

Exhibit No.:
Issues: *Quality of Service - Mergers
and Acquisitions*
Witness: *James A Merciel, Jr.*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *EM-2016-0213*
Date Testimony Prepared: *July 20, 2016*

MISSOURI PUBLIC SERVICE COMMISSION

COMMISSION STAFF DIVISION

WATER AND SEWER DEPARTMENT

REBUTTAL TESTIMONY

OF

JAMES A. MERCIEL, JR.

**THE EMPIRE DISTRICT ELECTRIC COMPANY,
LIBERTY UTILITES (CENTRAL) CO., AND LIBERTY SUB CORP.**

CASE NO. EM-2016-0213

*Jefferson City, Missouri
July 2016*

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6 **CASE NO. EM-2016-0213**

7 **INTRODUCTION**

8 Q. Please state your name and business address.

9 A. My name is James A. Merciel, Jr., P. O. Box 360, Jefferson City, Missouri,
10 65102.

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

12 A. I am employed by the Missouri Public Service Commission (“Commission”) as a
13 Utility Regulatory Engineering Supervisor, in the Water and Sewer Department.

14 Q. Can you please describe your education, work responsibilities, and work
15 experience?

16 A. Yes. My qualifications, responsibilities, and experience, along with a list of cases
17 in which I have provided testimony, are included with this rebuttal testimony as Schedule
18 JAM-r1, and incorporated herein by reference.

19 **EXECUTIVE SUMMARY**

20 Q. What is the purpose of this rebuttal testimony?

21 A. The purpose of this rebuttal testimony is to state the Missouri Public Service
22 Commission Staff (“Staff”) position regarding expected changes that could impact water utility

1 operations, resulting from the merger, and whether or not there is detrimental impact to the
2 public interest.

3 **CASE REVIEW AND STAFF POSITION**

4 Q. Have you reviewed this case file?

5 A. Yes. I have especially reviewed the *JOINT APPLICATION OF THE EMPIRE*
6 *DISTRICT ELECTRIC COMPANY, LIBERTY UTILITIES (CENTRAL) CO., AND LIBERTY SUB*
7 *CORP. AND CONTINGENT REQUEST FOR WAIVER*, and direct testimony filed in this case by
8 The Empire District Electric Co. (“Empire”) witness Brad P. Beecher, and Liberty Utilities Co.
9 (“Liberty”) subsidiaries witnesses David Pasieka, Peter Eichler, and Christopher D. Krygier, all
10 of which outline the proposed plan for executive and regional management.

11 Q. What operations could potentially be impacted, with respect to water operations?

12 A. Potential impact would be primarily upon the existing regulated water utility
13 operations of Empire, which operations are described on page 3 at lines 13 and 14 of
14 Mr. Beecher’s testimony. However, Liberty has existing regulated water and sewer operations as
15 well, through its subsidiary Liberty Utilities (Missouri Water) LLC d/b/a Liberty Utilities.
16 Liberty’s water and sewer operations are described by Mr. Krygier in his testimony beginning on
17 page 4 line 3, through page 5 line 2. Liberty’s regulated water and sewer affiliate, and its
18 operations, is not directly affected by the merger that is proposed in this case; but the proposed
19 changes to executive and regional management could present an impact.

20 Q. Do you foresee any detrimental impact upon water and sewer service, for either of
21 these regulated water/sewer utilities?

22 A. No. After reading the information in this case it appears that the plan does not
23 include any significant changes to any of the local system operations. The proposed changes to

Rebuttal Testimony of
James A. Merciel, Jr.

1 executive and regional management, and changes to corporation-wide activities such as billing,
2 are things that would not inherently introduce any detrimental impact upon system operations or
3 customer service in the water utility operations.

4 Q. Then, what is Staff's position regarding this case with respect to water and sewer
5 operations?

6 A. Staff's position in this case with respect to water and sewer operations is that
7 there would be no significant direct impact upon either Empire's existing water operations, or
8 Liberty's existing water and sewer utility operations. Therefore, there is no foreseen detrimental
9 impact upon the public from this perspective.

10 Q. Does this conclude your rebuttal testimony?

11 A. Yes.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

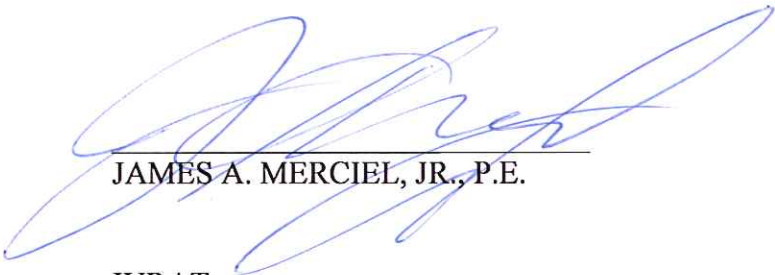
In the Matter of The Empire District Electric)
 Company, Liberty Utilities (Central) Co.) Case No. EM-2016-0213
 And Liberty Sub Corp. Concerning an)
 Agreement and Plan of Merger and Certain)
 Related Transactions)

AFFIDAVIT OF JAMES A. MERCIEL, JR., P.E.

STATE OF MISSOURI)
)
 COUNTY OF COLE) ss.

COMES NOW James A. Merciel, Jr., P.E., and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing Rebuttal Testimony; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

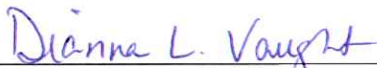


 JAMES A. MERCIEL, JR., P.E.

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 19th day of July, 2016.

DIANNA L. VAUGHT Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: June 28, 2019 Commission Number: 15207377



 Notary Public

Qualifications of

James A. Merciel, Jr., P.E.

My name is James A. Merciel, Jr. I am employed by the Missouri Public Service Commission as a Utility Regulatory Engineering Supervisor, in the Water and Sewer Department. My duties include reviewing and making recommendations with regard to certification of new water and sewer utilities including development of rates and rules, sales of utility systems to other utilities, formal complaint cases, and technical issues associated with water and sewer utility rate cases including quality of service matters, utility plant utilization, costs incurred for providing utility service, and tariff rules. In addition to formal case work, I handle informal customer complaints that are of a technical nature, conduct inspections and evaluations of water and sewer utility systems, and informally assist water and sewer utility companies with respect to day-to-day operations, planning, and customer service issues. In the past, I have supervised engineers and technicians in the water and sewer department working on the above-described type of case work and informal matters. I frequently participate in workshop and rulemaking sessions at the Missouri Department of Natural Resources, I served on the American Water Works Association Small Systems Committee for three years, and have served on the National Association of Regulatory Utility Commissioners Staff Subcommittee on Water since 1994.

I graduated from the University of Missouri at Rolla, now named the Missouri University of Science and Technology, in 1976 with a Bachelor of Science degree in Civil Engineering. I am a Registered Professional Engineer in the State of Missouri. I worked for a construction company in 1976 as an engineer and surveyor, began employment with the Commission in the Water and Sewer Department in 1977, and have held my current position since approximately 1979.

Following is a partial list of cases in which James. A. Merciel, Jr. has provided written or live testimony (excludes cases with filed reports or affidavit recommendations):

Algonquin Water Resources
WR-2006-0425

Aqua Missouri, Inc.
SC-2007-0044 – Lake Carmel expansion complaint by a land developer

Big Island – Folsom Ridge
WO-2007-0277 – Developer-owned utility

Bill Gold Investments, Inc.
WC-93-276 (11/5/93) – Receivership case

Blue Lagoon, LLC
SO-2008-0358 – Developer – owned utility

Camelot Utility Co.
WA-89-1 – contested certificate case

Capital City Water Co.
WR-94-297
WR-90-118
WO-89-76 – plant capacity study
WR-88-215
WR-83-165

Central Rivers Wastewater Utility, Inc.
SR-2014-0247

Davis Water Company
WC-87-125 and WC-88-288 - quality of service, lack of needed upgrades
Along with a proceeding in the Circuit Court in Wayne County approx 1988

Environmental Utilities, LLC
WA-2002-65 (11/2001) Certificate case

Finley Valley Water Company / Public Funding Corporation, City of Ozark
WM-95-423 – sale case

