

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

In the Matter of an Investigation into the)
Operation and Condition of Liberty Utilities)
(Missouri Water), LLC d/b/a Liberty Utilities)

Case No. WO-2022-0XXX
Case No. SO-2022-0XXX

STAFF’S MOTION TO OPEN AN INVESTIGATORY DOCKET

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), through counsel, and moves the Commission for an order opening an investigatory docket concerning the operation and condition of Liberty Utilities (Missouri Water), LLC d/b/a Liberty Utilities (“Liberty”). Staff states in support of this motion:

1. The Missouri Public Service Commission (“Commission”) is an agency of the State of Missouri charged with the general supervision of investor-owned utilities,¹ including the promulgation and enforcement of rules that promote and safeguard the public health and safety.²

2. Liberty is a Missouri limited liability company in good standing. Its principal place of business and registered office is located at 602 S. Joplin Ave., Joplin, Missouri 64801. Its registered agent is CT Corporation System, 120 S. Central Ave., Clayton, Missouri 63105. Liberty is a regulated public utility under the Missouri Public Service Commission’s jurisdiction.

3. Liberty provides water service to approximately 12,300 connections in Butler, Christian, Franklin, Jefferson, Lawrence, McDonald, Polk, Stone, Taney, and Wayne Counties in Missouri. Liberty provides sewer service to

¹ Section 396.250, RSMo.

² Section 386.310, RSMo.

approximately 5,400 connections in Cape Girardeau, Christian, Jefferson, Polk, Stoddard, and Stone Counties in Missouri.

4. Staff recently became aware of issues regarding the condition of Liberty's assets, which directly affects the company's ability to provide safe and adequate service. At least three of Liberty's sewer systems (R.D., Savers Farm, and Cape Rock Village) are not compliant with Department of Natural Resources ("DNR") permit limits, according to information DNR provided. For example, Savers Farm was in compliance when Liberty obtained it in early 2020, but by late 2020 it was no longer meeting limits, and this remains unresolved. The R.D. and Cape Rock Village sewer systems have been noncompliant for at least three years. During inspections, Staff also witnessed apparent failures to repair or upgrade systems, such as the cracked and leaking drinking water storage tank serving the Noel system. DNR engineering staff have stated that major upgrades are necessary at some of Liberty's systems. This failure to provide safe and adequate service to over 350 customers causes Staff to be concerned about Liberty's decision making and budgeting processes.

5. On October 24, 2018, the Commission adopted the terms of a *Partial Disposition Agreement and Request for Evidentiary Hearing* ("Agreement") that Staff filed on behalf of itself, Liberty and the Office of Public Counsel ("OPC") on May 24, 2018 in Case No. WR-2018-0170, which was Liberty's most recent rate case.³ In the Agreement, the parties reached agreement on issues regarding customer service and operations. Staff continues to be concerned about issues that the Commission and

³ *Report and Order*, WR-2018-0170, P. 53 (Oct 24, 2018).

Staff found during Case No. WR-2018-0170 involving inconsistent customer counts, the accuracy of information sent to customers, and accounting practices.

6. Regarding customer counts, Customer Experience Department Staff stated in its report in Case No. WR-2018-0170 that Liberty provided inconsistent customer counts. For example, in response to Staff DR 7, Liberty stated that it provided water and sewer service to 2,404 customers in December 2016 and to 2,367 customers in December 2017. In contrast, in its response to Staff DR 52, Liberty stated that it had 2,845 customers at the end of 2016 and 2,781 customers at the end of 2017.⁴ Accurate customer counts are vital to ensure that the correct customers are billed for Liberty service. Due to Liberty's discrepancies in reporting the numbers of its customers, Staff is concerned whether Liberty is billing the correct customers.

