

**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)	File No. WR-2013-0461
Rate Increase in Water and Sewer Service)	

THE OFFICE OF THE PUBLIC COUNSEL'S STATEMENT OF SUPPORT

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Statement of Supports states as follows:

1. On July 16, 2013, Lake Region Water & Sewer Company (Lake Region) filed a formal request with the Missouri Public Service Commission (Commission) to increase rates for it water and sewer utility services
2. On October 7, 2013, the Staff of the Missouri Public Service Commission (Staff) filed its Statement Describing Discovery Concerns which reported the disputes between Staff and Lake Region Water regarding data requests made by Staff concerning information about certain entities affiliated with Lake Region through shared employees, management and physical access. Specifically, Staff notes that it has a duty to ascertain whether Lake Region's customers are being allocated the appropriate share of costs and benefits that result from the affiliated entities sharing resources and to ensure that no improper cross subsidization is occurring. Staff also notes that to the extent Lake Region resists this discovery, Staff's legitimate investigation of this issue is impeded.
3. Public Counsel supports Staff's efforts to gain information regarding Lake Region and its transactions and cost sharing with affiliated entities. The burden is on Lake Region to prove that

the costs it proposes to pass along to customers are just and reasonable.¹ This burden includes costs from and costs shared among affiliated entities.

4. As the Missouri Supreme Court recently stated: “Due to the inherent risk of self-dealing, the presumption of prudence utilized by the PSC when reviewing regulated utility transactions should not be employed if a transaction is between a utility and the utility’s affiliate.”² Therefore, if Lake Region wishes to pass along to customers any costs related to or affected by its affiliate entities, Lake Region cannot rely on a presumption that these costs are prudent without providing actual documentation of how those costs were determined.

5. The responses to Staff’s data requests are also necessary for Public Counsel to properly investigate Lake Region’s request. While not the requesting party, Public Counsel intends to seek a copy of the responses to Staff’s data requests per paragraph 5.D. of the Order Regarding Discovery.

6. Section 386.450, RSMo, requires the Commission, upon a showing of good cause by the Public Counsel, to order a public utility to produce papers or records of the utility for examination by the Public Counsel. The Commission has stated that the statute does not require Public Counsel to show that the requested documents are relevant to any particular issue in a contested case.³ The Commission has also stated that the statute allows the Commission to require the production of the requested documents even if there were no contested case in existence.⁴

7. This right is not conditioned on considerations of relevance under MO Rule Civ. Pro. 56.01(b)(1) and PSC Rule 4 CSR 240-2.090(1). The Commission has recognized that

¹ *Office of the Pub. Counsel v. Mo. PSC*, 2013 Mo. LEXIS 45 (Mo. July 30, 2013)

² *Id.*

³ *Order Regarding Public Counsel’s Motion to Compel Discovery*, Case No. ER-2007-0002, March 15, 2007.

⁴ *Id.*

information sought by the Public Counsel, if not relevant, may well lead to other information which is relevant.⁵ Therefore, the Commission has determined that Public Counsel and the Staff can request records they want in their investigation without any showing that it is otherwise discoverable or is relevant to a specific case even if it is no more admissible in a hearing in their hands than in those of any other party.⁶

8. Public Counsel's right to seek information from any utility and the right to inspect and obtain copies of any utility's records or documents is coequal to that of the Staff and is broader than the discovery authority permitted other litigants under Commission Rules.⁷ Therefore, Public Counsel supports Staff's discovery concerns.

WHEREFORE, Public Counsel respectfully submits its statement of support.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Christina L. Baker

By: _____

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⁵ *Staff of the Missouri Public Service Commission, v. Union Electric Company, doing business as AmerenUE, Case No. EC-2002-1*, 2002 Mo. PSC LEXIS 31

⁶ *Id.*

⁷ RSMo. Section 386.450 and *In the Matter of Missouri-American Water Company's Tariff* (Case No. WR-2000-281, et al.)(2-2-2000).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 9th day of October 2013:

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