

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

In the Matter of Liberty Utilities (Missouri)
Water) LLC's Application for a Rate Increase.)

File No. WR-2018-0170
SR-2018-0171

**SILVERLEAF'S RESPONSE TO STAFF'S COMPLIANCE TARIFF
RECOMMENDATION**

Silverleaf Resorts, Inc. and Orange Lake Country Club, Inc. (herein "Silverleaf") file this response to Staff's Compliance Tariffs Recommendation pursuant to the "Order Extending Time" issued by the Commission on November 9, 2018:

1. On November 5, 2018, Liberty Utilities (Missouri Water), LLC (herein "Liberty Utilities") filed "compliance tariffs" pursuant to the Report and Order issued by the Commission in this case on October 24, 2018.
2. On November 8, 2018, Liberty Utilities, without an Order from the Commission, withdrew the November 5 compliance tariffs and on the same day Liberty Utilities filed "New Tariffs".
4. Also on November 8, 2018, Staff filed its "Motion for Extension" to file its recommendation on compliance tariffs. Staff explained in that motion that "it has found a few instances in which Staff believes the proposed sheets need to be revised for technical reasons, or to more accurately reflect the Commission's order." Staff Motion, Para. 3. According to Staff's position, Liberty Utilities compliance with the Commission's Report and Order is apparently not a binary (yes/no) question, but on a compliance continuum. Regardless, neither Staff, nor Liberty Utilities communicated with Silverleaf in this case as to the specifics of the "technical

reasons" or the more "accurate reflection" of the Commission Report and Order justifying these new, belated "compliance tariffs".

5. On November 15, 2018, Liberty Utilities filed new "Substitute" tariffs which ostensibly supersede all or portions of the November 8 "New" tariffs.

6. The November 15 new "Substitute" tariffs bear an "Issue Date" of November 8, 2018, despite the fact they clearly were not issued on November 8, 2018, but rather on November 15. Silverleaf suspects this was an intentional inaccuracy in order to comply with the 30-day notice requirement of Section 393.140(11).

7. On November 16, 2018, legal counsel for Silverleaf inquired of legal counsel for Liberty Utilities as to whether Liberty Utilities could provide Silverleaf a "red-line" comparison of the tariffs changes between the three (3) tariff filings: November 5 "compliance" tariffs, November 8 "New" tariffs, and the November 15 "Substitute" tariffs. That e-mail exchange is attached hereto as Schedule A. A red-line comparison showing tariff changes is a typical document provided by the utility so that other parties can be made aware of the actual changes to the document. Liberty Utilities, while providing a general explanation, has not provided a red-line comparison of the changes for the parties to review.

8. On November 16, the same day that Liberty Utilities, filed its new "Substitute" tariffs, Staff filed its Recommendation regarding the November 8, 2018 "new" tariffs filing. This is understandable as it would have been impossible for Staff to render a recommendation on tariffs that were filed the same day. However there has been no such recommendation regarding Liberty Utilities November 15 "substitute" tariffs, which are inaccurately marked as having been "issued" on November 8, 2018.

9. Silverleaf has maintained and continues to assert herein that Liberty Utilities tariffs are, in and of themselves, a "contested issue" in this case. Thus the Commission violated Silverleaf's rights to a "reasonable opportunity" for the "preparation and presentation of evidence bearing on any issue raised or decided or relief sought or granted" under Section 536.063, RSMo. The present situation both *compounds and exemplifies* the problem. Silverleaf has not only been denied an opportunity to "prepare and present" evidence on Liberty Utilities' filed tariffs, it is will be denied the opportunity to effectively review and analyze Liberty Utilities' third tariff filing in less than two weeks if the Commission does not act.

THEREFORE, Silverleaf Resorts, Inc. and Orange Lake Country Club, Inc. asks the Commission to suspend the tariffs filed by Liberty Utilities on November 15, 2018 and set a procedural schedule pursuant to Section 393.150 concerning the propriety of those rate schedules. In the alternative, Silverleaf asks the commission to order Liberty Utilities (Missouri Water), LLC to file tariffs with an accurate "issue date" and allow the parties at least fifteen days to review and analyze those tariffs, as well as for Staff to file a recommendation regarding the actual filed tariffs.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been e-mailed to all counsel of record this 19th day of November 2018.

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