

*Exhibit No.:*  
*Issue(s):* *Rate Base*  
*Acquisition Premium*  
*Rate Design*  
*Witness:* *Curt B. Gateley*  
*Sponsoring Party:* *MoPSC Staff*  
*Type of Exhibit:* *Rebuttal Testimony*  
*Case No.:* *WA-2020-0397*  
*Date Testimony Prepared:* *July 26, 2021*

**MISSOURI PUBLIC SERVICE COMMISSION**

**INDUSTRY ANALYSIS DIVISION**

**WATER AND SEWER DEPARTMENT**

**REBUTTAL TESTIMONY**

**OF**

**CURT B. GATELEY**

**LIBERTY UTILITIES (MISSOURI WATER) LLC,  
d/b/a LIBERTY UTILITIES**

**CASE NO. WA-2020-0397**

*Jefferson City, Missouri*  
*July 2021*

1 **REBUTTAL TESTIMONY**

2 **OF**

3 **CURT B. GATELEY**

4 **LIBERTY UTILITIES (MISSOURI WATER) LLC,**  
5 **d/b/a LIBERTY UTILITIES**

6 **CASE NO. WA-2020-0397**

7 Q. Please state your name and business address.

8 A. My name is Curtis Gateley. My business address is 200 Madison Street,  
9 Jefferson City, Missouri 65101.

10 Q. By whom are you employed and in what capacity?

11 A. I am employed by the Missouri Public Service Commission ("Commission") as  
12 the Manager of the Water and Sewer Department. I was a Senior Research Analyst in the Water  
13 and Sewer Department during Staff's investigation into this matter.

14 Q. Are you the same Curtis Gateley who sponsored Direct testimony in this case?

15 A. Yes.

16 Q. What is the purpose of your rebuttal testimony?

17 A. The purpose of my rebuttal testimony is to address certain statements by Liberty  
18 Utilities (Missouri Water) LLC, ("Liberty") witnesses Jill Schwartz and Michael D. Beatty, PE  
19 on Liberty's status as a Large Public Utility, the Tartan Criteria, resolution of Bolivar's  
20 noncompliance, and future ratemaking.

21 Q. On page three of her Direct testimony Ms. Schwartz asserts that Liberty is a  
22 "Large Public Utility." Does Staff agree?

23 A. Staff does not agree. It is Staff Counsel's position that Liberty does not currently  
24 meet the statutory definition of a "Large Water Public Utility," as provided in 393.320, RSMo.

1 As this is a legal question for which both Liberty and Staff have requested a *Summary*  
2 *Determination* from the Commission, I have no further testimony to provide on this subject.  
3 As stated in Staff’s Recommendation, the effect of the Commission’s decision on this question  
4 has vital importance to the processing of Liberty’s application. Staff has calculated a net book  
5 value of \$13,018,615 for Bolivar’s assets. If the Commission finds that Liberty is not a  
6 “Large Water Public Utility,” then should the Commission approve Liberty’s Application,  
7 it would not be required to use the unreasonable \$20,000,000 proposal for rate base from the  
8 appraisal, and could approve it with a condition requiring Liberty to determine rate base for the  
9 systems using the net book value of the systems’ assets; this would allow Liberty to acquire the  
10 Bolivar systems without imposing what is effectively a \$6,981,385 acquisition premium on its  
11 rate payers. Liberty and Bolivar have agreed to a \*\* [REDACTED] \*\* purchase price.<sup>1</sup> If the  
12 Commission determines that Liberty is not a “Large Water Public Utility,” and the Commission  
13 were to approve its Application with Staff’s proposed conditions, Liberty’s shareholders would  
14 be responsible for the \*\* [REDACTED] \*\* acquisition premium. Staff witness Ashley Sarver  
15 and Angela Niemeier will address Staff’s calculation of the acquisition premium and rate base.

16 Q. If the Commission finds that Liberty is a “Large Water Public Utility,” would it  
17 be required to approve Liberty’s Application?

18 A. No. While 393.320, RSMo, requires the lesser of the purchase price or the  
19 appraised value, along with reasonable and prudent transaction, closing, and transition costs, to  
20 be used to set rate base, the Commission must still determine whether issuing a Certificate of  
21 Convenience and Necessity (“CCN”) for Liberty to acquire and operate the Bolivar systems is

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<sup>1</sup> Exhibit A of Liberty’s *Application*.

