

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

In the Matter of the Application of Liberty)
Utilities (Missouri Water) LLC for Certificates of)
Convenience and Necessity Authorizing it to) Case Nos. WA-2020-0397
Install, Own, Acquire, Construct, Operate, Control,) and SA-2020-0398
Manage, and Maintain a Water System and Sewer)
System in Bolivar, Polk County, Missouri)

LEGAL ISSUE AND STATEMENT OF UNCONTESTED FACTS

COMES NOW Liberty Utilities (Missouri Water) LLC (“Liberty” or “Company”), and with the agreement of the Staff of the Commission (“Staff”) and the Office of the Public Counsel (“OPC”), being all of the parties to this proceeding, respectfully submits this List of Legal Issues and Statement of Uncontested Facts:

Legal Issue

Does Liberty meet the definition of a “large water public utility” under RSMo. §393.320.1(1)?

Statement of Uncontested Facts

1. On October 15, 2020, Liberty filed its request with the Commission to obtain CCNs authorizing Liberty to begin providing water and sewer service in Bolivar, Polk County, Missouri, pursuant to Missouri statutes §393.170 and §393.320 and Commission Rules 20 CSR 4240-2.060, 20 CSR 4240-3.305, and 20 CSR 4240-3.600 (the “Application”).
2. The areas for the requested sewer CCN and water CCN are described and depicted in Application Appendix B.
3. Liberty is a Missouri limited liability company with its principal office located at 602 Joplin Street, Joplin, Missouri, 64801, and provides water and sewer services to customers in its Missouri service areas, as certificated by the Commission.

4. Liberty is a “water corporation,” a “sewer corporation,” and a “public utility,” as those terms are defined by RSMo. §386.020 and, therefore, is subject to the general regulatory jurisdiction of the Commission as provided by law.

5. Liberty regularly provides water and/or sewer service to approximately 8,274 customer connections (approximately 7,636 water and approximately 638 sewer), with approximately 8,079 unique water/sewer customers.

6. Effective November 27, 2019, Liberty and the city of Bolivar, Missouri, executed an Asset Purchase Agreement (“APA”), a copy of which was attached to the Application as Appendix A.

7. Bolivar is a “small water utility” under RSMo. §393.320.1(2), as it is a “water system or sewer system owned by a municipality that regularly provides water service or sewer service to eight thousand or fewer customer connections.”

8. Pursuant to the APA, Liberty proposes to acquire substantially all operating assets currently used by Bolivar for its water and sewer operations.

9. The assets to be acquired are sufficient to allow Liberty to provide safe and adequate water and sewer service as requested.

10. Liberty is fully qualified, in all respects, to own and operate the water and sewer systems currently owned and/or operated by Bolivar and to otherwise provide safe and reliable sewer service to Polk County, Missouri.

11. Liberty has sufficient operating cash to sustain ongoing operations and is committed to providing regulated utility services to its customers for years to come. Further, the financial support and backing of Liberty’s parent companies demonstrates that Liberty has and will continue to have sufficient access to capital for ongoing operations and infrastructure needs.

12. On January 30, 2020, Liberty filed its initial Notice of Intended Case Filing regarding the Bolivar systems, opening Commission Case Nos. WA-2020-0215 and SA-2020-0216.

13. At the time the initial Notice of Intended Case Filing was submitted, an election was scheduled for April 7, 2020, for voters in Bolivar to be asked to approve the transfer of the water and sewer systems currently owned and operated by the city of Bolivar, Missouri, to Liberty.

14. Due to the COVID-19 pandemic, the Bolivar election was postponed from April 7 to June 2, 2020.

15. The election took place on June 2, 2020, and the citizens of Bolivar voted 743 to 448 in favor of transferring the water and wastewater systems and authorizing the city of Bolivar to enter into a franchise agreement with Liberty for water and sewer service.

16. On June 5, 2020, Liberty submitted a Notice of Intended Case Filing initiating these dockets (WA-2020-0397 and SA-2020-0398).

17. Following the filing of the Application by Liberty, Staff conducted discovery in this matter and investigated Liberty's Application and filed its Recommendation on April 16, 2021.

18. Staff concluded "that Liberty fulfills the requirements regarding [technical, managerial, and financial] capacities. Staff also finds that Liberty meets the first four Tartan Criteria; i.e., (1) there is a need for the service; (2) Liberty is qualified to provide the service; (3) Liberty has the financial ability to provide service; and (4) Liberty's proposal is economically feasible."

19. In addition to seeking the traditional CCNs, Liberty's Application seeks ratemaking treatment. Pursuant to RSMo. §393.320, the Application asks the Commission to set the ratemaking rate base for the Bolivar water and sewer assets.

20. With certain exceptions not applicable here, §393.320.1(1) defines a “large water public utility” as one that “regularly provides water service or sewer service to more than eight thousand customer connections.”

21. The appraisal process set forth in RSMo. §393.320.3 was followed by Liberty and Bolivar with regard to the Bolivar water and sewer assets, with the resulting appraisal, containing a joint assessment of the fair market value of the water system and the sewer system, attached to the Application as Appendix H.

22. The appraised value of the Bolivar water and sewer assets is less than the purchase price set forth in the APA.

23. With its Application, Liberty requests that “(t)he lesser of the purchase price or the appraised value, together with the reasonable and prudent transaction, closing, and transition costs” incurred by Liberty be established as “the ratemaking rate base” for the Bolivar water and sewer assets.

WHEREFORE, Liberty, with the agreement of Staff and OPC, being all of the parties to this proceeding, respectfully submits this Statement of Uncontested Facts.

Respectfully submitted,

/s/ Diana C. Carter

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 14th day of June, 2021, and sent by electronic transmission to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter