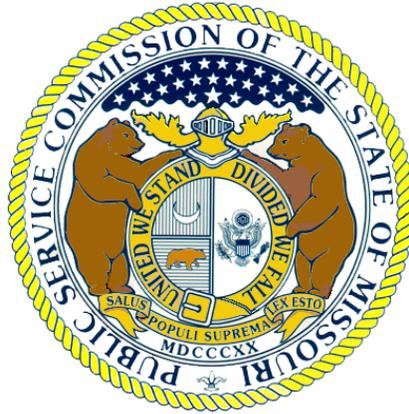


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Application of Rate)
Increase Request for Liberty Utilities)
(Missouri Water), LLC d/b/a Liberty Utilities)

File No. WR-2018-0170

REPORT AND ORDER

Issue Date: October 24, 2018

Effective Date: November 3, 2018

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(Missouri Water), LLC d/b/a Liberty Utilities)

REPORT AND ORDER

APPEARANCES

LIBERTY UTILITIES (MISSOURI WATER), LLC d/b/a LIBERTY UTILITIES:

Paul A. Boudreau, Brydon, Swearingen & England, P.C., 312 East Capitol Avenue, P.O. Box 456, Jefferson City, Missouri 65102

THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION:

Jacob Westen, Deputy Counsel, **Alexandra Klaus**, Legal Counsel, P.O. Box 360, Governor Office Building, 200 Madison Street, Jefferson City, Missouri 65102

THE OFFICE OF THE PUBLIC COUNSEL:

Lera Shemwell, Senior Public Counsel, **Caleb Hall**, Counsel, P.O. Box 2230, Jefferson City, Missouri, 65102

ORANGE LAKE COUNTRY CLUB, INC. AND SILVERLEAF RESORTS, INC.:

Joshua Harden, Stinson Leonard Street, 1201 Walnut St., Suite 2900 Kansas City, Missouri 64106

OZARK MOUNTAIN CONDOMINIUM ASSOCIATION:

Sarah E. Giboney, Smith Lewis, P.O. Box 918, 111 South Ninth Street, Suite 200 Columbia MO 65205

REGULATORY LAW JUDGE: John T. Clark

I. Procedural History

A. Case Filing and Consolidation

Liberty Utilities (Missouri Water), LLC d/b/a Liberty Utilities (“Liberty Utilities” or “Liberty”) provides water service to approximately 1,954 connections in Cape Girardeau, Franklin, Jefferson, McDonald, Stone and Taney Counties in Missouri.¹ Liberty Utilities provides sewer service to approximately 416 connections in Cape Girardeau, Franklin, Jefferson, Stone and Taney Counties in Missouri.² Liberty Utilities is a public utility,³ and water corporation,⁴ and a sewer corporation,⁵ and a regulated utility under the Missouri Public Service Commission’s jurisdiction

On December 15, 2017, Liberty Utilities filed a letter with the Missouri Public Service Commission (“Commission”) requesting that the Commission approve increases in its annual water and sewer operating revenues, which resulted in the Commission opening two cases, File Nos. WR-2018-0170 and SR-2018-0171. Liberty Utilities requested an increase of \$995,844 in its annual water system operating revenues and an increase of \$196,617 in its annual sewer system operating revenues.⁶ The case was initiated under Commission Rule 4 CSR 240-3.050, Small Utility Rate Case Procedure, which describes the procedures by which small utilities, such as Liberty Utilities, may request increases in their overall annual operating revenues. This rule, while now rescinded and replaced with Commission Rule 4 CSR 240-10.75

¹ Exhibit No. 1, Schwartz Direct, Page 3.

² Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 1.

³ Section 386.020(43).

⁴ Section 386.020(59).

⁵ Section 386.020(49).

⁶ EFIS No. 1, Request for Increase

(effective starting May 30, 2018), was effective when Liberty Utilities requested an increase and was used in this case. Under the Small Utility Rate Case Procedure a water or sewer company serving 8,000 or fewer customers may initiate a rate case by filing a letter requesting an increase with the secretary of the Commission.