1 necessary or convenient for the public service. Should the Commission agree with Staff that  
2 Liberty's Application does not promote the public interest due to the acquisition premium,  
3 it can and should reject it. However, as stated previously in my testimony, it is Staff's position  
4 that approval of the Application with a \$13,018,615 rate base presents a reasonable alternative.

5 Q. Does Staff have a position on Liberty's ratemaking proposal?

6 A. Staff was encouraged by Liberty's acceptance of Staff's proposal that Bolivar's  
7 rates not be consolidated with other Liberty customers. Staff did not attempt to recreate  
8 Ms. Schwartz's estimation of an \$8-\$10 increase for Bolivar customers, as this requires  
9 multiple assumptions and estimations, and Ms. Schwartz did not describe her methodology.

10 Q. Does Staff agree that Liberty has met the five Tartan Criteria, as stated by  
11 Mr. Beatty on pages eight and nine of his Direct testimony?

12 A. Staff does not agree. While it is Staff's position that Liberty has satisfied four  
13 of the five Tartan Criteria, as described in Staff's Recommendation attached to my Direct  
14 Testimony, it is Staff's position that the acquisition of the Bolivar systems with a \$20,000,000  
15 rate base does not promote the public interest. The nearly \$7,000,000 acquisition premium  
16 created by this proposed rate base would harm Liberty's customers, and this harm is greater  
17 than the public benefit that would be provided should Liberty eliminate the pollution from  
18 Bolivar's sewer system. Bolivar has the ability to conduct the repairs and upgrades without  
19 Liberty's involvement.

20 Q. Does Staff agree with Mr. Beatty's portrayal of Bolivar's noncompliance and  
21 Liberty's proposed repairs and upgrades to Bolivar's sewer system?

22 A. Generally, yes. On pages five through seven, Mr. Beatty provides a general  
23 overview, but is somewhat short on details of the pollution caused by Bolivar. According to

1 the Missouri Department of Natural Resources (“DNR”), Bolivar has polluted just under eight  
2 miles of Town Branch and Piper Creek, and these streams have been impaired since at least  
3 2008.<sup>2</sup> It is urgent that the discharges of untreated and partially treated sewage at Bolivar be  
4 addressed to protect human health and the environment. Staff witness Andrew Harris, reviewed  
5 Liberty’s proposed repairs and upgrades to the drinking water and sewer system, as detailed in  
6 the Staff Recommendation, and found them to be generally acceptable.

7 Q. Is Liberty’s purchase of Bolivar the only solution available for resolving the  
8 noncompliance?

9 A. No. As other cities in similar situations have done, Bolivar could raise their own  
10 sewer rates and obtain taxpayer subsidized funding to repair their collection system and upgrade  
11 the sewer treatment system. Loans through the DNR’s Clean Water State Revolving Fund, and  
12 grants such as the Clean Water Engineering Report Grants, are some of the common funding  
13 opportunities that are available to a city like Bolivar. Funding is also presumably available  
14 from other agencies, and additional opportunities occasionally are made available by Congress.

15 Q. Are you asserting that such subsidized funding would be a lower cost option for  
16 the citizens of Bolivar?

17 A. No, I have not conducted such an analysis. But it is important to note that the  
18 solution offered by Mr. Beatty is not the only one.

19 Q. Does this conclude your rebuttal testimony?

20 A. Yes.

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<sup>2</sup> Revised Total Maximum Daily Load, November 10, 2020.

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

In the Matter of the Application of Liberty            )  
Utilities (Missouri Water) LLC d/b/a Liberty        )  
Utilities for Certificates of Convenience and        )  
Necessity Authorizing it to Install, Own,         )  
Acquire, Construct, Operate, Control, Manage,    )  
and Maintain a Water System and Sewer            )  
System in Bolivar, Polk County, Missouri         )

CASE NO. WA-2020-0397

**AFFIDAVIT OF CURT B. GATELEY**

STATE OF MISSOURI        )  
  )        ss.  
COUNTY OF COLE         )

**COMES NOW CURT B. GATELEY** and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Rebuttal Testimony of Curt B. Gateley*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

  
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**CURT B. GATELEY**

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 26<sup>th</sup> day of July 2021.

D. SUZIE MANKIN Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: April 04, 2025 Commission Number: 12412070
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Notary Public