

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

In the Matter of Liberty Utilities (Missouri) File No. WR-2018-0170
Water) LLC’s Application for a Rate Increase.) SR-2018-0171

**MOTION TO STRIKE THE OFFICE OF THE PUBLIC COUNSEL’S
RESPONSE TO NON-UNANIMOUS STIPULATION AND AGREEMENT**

COMES NOW Liberty Utilities (Missouri Water) LLC (“Liberty Utilities” or the “Company”), by and through counsel, and, for its Motion to Strike Office of Public Counsel’s Response to Non-Unanimous Stipulation and Agreement (“Response”), states as follows to the Missouri Public Service Commission (“Commission”):

1. On August 3, 2018, Staff and Liberty Utilities filed a Nonunanimous Stipulation and Agreement. A long-standing practice rule of the Commission provides that “[e]ach party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. **Failure to file a timely objection shall constitute a full waiver of that party’s right to a hearing.**” 4 CSR 240-2.115(2)(B).

2. Despite the clear requirements of the rule that any party objecting to a non-unanimous stipulation filed such objection within 7 days of the filing of the stipulation, the Office of the Public Counsel (“OPC”) submitted its Response on August 13, 2018. The fact that OPC named its pleading “Response” instead of “Objection” is a difference without distinction because the substance of OPC’s pleading is clearly in the nature of an objection. Specifically, OPC attached to its pleading an affidavit of Keri Roth purporting to offer facts in opposition to the Non-Unanimous Stipulation and Agreement (“Agreement”) by and between the Commission’s staff and Liberty Utilities filed on August 3.

3. OPC's Response should be stricken from the record because not only is it late filed, it purports to offer the testimony of a fact witness beyond the time provided for the filing of prepared testimony set forth in the Commission's Order Setting Procedural Schedule and Other Procedural Requirements dated June 13, 2018 ("Scheduling Order"). Pursuant to the Scheduling Order, which OPC jointly proposed with the parties in the case, the last date for pre-filing testimony in this case was August 7, 2018.¹ Thus, OPC's filing is doubly late – first under 4 CSR 240-2.115(2)(B) and second, under the agreed-to Scheduling Order.

4. Because OPC's filing is out of time and no good cause has been identified to permit this late filing, it should be stricken from the record in this case.

WHEREFORE, for good cause shown, Liberty Utilities requests that the Commission strike OPC's Response for good cause shown.

Respectfully submitted,

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¹ See, Order Granting Silverleaf Resorts, Inc. and Orange Lake County Club, Inc.'s Motion to Strike, and Extending The Date for Filing Testimony dated August 2, 2018.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via electronic mail on this 14th day of August, 2018, to:

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