is a purely a made-up title which does not reflect the actual situation. (Tr. P. 135, L. 12-15) Mr. Stump, Mr. Robert Schwermann and Mr. Brian Schwermann are not “executives” of Lake Region, nor are they “managers” because none of them are actually employees of the utility. (Tr. P. 129, L. 7-23) As a matter of fact, none of them live anywhere near Lake Region or own property in the area. (Tr. P. 124, L. 4-10)

So, what benefit does the customer get from Mr. Stump, Mr. Robert Schwermann or Mr. Brian Schwermann? Staff witness Mr. Harris stated that Staff made its recommendation based on two general functions of operational and accounting/tax/finance and included costs for travel and office rental. (Exhibit Staff-7 - Staff Cost of Service Report, P. 27, L. 11-15) But, Mr. Harris admits that no documentation was provided which would prove how much time Mr. Stump, Mr. Robert Schwermann or Mr. Brian Schwermann actually spent on reviewing additions to Lake Region’s plant, budgetary issues, negotiations, staffing issues, financial issues or tax preparation for Lake Region. (Tr. P. 152, L. 1-25 & P. 153 L. 1-19) Apparently Staff just took Lake Region’s word that these tasks were really being performed. And unbelievably, the Staff seems to be taking Lake Region’s word that all these tasks are being performed during the mere

four days per month (including travel time) each of members of the executive management group actually work on Lake Region issues. (Tr. P. 137, L. 12-25 & P. 138, L. 1-2)

The duties of the executive management group are supposedly to give approval, amend or reject proposed expenditures and expansions of the utility. (Exhibit Staff-7 - Staff Cost of Service Report, P. 24, L. 27 & P. 25, L. 1-2) But, Lake Region already has a Board of Directors which should be performing these same functions. As a matter of fact, two of the executive management group members (Mr. Robert Schwermann and Mr. Brian Schwermann) are also on the Board of Directors. (Tr. P. 136, L. 3-8) Mr. Stump states that the primary role of Mr. Robert Schwermann and Mr. Brian Schwermann is financial such as taxes, accounting, etc. (Tr. P. 125, L. 19-21 & P. 126 L. 1-4) However, Mr. Harris stated that Lake Region employs an outside accountant who performs financial work for the utility. (Tr. P. 153, L. 8-12) Additionally, the District staff working on the day-to-day Lake Region issues already includes two accountant/administrative assistants. (Exhibit Staff-7 - Staff Cost of Service Report, P. 24, L. 27 & P. 24, L. 21-23) So, the question is when Mr. Robert Schwermann and Mr. Brian Schwermann perform the tasks of giving approval, amending or rejecting proposed expenditures and expansions of the utility, are they acting as a member of the board or as a member of the so-called executive management group? Do they wear a different hat when they act as a member of the executive management group which makes that work be worth an executive compensation of \$64/hour rather than a normal Board of Director's fees? The answer is simple, the evidence shows they are on the Board of Directors and the compensation they should get should only be as a member of the Board.

Mr. Stump states that his primary role is in overall direction regarding engineering, major repairs, Department of Natural Resources (DNR) requirements, etc. (Tr. P. 125, L. 8-18)

However, all this is supposedly performed during the total of four days per month (including travel time) he said he actually works on Lake Region issues. But, this small amount of time on task is easily explained. Lake Region already has a contract manager, Mr. Summers, who is paid to perform the day-to-day operations of the utility. Mr. Summers is actually the one who “recommends expenditures for the repair, maintenance, capital additions, and expansions of Lake Region.” (Exhibit Staff-7 - Staff Cost of Service Report, P. 24, L. 25-26) As a member of the executive management group, Mr. Stump merely gives approval, amends or rejects these proposed expenditures and expansions. (Exhibit Staff-7 - Staff Cost of Service Report, P. 24, L. 27 & P. 25, L. 1-2) But, Lake Region already has a Board of Directors which should be performing these same functions. In fact Mr. Stump’s connection to Lake Region seems to be primarily through his wife who is a Lake Region stock owner and member of the Board of Directors. (Tr. P. 123, L. 4-6 & 10-13; Tr. P. 139, L. 3-4) So, when Mr. Stump performs the tasks of giving approval, amending or rejecting proposed expenditures and expansions of the utility, is he acting as a proxy member of the board or as a member of the so-called executive management group? Is the work Mr. Stump performs worth an executive compensation of \$64/hour rather than a normal Board of Director’s fees? The evidence proves that the work Mr. Stump performs is really that of a Board of Director and he should be compensated as such.

