

Exhibit No.:	_____
Issue:	Availability Fees
Witness:	John R. Summers
Sponsoring Party:	Lake Region Water & Sewer Company
Case Nos.:	SR-2013-0459 and WR-2013-0461

LAKE REGION WATER & SEWER COMPANY

Case Nos. SR-2013-0459 and WR-2013-0461

SURREBUTTAL TESTIMONY

OF

JOHN R. SUMMERS

Four Seasons, Missouri
January, 2014

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Lake Region Water & Sewer Company)
Application to Implement a General Rate Increase) Case Nos. WR-2013-0461 and
in Water and Sewer Service.) SR-2013-0459

AFFIDAVIT OF JOHN R. SUMMERS

STATE OF MISSOURI)
) ss.
COUNTY OF CAMDEN)

I, John R. Summers, of lawful age, and being duly sworn, do hereby depose and state:

1. My name is John R. Summers. I am presently General Manager for Lake Region Water & Sewer Company, Applicant in the referenced matter.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.

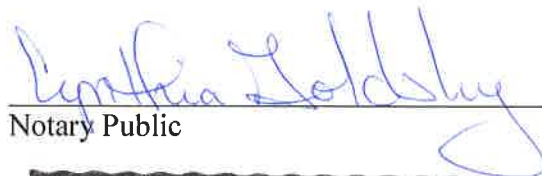
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my personal knowledge, information and belief.


John R. Summers

Subscribed and sworn to before me, a Notary Public, this 31st day of January, 2014.

My Commission expires:

10/31/15


Notary Public



SURREBUTTAL TESTIMONY

OF

JOHN R. SUMMERS

CASE NO. WR-2013-0461

Q. Please state your full name and business address.

A. My name is John R. Summers. My business address is 62 Bittersweet Road, Four Seasons, MO 65049.

Q. Are you the same John R. Summers who filed direct and rebuttal testimony in the case referenced above?

A. Yes.

Q. What is the purpose of your surrebuttal testimony?

A. I will be responding to the rebuttal testimony submitted by Mr. Robertson of the Office of Public Counsel (“OPC”) regarding availability fees. Mr. Robertson’s rebuttal is a continuation of his direct in which he has also explained some research. I am responding in part to his direct as well.

AVAILABILITY FEES

Q. On page 3 of his direct testimony Mr. Robertson refers to research he did on availability fees. Have you reviewed the research to which Mr. Robertson refers?

A. Yes, in response to a data request, Mr. Robertson supplied the Company with two internet links to information regarding availability fees. One was a link to a review of availability fees in the State of Virginia by The Mussman Group, a financial and management consulting practice in Frederick, Maryland. They

1 provide advisory services to municipalities. This review was based upon a survey
2 of water and sewer rates from 1995. The other link was to the Schedule of Water
3 and Sewer User Rates and Fees of the Service Authority of Prince William
4 County in Virginia.

5 **Q. Did Mr. Robertson indicate that he researched how availability fees have**
6 **been handled by the Missouri Public Service Commission?**

7 A. No, the only data supplied in response to the Company data request was the two
8 links which dealt solely with government entities in the State of Virginia.

9 **Q. Are the availability fees addressed in Mr. Robertson's sources of research the**
10 **same kind of availability fees charged to undeveloped lot owners on Shawnee**
11 **Bend?**

12 A. No, both sources of Mr. Robertson's research relate to availability fees charged by
13 government entities at the time a customer connects to the system and are charged
14 for the purpose of recovering anticipated future infrastructure costs due to new
15 customers.

16 **Q. Is this difference noted in the linked studies?**

17 A. Yes, on Page 5 of The Mussman Group study the following statement was made:
18 "The \$900 median value would tend to indicate that most respondents interpreted
19 availability fee to represent costs for front-end capital cost recovery." The
20 statement on the Service Authority of Prince William County website is even
21 more specific: "All new customers connecting to the system are required to pay in
22 full the appropriate Availability Fees. These fees are designed to recover the cost
23 of **additional** (emphasis added) treatment capacity and other water and sewer

1 infrastructure, such as line extensions and pumping stations required to serve
2 customers.”

3 **Q. How do these fees differ from the availability fees discussed in this case?**

4 A. The fees discussed in Mr. Robertson’s research apply to funding future
5 infrastructure costs due to new customers while the availability fees discussed in
6 the current case were created by the developer to recover developer costs for
7 infrastructure already in place which the developer was forced to donate to the
8 utility.