On January 13, 2018, Liberty Utilities filed a *Motion to Consolidate*, which requested that the Commission consolidate the two cases because they involved related questions of law and fact under Commission Rule 4 CSR 240-2.110(3). The Commission granted the motion, consolidating both cases under File No. WR-2018-0170.⁷

B. Intervention

Orange Lake Country Club, Inc. and Silverleaf Resorts, Inc. (collectively “Silverleaf”) and Ozark Mountain Condominium Association (“OMCA”) filed motions to intervene pursuant to Commission Rule 4 CSR 240-2.075. Both Silverleaf and OMCA were granted intervention.⁸

C. The Partial Disposition Agreement

On May 24, 2018, the Staff of the Missouri Public Service Commission (“Staff”), filed a *Partial Disposition Agreement and Request for Evidentiary Hearing* (“Partial Disposition Agreement”). Staff, Liberty, and the Office of the Public Counsel (“OPC”) reached agreement on some of the issues related to Liberty Utilities’ rate increase request. The Partial Disposition Agreement was a partial resolution of Liberty Utilities water and sewer rate requests but left unresolved certain other issues for determination

⁷ EFIS No. 7, Order Consolidating Cases.

⁸ EFIS Nos. 8 and 12, Order Granting Applications to Intervene.

after an evidentiary hearing. The Partial Disposition Agreement states that the unresolved issues include: “(a) revenue requirement, (b) return on equity, (c) capital structure, (d) rate base, (e) rate case expense, (f) rate design and rate consolidation, and (g) compliance with § 393.140(4) RSMo, 4 CSR 240-50.030(1) and 4 CSR 204-61.020(1), the use of The Uniform System of Accounts.” Among the issues resolved in the Partial Disposition Agreement were some customer service issues, and depreciation issues. No objections to the Partial Disposition Agreement were received and the Commission finds reasonable and adopts the resolution of the issues contained therein.

D. Local Public Hearings

The Commission conducted local public hearings in Pineville and Branson Missouri on July 23, 2018, and in Pacific Missouri on July 25, 2018. At the conclusion of the local public hearings, the Commission had received the sworn testimony of nine witnesses, and admitted two exhibits onto the record. All of the parties were given the opportunity to cross-examine the witnesses.

E. The Non-Unanimous Stipulation and Agreement

On August 3, 2018, Liberty Utilities and Staff filed a *Non-Unanimous Stipulation and Agreement*.⁹ The agreement resolved most of the remaining issues between Liberty and Staff including revenue requirement, return on equity, and rate design. It left unresolved rate case expense and certain customer service issues.

Commission Rule 4 CSR 240-2.115(2) allows a party seven days from the filing of a non-unanimous stipulation and agreement to file an objection to it. Any party failing to file a timely objection waives its right to a hearing. Additionally if no party timely

⁹ EFIS No. 72, Non-Unanimous Stipulation and Agreement.

objects, the Commission may treat the non-unanimous stipulation and agreement as unanimous. Objections to the *Non-Unanimous Stipulation and Agreement* were due by August 10, 2018.

On August 13, 2018, Staff filed a *Notice of no Objections to Non-unanimous Stipulation and Agreement, Request to Modify Hearing Schedule, and Motion for Expedited Treatment*.¹⁰ Staff asked to modify the evidentiary hearing schedule to include only three issues: rate case expense, customer service issues, and adoption of the stipulation and agreement.

On August 13, 2018, OPC filed a response to Staff's notice of no objections, and later a clarification, stating that it did not oppose but does not support the *Non-Unanimous Stipulation and Agreement*. OPC did not oppose the overall revenue requirement, but was concerned that the information in the stipulation was incomplete, in that it contained a stated return on equity without an associated capital structure.

Also on August 13, 2018, Silverleaf filed a response to Staff's notice of no objections, stating that it did not support the return on equity or the lack of a capital structure, and therefore did not support the stipulation and agreement. It did not, however, specifically object to the *Non-Unanimous Stipulation and Agreement*.