Staff witness Mr. Harris stated that Staff’s recommendation included costs for travel, including Mr. Stump’s travel from Texas. (Exhibit Staff-7 - Staff Cost of Service Report, P. 27, L. 11-15) Lake Region’s recommendation included travel costs as well. The evidence shows the costs being charged by the executive management group, and even the costs recommended by Staff, are excessive for a utility the size of Lake Region. The Commission is charged with ensuring that safe and adequate utility service is provided at just and reasonable prices.

Therefore, the Commission should require that a utility implement reasonable cost saving measures. Mr. Stump, Mr. Robert Schwermann and Mr. Brian Schwermann do not seem to want to embrace simple technology to provide economical services to the utility. (Tr. P. 133, L. 12-25& Tr. P. 134, L. 1-10) Since none of them live near Lake Region, all must incur significant travel costs including airfare for Mr. Stump from his home in Texas each month. There has been no attempt to utilize conference calls or internet conferencing technology to allow participation in meetings while not actually having to incur the cost of travel. (Tr. P. 133, L. 12-25& Tr. P. 134, L. 1-10) Given the economic downturn that the customers are facing, it is reasonable for the Commission to disallow the travel of all three executive management group members to attend meetings which are already attended by the contract operator Mr. Summers.

The evidence shows that there is no necessity for an "Executive Group." The customers are getting very little benefit from the executive management group that could not be provided by the Board of Directors. The utility has approximately 700 customers (some of which are both water and sewer customers). Public Counsel witness Mr. Robertson states that he knows of no other similarly-sized and structured utility in Missouri that requires three executive managers, and in fact most of those utilities are managed by a single person. (Exhibit OPC-4 – Surrebuttal Testimony of Ted Robertson, P. 8, L. 4-15) Therefore, Staff's and Lake Region's recommendations would, if authorized, result in an excessive amount of duplicative costs being recovered from ratepayers because the only management costs that should be included in the cost of service are an appropriate level of those incurred for the activities of Mr. Summers since he is the only employed manager of the Company. (Exhibit OPC-4 – Surrebuttal Testimony of Ted Robertson, P. 8, L. 10-15) The owners have hired Mr. Summers and the District to operate the

facilities and any matters that he cannot order directly can surely be addressed by Lake Region's Board of Directors.

The evidence shows that, in addition to the fact that the costs being charged appear excessive and unnecessary for a utility the size of Lake Region and that the utilities operations have been contracted out, the management activities described by Lake Region are more representative of those performed by a utility's Board of Directors rather than executive or management employees. Therefore, the Commission should authorize a reasonable level of annual Board of Directors fees be included in the Lake Region's cost of service and disallow the management fees recommended by Staff and Lake Region. Public Counsel suggests that the annual level of Board of Director fees should be determined by multiplying the number of directors, plus the President of the Company, by the number of times the Board of Directors regularly meets and a reasonable fee per meeting. Public Counsel believes further that a reasonable meeting fee, for a utility of Lake Region's size and operation, should not exceed \$200 per meeting per person. Since the Board of Directors historically meets once per year and there are two directors and the President of the Company, the Commission should include \$600/year in the instant case cost of service. Alternatively, if the Commission believes it is necessary for the Board of Directors to meet more often than once per year, the Commission should dictate a reasonable number of times the Board must meet and include \$600 per Board of Directors meeting in the instant case cost of service. Further, the Commission should order that the remaining management fees booked be disallowed.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

**/s/ Christina L. Baker**

By:\_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 28<sup>th</sup> day of May 2010:

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