

In the Matter of:

THE APPLICATION OF LIBERTY UTILITIES MISSOURI WATER, LLC, d/b/a, etc.

WA-2020-0397, VOL. II

November 18, 2021



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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Procedural Conference (via WebEx)

November 18, 2021

Jefferson City, Missouri

Volume 2 Page 11

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In the Matter of the)	
Application of Liberty)	
Utilities (Missouri Water))	
LLC, d/b/a Liberty Utilities))	
for Certificates of)	WA-2020-0397
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)	

JUDGE PAUL GRAHAM
REGULATORY LAW JUDGE

Reported by:
Darlene Foots, CCR No. 1228
Tiger Court Reporting, LLC

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P R O C E E D I N G S

JUDGE GRAHAM: Let's go on the record.

Commission has set this time for a procedural conference, and the case captioned is In the Matter of the Application of Liberty Utilities, (Missouri Water) LLC d/b/a, Liberty Utilities for Certificate 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. The file number is WA-2020-0397, which was consolidated, just to state the full record, on October 16, 2020 with file number, looks like SA-2020-0398.

My name is Paul Graham, I'm the regulatory law judge in this matter, and I have the attorneys making their entries of appearance. I believe we have Diane Carter here for Liberty; is that right?

MS. CARTER: Yes, this is Diana Carter for Liberty.

JUDGE GRAHAM: Okay. And Mr. Thompson is here for the staff of the Missouri Public Service Commission; is that right?

MR. THOMPSON: That is correct. Kevin Thompson for the staff and the commission, PO Box 360, Jefferson City, Missouri, 65102.

1 JUDGE GRAHAM: Thank you very much. And we
2 have Nathan Williams here for the office of -- for OPC?

3 MR. WILLIAMS: Yes, and my address is PO Box
4 2230, Jefferson City, Missouri, 65102.

5 JUDGE GRAHAM: Okay. And I don't believe I've
6 missed anybody. I think we've got all the players here.

7 We are here for a procedural conference.
8 Before I get off the line with you, are there any
9 preliminary matters or things that you want me to try to
10 address?

11 MS. CARTER: Judge, we submitted a global
12 stipulation that may be treated by the Commission as
13 unanimous. And so I feel that needs action maybe before
14 we do anything else that we shouldn't need a procedural
15 schedule. Hopefully that stipulation will be approved
16 as a complete resolution of the case.

17 JUDGE GRAHAM: Well, let me look at the file
18 here, Ms. Carter. I'm obviously not up to speed this
19 morning. This has been -- I do not show it -- oh, yes I
20 do. This came in on the 12th. This came on the 12th
21 six days ago. Goodness, gracious. Let me open that up
22 a second, I'm not going to comment on it, but let me see
23 what we have here.

24 I understand now. Mr. Williams called in or
25 his email in this morning as to whether this thing was

1 still on. Okay. All right, friends. Well, I don't see
2 any reason to go forward with -- are you all in
3 agreement, we can cancel the procedural conference? I'm
4 assuming you all are.

5 Yes, sir.

6 MS. CARTER: Yes.

7 MR. WILLIAMS: Judge, I'm not sure if the
8 commission has a concern about evidence or will want to
9 conduct them on the record. But in terms of a
10 procedural conference in anticipation of litigating
11 this, yes, we agree there is no need for that.

12 JUDGE GRAHAM: Okay. Well, I see from the
13 stipulation that's been filed here that OPC is not a
14 party to it, but does not object to the commission's
15 approving, which does not speak to the question of
16 whether the commission might want an evidentiary hearing
17 or an oral presentation from the parties on it.

18 Let me look a little further, not that I'm
19 going to actually answer that question, but now that
20 we're all together, let me take a look and see.

21 MR. WILLIAMS: Well, if I'm not mistaken, it
22 does not address putting into the record as evidence the
23 verified application or the verified staff
24 recommendation.

25 JUDGE GRAHAM: Okay. And I think I understand

1 what you're getting at there.

2 I'm still here.

3 Well, I don't know, and if I didn't know I
4 wouldn't tell you whether the commission is going to
5 want to have an oral hearing on this. But to the extent
6 that that question bears upon whether we need to do
7 anything here today, I don't think so. And I think
8 you're all in agreement we can just continue this
9 procedural conference, and if we need to reset it we
10 will. But I don't see why we would need a procedural
11 conference if the only thing we're doing is setting this
12 thing for a hearing for a presentation, an oral
13 presentation of this.

14 I take it from what Nathan was saying there,
15 Mr. Williams was saying a minute ago, that I think he
16 was speaking, if I may speak for him, to the possibility
17 that we may want to take some evidence, and I think the
18 opinion was that of this coming in here they'll require
19 that.

20 Okay. If nothing else is going on, any
21 further comments from anybody, we will adjourn.

22 MS. CARTER: Judge, if I may. If we can
23 clarify if OPC is actually requesting that. I think
24 Nathan was just saying we don't know what the commission
25 will do yet on this stip. The company, we would not be

1 requesting that other than if this stip is approved, we
2 would ask that the final documents be admitted into the
3 record. Again, it should be treated as -- it can be
4 treated as a unanimous stipulation under the
5 commission's rules.

6 JUDGE GRAHAM: I was wondering about that. I
7 don't know if we need an evidentiary hearing for that,
8 though, any more than we would -- I'm looking at a
9 stipulation here in itself is unverified, not
10 necessarily that I would expect to see a verified
11 stipulation. But we have a global stipulation here, and
12 I guess the concern is that what it refers to documents,
13 which would in the ordinary course of things be
14 considered evidence and would have to be received. Is
15 that what you folks are wondering about here?
16 Ms. Carter?

17 MS. CARTER: I'm not wondering about anything,
18 to be honest. I was hoping this stip could be approved
19 as a unanimous stip, complete resolution of the case and
20 then that would be it.

21 JUDGE GRAHAM: I don't see anything, and
22 again, I apologize for not realizing that this was in
23 here. I'm kind of wondering how that happened. It came
24 in on Friday and I wasn't here when it came in, but I've
25 seen it. But I'm not seeing anything here as I look

1 through it that surprise me as taking it out of the
2 ordinary course of what we do with stipulations.

3 Is somebody else piping up there trying to
4 speak? Mr. Williams, do you have anything to add?

5 MR. WILLIAMS: It's just been my experience
6 that the commission often wants evidence to support what
7 it does in an order.

8 JUDGE GRAHAM: It often does. Let me just --

9 MR. WILLIAMS: Counsel would not oppose to
10 stipulating into a record the staff recommendation in
11 the application, both of which I believe are verified.

12 JUDGE GRAHAM: Ms. Carter, what's your
13 position on that? Do you have any problem with that?

14 MS. CARTER: No, I think that would be great.

15 JUDGE GRAHAM: Well, the reason I ask, I'm
16 looking back to this record. Has the staff filed
17 anything in this record other than it's initial
18 recommendation that parts of what Liberty wanted be
19 denied. Am I making sense of that question?

20 MR. THOMPSON: Staff is of the opinion that
21 all outstanding issues are resolved within the
22 stipulation and agreement.

23 JUDGE GRAHAM: I understand that. The
24 question really is directed to Ms. Carter. Now that
25 we're doing this, I'd like to make sure before we end

1 this. The recommendation that I'm looking at is the one
2 that's dated April 16. Is that the right one? I don't
3 think there's been any other one.

4 MS. CARTER: That would be it, Judge. We
5 reached a compromised position with the global
6 stipulation.

7 JUDGE GRAHAM: I understand that, but I also
8 understand that you're in agreement that this item, this
9 staff recommendation can come into evidence --

10 MS. CARTER: Yes.

11 JUDGE GRAHAM: -- if we need evidence.

12 MS. CARTER: Yes.

13 JUDGE GRAHAM: Yes. And this recommendation
14 includes staff's objections to the applicability of
15 393.320. And I'm sure, Ms. Carter, you're aware of
16 that. But I just want to make sure that when you say
17 this can come in -- and I'm not going to -- this is kind
18 of an informal thing here today, nobody is going to hold
19 you to this, but while we're moving forward and trying
20 to determine -- this thing today and schedule it and
21 what we're looking at here, I'd like some clarification
22 here. We're saying that this staff report can come in
23 through evidence, if somebody wants evidence, with this
24 objection in it. The problem with that right now --
25 (audio cut out).

1 MS. CARTER: Judge, I believe we're all in
2 agreement that the verified application and staff's
3 verified recommendation could be admitted into the
4 record.

5 JUDGE GRAHAM: Well, if I were on the other
6 side of this case and not the judge I would probably say
7 something like that. I'm not trying to create a
8 problem. But these words are in this report.

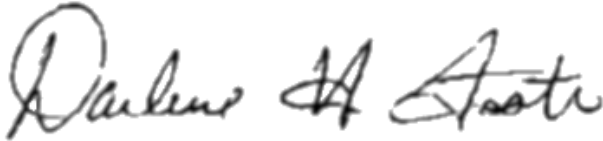
9 Okay. Anything else folks?

10 Okay. We will conclude this procedural
11 conference. I really liked it, thank you very much.
12 Bye-bye.

13 (Off the record.)
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REPORTER'S CERTIFICATE

I, DARLENE A. FOOTTS, Certified Court Reporter within and for the State of Missouri, do hereby certify that the proceedings contained on the foregoing pages was taken by me and contain a true and accurate transcription, to the best of my ability, of the remote proceedings and thereafter transcribed by me.



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