Also on August 13, 2018, OMCA filed its *Objection to Non-Unanimous Stipulation and Agreement and Request for Leave to Late file Same*, stating that the public interest would be better served by deciding the case after a hearing on the merits.

Liberty Utilities filed objections to OMCA's request and a motion to strike OPC's response. The motion to strike OPC's response is denied.

¹⁰ EFIS No. 90, Notice of No Objections to Non-Unanimous Stipulation and Agreement, Request to Modify Procedural Schedule, and Motion for Expedited Treatment.

No party objected within seven days; therefore, no party timely objected to the Non-Unanimous Stipulation and Agreement. Nevertheless, the Commission agrees that given the late objections to the *Non-Unanimous Stipulation and Agreement* by multiple interveners and the concerns of OPC, the public interest would be best served by issuing a decision on the merits. The Commission is treating the *Non-Unanimous Stipulation and Agreement* as non-unanimous.

At the evidentiary hearing on August 16, 2018, objections and arguments regarding the *Non-Unanimous Stipulation and Agreement* were taken under advisement. Counsel for Liberty Utilities indicated that he was operating under the assumption that the *Non-Unanimous Stipulation and Agreement* was a joint recommendation of the signatories,¹¹ and counsel for Staff indicated that Staff viewed it a joint position statement of Staff and the company.¹² Accordingly, the Commission is treating the *Non-Unanimous Stipulation and Agreement* as the position statement of both Staff and Liberty Utilities

F. Test Year

The test year is a central component in the ratemaking process. Rates are usually established based upon a historical test year, which focuses on four factors: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be earned; (3) the depreciation costs of plant and equipment; and (4) allowable operating expenses.¹³ From these four factors is calculated the “revenue requirement,” which is the amount of revenue ratepayers must generate to pay the

¹¹ Transcript, Page 44.

¹² Transcript, Page 51.

¹³ *State ex rel. Union Electric Company v. Public Service Comm'n*, 765 S.W.2d 618, 622 (Mo. App. 1988).

costs of producing the utility service they receive while yielding a reasonable rate of return to the investors.¹⁴ A historical test year is used because the past expenses of a utility can be used as a basis for determining what rate is reasonable to be charged in the future.¹⁵ Staff used a test year of the twelve months ending June 30 2017, with an update period through November 30, 2017, to annualize the available revenue and expense information and develop its revenue requirement recommendation.¹⁶

G. Motion to Strike Testimony of Keith Magee

On August 8, 2018, Counsel for Silverleaf filed a *Motion to Strike the Surrebutal Testimony of Keith Magee and Motion for Expedited Treatment*.¹⁷

On August 9, 2018, Liberty Utilities filed its *Response of Liberty Utilities to Motion to Strike the Surrebutal Testimony of Keith Magee*.¹⁸ Liberty observes that Keith Magee's testimony is responsive to other witnesses, and no rule prohibits the filing of surrebutal testimony by a witness that has not filed either direct or rebuttal testimony. Liberty states that Silverleaf filed no direct testimony, and only after Silverleaf filed rebuttal testimony was Liberty aware that a witness regarding the particular subject matter would be necessary. Additionally, Keith Magee's testimony from a Liberty Utilities gas rate case, GR-2018-0013, was attached to the filed direct testimony of Jill Schwartz.

On August 9, 2018, the Commission issued its *Order Denying Motion for*

¹⁴ *State ex rel. Capital City Water Co. v. Public Service Comm'n*, 850 S.W.2d 903, 916 n. 1 (Mo. App. 1993).

¹⁵ *See, State ex rel. Utility Consumers' Council of Missouri, Inc. v. Public Service Comm'n*, 585 S.W.2d 41, 59 (Mo. Banc 1979).

¹⁶ Exhibit No. 105, Harrison Direct, Page 4.