9 **Q. Are there other significant differences?**

10 A. There is another very significant difference. The fees Mr. Robertson researched
11 were created by a governmental utility to assist in funding future projects and are
12 therefore owned by the utility. The fees involved in this case were not created by
13 nor are they owned by the utility. They were created by a real estate developer
14 and the terms and conditions under which they are charged and collected are part
15 of restrictive covenants that apply to unimproved lots in the Four Seasons
16 Lakesites real estate development. The current owners of Lake Region, and Lake
17 Region itself, have no control over the provisions in the declaration of restrictive
18 covenants executed by the property developer or any amendments to those
19 covenants. Lake Region has no legal claim to the fees. The Commission so
20 found in Case No. SR 2010-0110 and WR 2010-0111 (the “2010 Rate Case”),
21 Lake Region’s 2010 rate proceeding. The Joint Stipulation of Facts I anticipate
22 to be filed in the current case has more details regarding how the fees were
23 created, ownership of the fees and the original purpose of the fees.

1 **Q. On page 4 of his rebuttal testimony, Mr. Robertson testifies that lot owners**
2 **are “required to pay availability fees until they connect to the Shawnee Bend**
3 **Water and Sewer systems, whenever that might be. Lot owners are paying**
4 **these fees to guarantee that a state of the art utility system will be available**
5 **when they are ready to connect.” Has the Commission agreed with his**
6 **testimony?**

7 **A.** No. On Page 99 of the Report and Order in the 2010 Rate Case the Commission
8 commented and found that “Mr. Summers’ testimony and the confidential
9 settlement agreement of Civil Case No. CV103-760CC demonstrate that the
10 original developer is still collecting a portion of fees and as Mr. Summers has
11 deduced, the purpose must be related to the recovery of his initial investment
12 since the developer has nothing to do with maintaining the water and sewer
13 systems.” I will also note here that the Commission stated in Paragraph 164
14 found on Page 54 of its Report and Order in the 2010 Rate Case “Lake Region
15 customers have benefited from the availability fees, because the contributed plant
16 associated with those fees lower the rate base and lowers utility rates for the
17 ratepayers.” These Commission findings add strong support to the fact that
18 imputing availability fees to Lake Region’s revenue in any manner in the current
19 case would yield an improper double benefit to the ratepayers. Furthermore, Mr.
20 Robertson’s testimony is similar to that of Staff Witness Featherstone in his
21 surrebuttal testimony in the 2010 Rate Case. My testimony, and the
22 Commission’s determinations on Page 99 of its Report and Order from the 2010

1 Rate Case, clearly demonstrate the Commission considered and rejected this
2 statement.

3 **Q. Mr. Robertson further testifies on page 4 of his rebuttal “[t]herefore, these**
4 **fees are designed to recover the original cost of the utility investment along**
5 **with any other additional treatment capacity or other water and sewer**
6 **infrastructure, such as line extensions and pumping stations, etc., required to**
7 **build a state of the art system to serve customers at the time they are ready to**
8 **take service.” Has Mr. Robertson accurately stated the purpose for the**
9 **availability fees charged to owners of unimproved lots on Shawnee Bend?**

10 **A.** No, he has not. As I mentioned earlier the availability fees in the current case
11 were created by the developer to recover the developer’s costs for infrastructure
12 already in place which the developer was forced to donate to the utility. They
13 were not created to recover costs of demand additions and line extensions. Mr.
14 Robertson’s testimony appears to reflect or rely on the research he identified in
15 the data request response. That research involves types of fees unlike those
16 before the Commission in this case.

17 **Q. Has the Commission treated availability fees as additional CIAC as proposed**
18 **by OPC?**

19 **A.** No, JRS Exhibit 1 filed with my rebuttal testimony illustrates the Commission’s
20 approach to availability fees since the Company’s original certificate case in
21 1972. The Commission has never taken the approach of having the utility record
22 plant as contributed and then using the availability fees created to recover that

1 cost to give the customers a double benefit by recording these fees as additional
2 CIAC.

3 **Q. Mr. Robertson has testified that it is the Company's burden to prove the**
4 **costs associated with plant investment, donated plant and availability fees.**
5 **Do you agree?**

6 A. No. Lake Region has no right or claim to availability fee revenue. Hence it is not
7 accounted for on its books and records. With respect to the proof of Lake
8 Region's costs associated with plant investment and donated plant, I agree that
9 Lake Region shoulders that burden and Lake Region has unmistakably met that
10 burden successfully. The Company has gone through two previous rate cases in
11 which its books of record were examined and the appropriate rate bases were
12 determined for ratemaking purposes. The Company has provided both Staff and
13 OPC complete access to the Company's books of record in this case and both
14 Company and Staff have proposed rate bases comparable to those in previous
15 cases.