Gascony Water Company, Inc.
WA-97-510

House Springs Sewer Co.
SC-2008-0409 – customer formal complaint

Lake Region Water and Sewer Co.
SR-2010-0110 and WR-2010-0111
WR-2014-0461

Lake Saint Louis Sewer Co.
SR-78-142
SA-78-147 - expansion of service area
SC-78-257 - The Nine-Twelve Investment Co., et al Oak Bluff Preserve vs. Lake
Saint Louis Sewer co, regarding method of providing service.
SO-81-55 and Circuit Court in St. Charles County - alleged improper
discontinuance of service along with injunction., approx 1980 or 1981

Lincoln County Sewer & Water, LLC
SR-2013-0321 and WR-2013-0322

Merriam Woods Water Company
WC-91-18 and WC-91-268 – quality of service

Mill Creek Sewer System, Inc.

Proceeding by MO Attorney General in Circuit court in St. Louis County, Cause
No. 611261, 1998 DNR water pollution violations

Miller County Water Authority

WC-95-252 and Circuit Court in Camden County approx 1995 - Complaint by
Staff regarding operating without a certificate

Missouri American Water Company

WR-2015-0301

SA-2012-0066 (Saddlebrooke)

WR-2011-0337

WR-2008-0311 and SR-2008-0312

WR-2007-0216

WC-2006-0345 - Dione C. Joyner, Complainant

WR-2003-0500

WR-2000-281

WR-97-237/SR-97-206

WT-97-227 / WA-97-45 / WC-96-441 - Complaint by Water District 2 regarding
customers outside service area, and service area expansion

WA-97-46 – certificate case for St. Joseph wellfield

WR-95-205

WR-95-174

WR-93-212

WR-91-211

WR-89-265

WR-87-177

WR-85-16

Missouri Cities Water Company

WR-95-172/SR-95-173

WR-92-207

Proceeding in Circuit Court in Audrain County, CV192-40SCC approx 1992 city
of Mexico attempted acquire by condemnation of water system

WR-91-172/SR-91-174

WR-90-236

WR-89-178/SR-89-179

WC-88-280 – William J. Fox d/b/a Fox Plumbing vs MO Cities, service line/main
extension matter

WR-86-111/SR-86-112

WC-86-20 – Mexico Doctor's park, main extension

WR-85-157

WR-84-51

WR-83-15/SR-83-14

North Oak Sewer District, Inc.

SR-2004-0306

Osage Water Co.

WA-99-256 (8/5/99) - Lakeview Beach certificate case

WC-2003-0134 (10/31/02) - Receivership case

Raytown Water Company

WR-92-85 / WR-92-88

WR-94-211
Saline Sewer Co.
SR-79-187
SR-81-192
SR-82-206/SR-82-262
Southwest Village Water Company
WO-89-187 – quality of service
WC-89-138 (included testimony in Circuit Court in Greene County 1989)
St. Louis County Sewer Co.
SC-83-255 – complaints about stormwater inflow/infiltration
St. Louis County Water Company
WR-97-382
WR-96-263
WR-95-145
WR-94-166
WR-93-204
WR-91-361
WR-88-5
WR-87-2
WR-85-243
WC-84-29 – Dewey Eberhardt vs St. Louis County Water Co., fire protection
WR-83-264
WR-82-249
WC-79-251-Natural Bridge Development Corp vs. St. Louis County Water Co., -
meter accuracy/testing
Stoddard County Sewer Co.
SO-2008-0289 – receivership, transfer, etc.
Suburban Water and Sewer Co.
Injunction hearing, Circuit Court in Boone County 07BA-CV02632, June 2007
WC-2007-0452
WC-84-19 – service issues
United Water Missouri
WR-99-326
Villa Park Heights Water Co.
WA-86-58
Warren County Water and Sewer Co. -
Circuit court case in Warren County CV597-134CC, September 1997 dispute with
homeowners over a lot proposed to be a tank site
WC-2002-155 / SC-2002-260 - March 2002 Receivership case filed by the Office
of the Public Counsel
West Elm Place Corporation
Circuit court lawsuit case in Jefferson County, approx 1988 Customer's lawsuit
for damage from sewage backup