¹⁷ EFIS No. 82, Motion to Strike the Surrebutal Testimony of Keith Magee and Motion for Expedited Treatment

¹⁸ EFIS No. 83, Response of Liberty Utilities to Motion to Strike the Surrebutal Testimony of Keith Magee

Expedited Treatment, indicating the Commission would consider Silverleaf's motion in its report and order.¹⁹

Liberty Utilities complied with the Commission's discovery deadline. Silverleaf had notice of Keith Magee as a potential witness, and also the content of his testimony, from Jill Schwartz's direct testimony and the accompanying Keith Magee direct testimony from GR-2018-0013. Silverleaf's motion to strike Keith Magee's surrebuttal testimony is denied.

H. Evidentiary Hearing

The evidentiary hearing was held at the Commission's offices in Jefferson City, Missouri on August 16, 2018.²⁰ All parties (Liberty Utilities, Staff, OPC, Silverleaf, and OMCA) participated.²¹ During the hearing, the parties presented evidence relating to the unresolved issues previously identified by the parties. Those issues are: the revenue requirement including return on equity, capital structure, and rate case expense; Rate design including phase-in rates, customer charge, and commodity charge; the Silverleaf exemption; and customer service issues.²² The Commission admitted the testimony of twelve witnesses and received twenty-seven exhibits into evidence.

I. Case Submission

Post-hearing briefs were filed according to the post-hearing procedural schedule. The final post-hearing briefs were filed on September 11, 2018. Several of the parties offered testimony at the evidentiary hearing regarding the *Non-Unanimous Stipulation*

¹⁹ EFIS No. 84, Order Denying Motion for Expedited Treatment

²⁰ Transcript Volume 5.

²¹ Transcript, Page 26.

²² EFIS No. 86, List of Issues, Order of Witnesses, Order of Cross-Examination and Order of Opening Statements.

and Agreement. To better assist the Commission in making its decision, the Commission admitted the *Non-Unanimous Stipulation and Agreement* and its attachments onto the record as Commission Exhibit No. 1. The case was deemed submitted for the Commission’s decision on September 25, 2018.²³

II. General Matters

A. General Findings of Fact

1. Liberty Utilities which holds the water and sewer utility assets, is a subsidiary of Liberty Utilities Company (“LUCo”), an intermediate holding company, which is an indirect wholly owned subsidiary of Algonquin Power & Utilities Corp.²⁴ Liberty Utilities provides water service in Cape Girardeau, Franklin, Jefferson, McDonald, Stone and Taney Counties in Missouri. Liberty Utilities provides sewer service in Cape Girardeau, Franklin, Jefferson, Stone and Taney Counties in Missouri.²⁵

2. Liberty Utilities currently provides service to approximately 1,954 water customers and approximately 416 sewer customers in 14 certificated service areas with 11 different sets of tariffed rates.²⁶

3. The Office of the Public Counsel is a party to this case pursuant to Section 386.710(2), RSMo²⁷ and Commission Rule 4 CSR 240-2.010(10).

4. Staff is a party to this case pursuant to Section 386.071, RSMo, and Commission Rule 4 CSR 240-2.010(10).

²³ “The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument.” Commission Rule 4 CSR 240-2.150(1).

²⁴ Exhibit No. 4, Magee Surrebuttal, Pages 1, 7-8.

²⁵ Exhibit No. 1, Schwartz Direct, Page 3

²⁶ Exhibit No. 105 – Direct Testimony of Paul Harrison, Schedule PRH-d2, Page 1.

²⁷ Unless otherwise stated, all statutory citations are to the Revised Statutes of Missouri, as codified in the year 2016 and subsequently revised or supplemented.

5. Liberty Utilities' KMB water systems include seven systems: Cedar Hills, Crestview, High Ridge Manor, Hillshine Community, Lakeview Hills, Town of Scotsdale, and Warren Woods. Each of these systems has its own tariffed rates for water service. Liberty Utilities' KMB sewer system includes Cape Rock Village, which has its own sewer tariffed rates.²⁸

6. Liberty Utilities' Silverleaf water systems include Holiday Hills, Ozark Mountain, and TimberCreek. All three Silverleaf water systems have the same water tariffed rate. Liberty Utilities' Silverleaf sewer systems include Ozark Mountain and Timber Creek. Both of these sewer systems are under one sewer tariffed rate.²⁹

7. Liberty Utilities' Noel water system has its own tariffed rates for the water services it provides to its customers.³⁰

8. The Commission last approved a rate increase for Liberty Utilities' KMB properties in File Nos. WR-2010-0345 and SR-2010-0346, effective February 1, 2011. The Commission last approved a rate increase for Liberty Utilities' Silverleaf properties in File Nos. WR-2006-0425 and SR-2006-0426, effective April 2, 2007. The Commission last approved a rate increase for Liberty Utilities' Noel properties in File No. WR-2009-0395, effective November 12, 2009.³¹

²⁸ Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 1.

²⁹ Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 1.

³⁰ Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 1.

³¹ Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 1.

9. In its original rate request letter, Liberty Utilities requested an increase of \$995,844 in its annual water system operating revenues and an increase of \$196,617 in its annual sewer system operating revenues.³²

10. Staff used a test year of the twelve months ending June 30 2017, with an update period through November 30, 2017, to annualize the available revenue and expense information and develop its revenue requirement recommendation.³³

11. On May 24, 2018, Staff filed a *Partial Disposition Agreement and Request for Evidentiary Hearing* on behalf of itself, Liberty Utilities, and OPC. The agreement was a partial resolution of Liberty Utilities' water and sewer rate requests but left unresolved certain other issues for which the signatories requested an evidentiary hearing. The agreement is attached hereto as Attachment A and incorporated herein by reference as if fully set forth.

12. The Commission finds that any given witness' qualifications and overall credibility are not dispositive as to each and every portion of that witness' testimony. The Commission gives each item or portion of a witness' testimony individual weight based upon the detail, depth, knowledge, expertise, and credibility demonstrated with regard to that specific testimony. Consequently, the Commission will make additional specific weight and credibility decisions throughout this order as to specific items of testimony as is necessary.³⁴

13. Any finding of fact reflecting that the Commission has made a

³² EFIS No. 1, Request for Increase.

³³ Exhibit No. 105, Harrison Direct, Page 4.

³⁴ Witness credibility is solely a matter for the fact-finder, "which is free to believe none, part, or all of the testimony". *State ex rel. Public Counsel v. Missouri Public Service Comm'n*, 289 S.W.3d 240, 247 (Mo. App. 2009).

determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.³⁵

B. General Conclusions of Law

1. Liberty Utilities is a “water corporation”, a “sewer corporation”, and a “public utility” as defined in Sections 386.020(59), 386.020(49), and 386.020(43), RSMo, respectively, and as such is subject to the supervision, control and regulation of the Commission under Chapters 386 and 393 of the Missouri Revised Statutes. The Commission’s statutory authority over Liberty Utilities’ rate increase request is established under Section 393.150, RSMo.

2. The Commission has exclusive authority to establish public utility rates,³⁶ and the tariffs it approves have the force and effect of law when they become effective.³⁷ A public utility has no right to fix its own rates and cannot charge or collect rates that have not been approved by the Commission;³⁸ neither can a public utility change its rates without first seeking authority from the Commission.³⁹ A public utility may submit rate schedules or “tariffs,” and thereby suggest to the Commission rates and classifications which it believes are just and reasonable, but the final decision is the Commission's.⁴⁰

3. Sections 393.130 and 393.140, RSMo, mandate that the Commission

³⁵ An administrative agency, as fact finder, also receives deference when choosing between conflicting evidence. *State ex rel. Missouri Office of Public Counsel v. Public Service Comm'n of State*, 293 S.W.3d 63, 80 (Mo. App. 2009).

³⁶ *May Dep't Stores Co. v. Union E.L.P. Co.*, *supra*, 107 S.W.2d 41 57 (Mo. 1937)

³⁷ *State Ex Rel. Utility Consumers Council v. Pub. Serv. Comm'n*, *supra*, 585 S.W.2d 41 49 (Mo. 1979).

³⁸ *State Ex Rel. Utility Consumers Council v. Pub. Serv. Comm'n*, *supra*, 585 S.W.2d 41 49 (Mo. 1979).

³⁹ *Deaconess Manor Ass'n v. Pub. Serv. Comm'n*, 994 S.W.2d 602, 610 (Mo. App., W.D. 1999).

⁴⁰ *May Dep't Stores Co. v. Union E.L.P. Co.*, *supra*, 107 S.W.2d 41 50 (Mo. 1937)

ensure that all utilities are providing safe and adequate service and that all rates set by the Commission are just and reasonable. Section 393.150.2, RSMo, makes clear that at any hearing involving a requested rate increase, the burden of proof to show the proposed increase is just and reasonable rests on the corporation seeking the rate increase. As the party requesting the rate increase, Liberty Utilities bears the burden of proving that its proposed rate increase is just and reasonable.⁴¹ In order to carry its burden of proof, Liberty Utilities must meet the preponderance of the evidence standard.⁴²

4. In determining whether the rates proposed by Liberty are just and reasonable, the Commission must balance the interests of the investor and the consumer.⁴³ In discussing the need for a regulatory body to institute just and reasonable rates, the United States Supreme Court has held as follows:

Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the services are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment.⁴⁴

In the same case, the Supreme Court provided the following guidance on what is a just and reasonable rate:

What annual rate will constitute just compensation depends upon many circumstances and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts. A public utility is entitled to such rates as will permit it to earn a return on the value of the

⁴¹ 393.150.2, RSMo

⁴² *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996), citing to, *Addington v. Texas*, 441 U.S. 418, 423, 99 S.Ct. 1804, 1808, 60 L.Ed.2d 323, 329 (1979).

⁴³ *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603, (1944).

⁴⁴ *Bluefield Water Works & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 690 (1923).

property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.⁴⁵

The Supreme Court has further indicated:

‘[R]egulation does not insure that the business shall produce net revenues.’ But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.⁴⁶

In undertaking the balancing required by the Constitution, the Commission is not bound to apply any particular formula or combination of formulas. Instead, the Supreme Court has said:

Agencies to whom this legislative power has been delegated are free, within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances.⁴⁷

⁴⁵ *Bluefield Water Works & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 692-93 (1923).

⁴⁶ *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (citations omitted).

⁴⁷ *Federal Power Commission v. Natural Gas Pipeline Co.* 315 U.S. 575, 586 (1942).

Furthermore, in quoting the United States Supreme Court in *Federal Power Commission v. Hope Natural Gas Co.*, the Missouri Court of Appeals said:

[T]he Commission [is] not bound to the use of any single formula or combination of formulae in determining rates. Its rate-making function, moreover, involves the making of ‘pragmatic adjustments.’ ... Under the statutory standard of ‘just and reasonable’ it is the result reached, not the method employed which is controlling. It is not theory but the impact of the rate order which counts.⁴⁸

III. The Issues

A. Revenue Requirement

- ***What is the revenue requirement for Liberty Utilities water and sewer services?***

The Commission is tasked with determining the revenue requirement for Liberty Utilities. The revenue requirement is how much it costs Liberty Utilities, in operating expenses (“expenses”) and for a return on its capital assets (“rate base”), to provide safe and adequate service, and includes a return sufficient to service debt and equity and continue attracting capital.⁴⁹ Liberty Utilities has requested an increase in rates to compensate it for necessary investments made in its systems and to address increases in operation and maintenance expenses that have increased since the company’s last rate case.

Findings of Fact:

1. On December 15, 2017, Liberty Utilities filed a request for an increase of \$995,844 in annual water system operating revenues, and \$196,617 in annual sewer

⁴⁸ *State ex rel. Associated Natural Gas Co. v. Public Service Commission*, 706 S.W. 2d 870, 873 (Mo. App. W.D. 1985).