7. Customer Experience Department Staff also noted in its report that Liberty presented inaccurate information on its website and that providing accurate and consistent information is essential for customers being able to conduct business with Liberty.⁵ As part of the Agreement, Liberty promised to review information on its website and correct inaccurate statements within 30 days of the effective date of the Commission's approval of the Agreement.⁶ However, providing accurate information to customers is a continuing duty, and Staff is concerned whether Liberty is communicating accurately and effectively with its customers, including communications regarding boil notices and repair work.

⁴ *Customer Experience Dept. Final Report*, WR-2018-0170, unnumbered P. 2 (May 24, 2018). (attached to *Partial Disposition Agreement and Request for Evidentiary Hearing*).

⁵ *Id.* at unnumbered P. 7.

⁶ *Partial Disposition Agreement*, WR-2018-0170, P. 2 (May 24, 2018) (attached to *Partial Disposition Agreement and Request for Evidentiary Hearing*).

8. Both the Commission and its Staff observed accounting irregularities during Case No. WR-2018-0170. The Commission decided that Liberty did not keep separate operating books for its seven KMB systems, and Staff developed an allocation process to separate the systems in order to determine each's cost of service revenue requirement.⁷ Further, Staff observed that Liberty did not maintain its books in accordance with the Commission's adopted version of the National Association of Regulatory Utility Advisors (NARUC), Uniform System of Accounts (USOA). The Commission has authority to prescribe uniform methods of keeping accounts.⁸ The Commission adopted the 1973 version of the water USOA⁹ and the 1976 version of the sewer USOA.¹⁰ However, Liberty set its books and records up according to the 1996 versions, creating issues with the consistency and accuracy of Liberty's accounting. Audit Staff recommended that Liberty keep separate books and records for each water and sewer system and maintain its books and records in accordance with the Commission's adopted versions of the USOA.¹¹ Staff is concerned whether Liberty has corrected its accounting irregularities and whether it is maintaining its books consistently with Commission rule.

9. In the Agreement in Case No. WR-2018-0170, the parties agreed that Staff may conduct follow-up review of Liberty's operation to ensure that it complies with

⁷ *Report and Order*, WR-2018-0170, P. 17 (Oct 24, 2018). See also *Review and Audit of Liberty Utilities (Missouri Water), LLC (Water) d/b/a Liberty Utilities*, WR-2018-0170, P. 3-4 (June 22, 2018) (attached to *Direct Testimony of Paul R. Harrison*).

⁸ Section 393.140(4), RSMo.

⁹ 20 CSR 4240-50.030(1).

¹⁰ 20 CSR 4240-61.020(1).

¹¹ *Direct Testimony of Paul R. Harrison*, WR-2018-0170, 7:3-18 (June 22, 2018) and *Review and Audit of Liberty Utilities (Missouri Water), LLC (Water) d/b/a Liberty Utilities*, WR-2018-0170, P. 3, 15 (June 22, 2018) (attached to *Direct Testimony of Paul R. Harrison*).

Agreement provisions.¹² Staff and Liberty have been in communication on issues described in this motion, but due to their seriousness, Staff believes that a formal investigation is appropriate at this time.

10. Section 393.140(1), RSMo grants the Commission general supervision of regulated utilities, and §393.140(2), RSMo authorizes the Commission to “examine or investigate the methods employed by such persons and corporations ... in supplying and distributing water for any purpose whatsoever, and in furnishing a sewer system.”

11. A formal investigation will allow Staff to ascertain the status of Liberty’s ability or willingness to provide safe and adequate service and comply with Missouri law and the Commission’s rules and orders.

WHEREFORE, Staff requests that the Commission issue an order to open an investigatory docket into Liberty’s operation and condition, and upon the conclusion of its investigation, Staff will submit a report of its findings to the Commission and shall recommend any necessary and desirable improvements.

Respectfully submitted,

/s/ Karen E. Bretz

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¹² *Partial Disposition Agreement*, WR-2018-0170, P. 3 (May 24, 2018) (attached to *Partial Disposition Agreement and Request for Evidentiary Hearing*).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been electronically mailed to all parties and/or counsel of record on this 23rd day of March, 2022.

/s/ Karen E. Bretz