16 **Q. Have you ever received communication from a staff member concerning how**
17 **to report availability fee revenue for Lake Region or Ozark Shores?**

18 A. Yes, I have. On November 13, 2006, I received an e-mail from Roberta Grissum
19 of the Commission's Staff, instructing Ozark Shores, which is one of the
20 companies I manage in conjunction with Lake Region, to file an amended Annual
21 Report for the calendar year of 2005. The e-mail directed Ozark Shores to
22 include only regulated revenues in its annual reports. The e-mail gave me specific
23 instructions to remove any revenue the company collected as availability fees

1 from its annual report because Staff classified these fees as unregulated revenue.

2 Ms. Grissum's email message was filed in the 2010 Rate Case as Lake Region
3 Exhibit 9 and is attached to my testimony as JRS Exhibit 5. I have continued to
4 follow the practice of not including availability fees on the Ozark Shores annual
5 reports after receiving Staff's instructions in this email.

6 **Q. The parties are trying to reach a stipulation regarding the charging and**
7 **collection of availability fees. Are you aware of the basis for that**
8 **stipulation?**

9 A. Yes, the parties have used many of the findings of fact from the Report and Order
10 in the 2010 Rate Case as a source for the stipulation but at the time I prepare this
11 surrebuttal no stipulation has been filed. To the extent any stipulation filed might
12 omit facts that were found by or were before the Commission in Lake Region's
13 previous case three years ago, I intend to supplement my surrebuttal testimony for
14 purposes of completing the record.

15 **Q. To the best of your knowledge, are the findings made by the Commission in**
16 **paragraphs 121-212 of its Report and Order in the 2010 Rate Case regarding**
17 **availability fees true and correct today?**

18 A. Yes, with the following explanation and exceptions:

19 Paragraph 175: Only the availability fees created prior to August 6, 1998 were
20 transferred to Roy and Cindy Slates per Civil Case CV103-
21 760CC;

22 Paragraph 194: Cynthia Goldsby's current hourly wage is \$14.44; and

23 Paragraph 197: Cynthia Goldsby sent 1,322 bills in January 2014.

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

2 A. Yes, it does.

From: Grissum, Roberta [<mailto:roberta.grissum@psc.mo.gov>]
Sent: Monday, November 13, 2006 2:02 PM
To: jrsummers@lakeozarks.com
Cc: Davis, Helen; Russo, Jim
Subject: Re: Lake Region W&S, The Meadows Water Co and Ozark Shores Water Co.
Importance: High

Dear Mr. Summers:

I have reviewed your responses explaining the differences the MoPSC has identified between the Calendar Year 2005 Annual Reports and Calendar Year 2005 Statements of Revenue for the above referenced companies.

Here are the following steps you will need to take to resolve this matter:

1) File "AMENDED" Calendar Year 2005 Annual Reports for each Company referenced above excluding "unregulated services/activities." For MoPSC purposes, the Annual Report should only include regulated revenues. Please follow the established procedures for filing Annual Reports with the MoPSC. However, please be sure to identify each report you will be filing as "AMENDED."

Please contact James Russo of the MoPSC Water and Sewer Department if you have further questions. Mr. Russo may be reached at 573-751-7494.

2) Submit "AMENDED" Calendar Year 2005 Statements of Revenue for each Company referenced above showing the "audited" amounts. Please follow the established procedures for submitting Statements of Revenue with the MoPSC. However, please be sure to identify each report you will be submitting as "AMENDED."

Please contact Helen Davis of the MoPSC Budget & Fiscal Services Department if you have further questions. Ms. Davis may be reached at 573-751-4274.

Once these reports have been filed/submitted, the reconciliation questions we have identified should be satisfactorily resolved. If further action is required, someone will contact you.

Thank you.

Roberta Grissum, Utility Regulatory Auditor
Missouri Public Service Commission
9900 Page Avenue, Suite 103
Overland, MO 63132
314-877-2778 Ext. 237

Quotes:

"We cannot all do Great Things, but we can do Small Things with Great Love" - Mother Teresa

"Ours is not to do the extraordinary, only to do the ordinary extraordinarily well. - Catherine McAuley Sister of Mercy Patron Saint