

**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)	

**REPLY TO STAFF’S RESPONSE TO LIBERTY’S MOTION FOR
RECONSIDERATION AND/OR APPLICATION FOR REHEARING**

COMES NOW Liberty Utilities (Missouri Water) LLC (“Liberty” or “Company”) and respectfully submits this Reply to Staff’s Response to Liberty’s Motion for Reconsideration and/or Application for Rehearing that was filed herein regarding the *Order Denying Motion for Partial Summary Determination and Issuing a Determination on the Pleadings that Liberty is Not a Large Water Public Utility*, issued by the Missouri Public Service Commission (the “Commission”) on July 28, 2021 (the “Order”).

1. In conjunction with Staff’s Response to Liberty’s Motion for Reconsideration, Staff requests “an order from the Commission approving Liberty’s request for CCNs to install, own, acquire, construct, operate, control, manage and maintain a water and sewer system in Bolivar, Polk County, Missouri,” subject to certain conditions.

2. Liberty submits that a ruling on the CCN requests is premature and respectfully requests that the Commission first issue an order on Liberty’s Motion for Reconsideration. Liberty agrees that the requested CCNs are necessary and convenient within the meaning of RSMo. §393.170.3 and should be granted, but Liberty does not agree that a decision on the CCNs should be issued at this time and cannot agree to the conditions suggested by Staff, particularly with regard to the establishment of a ratemaking rate base in these CCN proceedings without application of RSMo. §393.320 and a finding that Liberty is a large water public utility.

3. As noted in Staff’s Response, **there is no dispute that Liberty, a public utility, regularly provides water service, sewer service, or water and sewer service to approximately 8,274 customer connections.** RSMo. §393.320 does not provide separate statutory provisions for large water public utilities and large sewer public utilities. Instead, with certain statutory exceptions not applicable here, **RSMo. §393.320 defines a “large water public utility” as a “public utility” that “regularly provides water service or sewer service to more than eight thousand customer connections”** and then provides that “(t)he procedures contained in this section may be chosen by a large water public utility, and if so chosen shall be used by the public service commission to establish the ratemaking rate base of a small water utility¹ during an acquisition.”

4. As such, and as detailed in Liberty’s Motion for Reconsideration, Liberty seeks reconsideration and/or rehearing of the *Order* on the basis that the Commission:

- a. improperly found that Liberty does not regularly provide water service or sewer service to more than eight thousand customer connections;
- b. improperly concluded that a company qualifies as a “large water public utility” only if it has either at least 8,001 sewer service customer connections or at least 8,001 water service customer connections; and
- c. failed to address the consequences and implications of the statutory interpretation set forth in the *Order*, particularly with regard to a public utility that provides both water and wastewater services and is acquiring water and wastewater assets via one fair market value appraisal.

¹ Like with the large public utility, there are not separate definitions for water and sewer for the small utility. A “small water utility” includes “entities that regularly provide water service or sewer service to eight thousand or fewer connections.” RSMo. §393.320(2).

5. A decision on Staff's request that CCNs be issued at this time, with Staff's suggested conditions, is premature, because Liberty first needs time to consider its options² with regard to the planned purchase of the Bolivar water and wastewater assets after issuance of the Commission's ruling on Liberty's Motion for Reconsideration. The asset purchase agreement with Bolivar was entered into in the context of the applicability of RSMo. §393.320. Additionally, without the application of RSMo. §393.320, it would be inappropriate for the Commission to make the requested ratemaking determination in these proceedings.

6. In CCN proceedings, the Commission traditionally considers the *Tartan* factors and determines if the requested CCN is necessary or convenient for the public service pursuant to RSMo. §393.170, but all contested ratemaking determinations are reserved for a future rate case where all relevant factors may be considered. RSMo. §393.320 provides an exception to this process by providing that, if selected by a large water public utility, the procedures in that section shall be used by the Commission to establish the ratemaking rate base of the assets being acquired. Without the application of that statutory provision, contested ratemaking decisions should be reserved for when the Commission has been presented with evidence on all relevant factors. In these CCN proceedings initiated pursuant to RSMo. §§393.170 and 393.320, the only evidence presented by Liberty regarding the value of the Bolivar water and wastewater assets was done so in line with the procedures set forth in §393.320.

WHEREFORE, Liberty respectfully requests an order of the Commission granting the Company's Motion for Reconsideration and/or Application for Rehearing and finding and

² Liberty is scheduled to meet with the Bolivar mayor, board, and city manager on August 24, 2021, to discuss the Commission's decisions in these proceedings and options now available regarding the Bolivar water and wastewater systems. A decision as requested by Staff would foreclose various options that would otherwise be available to Liberty and the city.

concluding that Liberty is a “large public water utility” under RSMo. §393.320, and, thereafter, grant the requested CCNs using the required statutory procedures. Liberty requests such additional relief as is just and proper under the circumstances.

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 23rd day of August, 2021, and sent by electronic transmission to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter