

In the Matter of:

THE APPLICATION OF LIBERTY UTILITIES (MISSOURI WATER) LLC, etc.

WA-2020-0397, VOL. I

May 10, 2021



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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Procedural Conference

May 10, 2021

Via WebEx

Volume 1

In the Matter of the Application)
Of Liberty Utilities (Missouri Water))
LLC, d/b/a Liberty Utilities for) File No. WA-2020-0397
Certificates of Convenience and)
Necessity Authorizing it to Install,)
Own, Acquire, Construct, Operate,)
Control, Manage and Maintain a Water)
System and Sewer System in Bolivar,)
Polk County, Missouri)

PAUL T. GRAHAM, Presiding
REGULATORY LAW JUDGE.

REPORTED BY:
Lisa M. Banks, CCR
TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

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P R O C E E D I N G S

1
2 JUDGE GRAHAM: We're on the record. Today is
3 May 10, 2021. The Commission has set this time for a procedural
4 conference in the case captioned: In the Matter of the
5 Application of Liberty Utilities (Missouri Water) LLC, d/b/a
6 Liberty Utilities for Certificates of Convenience and Necessity
7 Authorizing it to Install, Own, Acquire, Construct, Operate,
8 Control, Manage and Maintain a Water System and Sewer System in
9 Bolivar, Polk County, Missouri. And that is Case Number
10 WA-2020-0397.

11 My name is Paul Graham and I am the regulatory
12 law judge in this matter. And I think that we -- with us I
13 would like introduce today. I don't know that his name is up,
14 but I will tell you that I believe that we have with us the new
15 commissioner, Commissioner Glen Kolkmeyer, whom I have the honor
16 to introduce to the parties and their attorneys today. I
17 believe he was sworn in after being confirmed by the Senate
18 early last week. I think it was May 6th.

19 COMMISSIONER KOLKMEYER: Good morning, Judge.

20 JUDGE GRAHAM: Good morning. Is that
21 Commissioner Kolkmeyer that I'm hearing?

22 COMMISSIONER KOLKMEYER: Yes. Happy to join you
23 this morning.

24 JUDGE GRAHAM: Okay. Thank you for joining us
25 here. We will proceed. Now that we have informally identified

1 the attorneys, why don't the attorneys go ahead and formally
2 enter their appearance. For Liberty Utilities, since you are
3 the applicant here, do you want to go ahead and have the
4 attorneys enter their appearance please.

5 MS. CARTER: Thanks, Judge. This is Diana
6 Carter for Liberty.

7 JUDGE GRAHAM: Okay. And for the Office of the
8 Public Counsel?

9 MR. WILLIAMS: This is Nathan Williams, Chief
10 Deputy Public Counsel, P.O. Box 2230, Jefferson City, Missouri
11 65012 appearing on behalf of the Public and the Office of the
12 Public Counsel.

13 JUDGE GRAHAM: For the Staff of the
14 Commission?

15 MR. PRINGLE: Thank you, Judge. This is Travis
16 Pringle also joined by Mark Johnson, P.O. Box 360, Jefferson
17 City, Missouri 65102 appearing on behalf of Staff counsel.

18 JUDGE GRAHAM: Okay. Great. Before I turn this
19 over to you to have your conference together with each other,
20 are there any preliminary matters that we need to take up at
21 this time? I know that -- yeah. Go ahead Ms. Carter.

22 MS. CARTER: I am not real sure what direction
23 you are wanting us to take if you leave us to talk among
24 ourselves. I am not real sure what we are supposed to be
25 putting together at this point. Liberty had asked for a

1 decision on the legal issue, so we would know whether or not to
2 move forward with the rest.

3 JUDGE GRAHAM: Right. I had started to say
4 something about that before you began to speak. I realize that
5 Liberty has before the Commission a motion for a ruling.
6 Ms. Carter, correct me if I am wrong, but it's my understanding
7 without looking at the motion again right now, that basically
8 its thrust is to go ahead and try and get a ruling from the
9 Commission on the question of whether Liberty is a large or
10 small public utility water -- or a large or small water utility
11 at this point. Am I saying that right?

12 MS. CARTER: Yes, Judge.

13 JUDGE GRAHAM: I'm sorry. I fumbled up the
14 words there, but that is the thrust of it. And Liberty has
15 asked for a ruling on that now. What we would like for you to
16 do, folks, is go ahead and put together for us a proposed
17 procedural order that contemplates that the Commission will take
18 that ruling or take that question up at some point. Suggest to
19 us a schedule for briefings. Put into your procedural schedule
20 please or contemplate in your conference here, putting something
21 in there to the effect that you will be proposing to us
22 stipulated facts at some point. Put into your procedural
23 schedule a proposal that puts before us everything that you
24 think that we will need, that you believe that we will need to
25 rule on the question, the question of whether Liberty is a small

1 or a large water utility. And put into your procedural schedule
2 a schedule that contemplates that we will for one reason or
3 another perhaps have to take this thing all the way through to
4 an evidentiary hearing. You're not supposed to answer that
5 question out loud. I guess there are no more questions.

6 MS. CARTER: I'm sorry, Judge. I am not sure I
7 heard the question.

8 JUDGE GRAHAM: My question was and I am sorry
9 I'm juggling here between my computer and my telephone because I
10 never did figure out how to get audio so that I can hear you, so
11 I am fumbling around with gadgets on my desk here.

12 But what I asked was whether I was clear with my
13 directives to you? I want you to put together a proposed
14 procedural schedule here that contemplates that we will be, of
15 course, ruling on this question whether you -- whether Liberty
16 is a large company, a large water utility. I asked you to
17 contemplate in your schedule proffering to us, filing with us a
18 proposed stipulation of undisputed facts. And I asked you to
19 take into consideration or ask us -- put before us all of the
20 stipulated facts that we would need fully to rule on this
21 question.

22 We don't want to get down into dealing with this
23 motion and find that there is a hypothetical or a real question
24 about the facts at some point. Am I making sense with that? Do
25 you have questions with that?

1 MS. CARTER: No, Judge. My only question would
2 be view it that we also take it to an evidentiary hearing. From
3 my perspective there wouldn't be anything for an evidentiary
4 hearing; it would just being legal argument. Is that what you
5 are wanting us to include then is a date for oral arguments?

6 JUDGE GRAHAM: Well, assume that we are going
7 have to take evidence. I understand your position, Ms. Carter.
8 I have reviewed the file thoroughly. I have reviewed your
9 motion. I have reviewed the Staff's report. I have reviewed
10 the Company's response to that report and your motion for a
11 ruling. I've reviewed those matters thoroughly and I do
12 understand your point. I understand specifically the point that
13 you are making that it is difficult perhaps to conceive what
14 facts there going to be left for the Commission to rule on.
15 Nevertheless, at this point put together for us a proposed
16 procedural schedule that contemplates an evidentiary hearing
17 that contemplates briefing, that contemplates oral argument.
18 You put that together and then we, the Commission, will issue a
19 procedural schedule that takes these things into consideration
20 and implicitly rules on some of these preliminary matters that
21 you've put before us. Okay?

22 MR. WILLIAMS: Judge, this is Nathan Williams.
23 Are you suggesting that we put together a schedule that includes
24 a ruling on the questions of law before there would be a hearing
25 in the case, an evidentiary hearing?

1 JUDGE GRAHAM: Yes. Yes. But I am also asking
2 you to take into consideration the possibility that we will
3 choose not to rule on that issue before an evidentiary hearing.
4 Does that make sense? Leave both options open. We may rule
5 before; we may rule after. It is as simple as that. Okay?

6 MR. PRINGLE: Judge Graham, this is Travis
7 Pringle from Staff. Going back to we had those Grainbelt
8 procedural schedules last year. Do you want anything in there
9 similar to that where we have a pause, like a suspension of the
10 procedural schedule until an order on 393200 is delivered?

11 JUDGE GRAHAM: No. I do not want a pause in
12 there.

13 MR. PRINGLE: Okay.

14 JUDGE GRAHAM: The Commission after it looks at
15 your proposed procedural schedule may put a pause in there, but
16 I don't want to anticipate that at this point. Any other
17 questions?

18 MR. WILLIAMS: I will ask one. Do you have an
19 anticipated time frame by which there would be a hearing in
20 mind?

21 JUDGE GRAHAM: I do not, but I cannot conceive
22 why this would have to be -- (audio distortion) for any reason.

23 COURT REPORTER: This is the court reporter.
24 Could you repeat that, Judge?

25 JUDGE GRAHAM: Yes, I am sorry, Ms. Court

1 Reporter. I cannot see why the schedule on this would be
2 protracted for any reason. So, I mean, I am not suggesting to
3 you that you make it any more expedited than you are
4 comfortable. But we could move this thing along pretty quickly,
5 I think. Don't you? Any other questions? Okay. When can I
6 see -- when can I expect to see a proposed procedural order?

7 MS. CARTER: I think a week from today. Does
8 that sound good?

9 JUDGE GRAHAM: Sure. That sounds fine if it is
10 fine with everybody else.

11 MS. CARTER: Hopefully sooner, but that will
12 give us time just in case.

13 JUDGE GRAHAM: All right. A week from today
14 would be May 17th. And if there are no other preliminary
15 matters to discuss, I am going to leave. We do have a host. I
16 think someone is taking over that duty so that when I
17 disconnect, the rest of you will be able to continue to confer
18 with each other. Thank you very much folks. We are going off
19 the record.

20 (OFF THE RECORD.)
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CERTIFICATE OF REPORTER

I, Lisa M. Banks, CCR within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Lisa M. Banks, CCR No. 1081

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