⁴⁹ *Fed. Power Comm’n v. Hope Nat. Gas Co.*, 320 U.S. 591, 603 (1944).

system operating revenues.⁵⁰ These requests totaled a combined increase of \$1,192,461. Liberty Utilities presented no evidence in its case in chief that substantiated those particular increase amounts.

2. Staff changed its recommended revenue requirement for the company several times during the course of the case. Staff's initial recommended revenue requirement was \$810,886 for water operations and \$179,323 for sewer operations.⁵¹ These totaled a combined increase of \$990,209. Staff filed accounting schedules in support of this specific increase.⁵²

3. On July 20, 2018, Staff updated its revenue increase recommendation from \$990,209 to \$978,569, to reconcile a difference in the amount of contribution in aid of construction rate base that the company was including in its cost of service.⁵³

4. Staff again updated the revenue requirement recommendation on August 7, 2018, to reflect rate case expense incurred as of April 2018 from \$978,569 to \$984,581.⁵⁴

5. Liberty Utilities did not keep the KMB operating books separate for the seven KMB systems. In order to determine the cost of service revenue requirement for the seven KMB systems Staff had to develop an allocation process to separate the seven systems.⁵⁵

6. Liberty Utilities has made significant improvements in the system since the last Liberty Utilities water and sewer rate cases. Liberty has invested approximately

⁵⁰ Exhibit No. 1, Schwartz Direct, Page 4.

⁵¹ Exhibit No. 105, Harrison Direct, Page 5.

⁵² Exhibit No. 105, Harrison Direct, Schedule PRH-d3.

⁵³ Exhibit No. 106, Harrison Rebuttal, Page 2.

⁵⁴ Exhibit No. 107, Harrison Surrebuttal, Page 2.

⁵⁵ Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Pages 3-4.

\$1,952,614 for water improvements and \$621,830 for sewer improvements.⁵⁶ No party challenged the necessity of those improvements.

7. Liberty Utilities' operation and maintenance expenses have increased since its last rate case.⁵⁷

8. James Busch is the Staff witness supporting the *Non-Unanimous Stipulation and Agreement*.⁵⁸

9. The *Non-Unanimous Stipulation and Agreement* specifies, exclusive of rate case expense, that the annual revenue requirement increase for Liberty Utilities should be \$818,800 for water operations and \$196,792 for sewer operations.⁵⁹ These represent a total overall annual revenue requirement for Liberty Utilities' water system operations of \$1,690,117 and a total overall annual revenue requirement for Liberty Utilities' sewer system operations of \$455,163.

10. Silverleaf's witness, William Stannard, challenged the revenue requirements proposed by Staff due to an error he states would cause over-recovery. He also challenged Liberty Utilities' proposed revenue requirement for over-recovery based on commodity charges and meter size.⁶⁰

11. Staff witness Matthew Barnes filed testimony indicating that the error Stannard discovered in Staff's rate design recommendation involved application of the

⁵⁶ Exhibit No. 105, Harrison Direct, Pages 5-6, and Schedule PRH-d4.

⁵⁷ Exhibit No. 1, Schwartz Direct, Page 10.

⁵⁸ Exhibit No. 103, Busch Surrebuttal, Page 15.

⁵⁹ Commission Exhibit No. 1, Page 1.

⁶⁰ Exhibit No. 302, Stannard Refined Rebuttal, Pages 10-14.

wrong charge for the ¾ inch meter, which caused the commodity charges to be higher than appropriate. Barnes noted that the error has since been corrected.⁶¹

12. William Stannard noted that the *Non-unanimous Stipulation and Agreement* included a return on equity, but not a capital structure. Stannard is concerned because capital structure impacts the revenue requirement. Stannard states that if the Commission were to approve the 9.75 percent return on equity, it should be accompanied by a stated capital structure of 42.83 percent equity and 57.17 percent debt.⁶²

13. The revenue requirement amounts contained in the *Non-Unanimous Stipulation and Agreement* are numerically supported by the billing determinates attached to it, including the Rate Making Income Statements that establish a cost of service for each tariffed area.⁶³

14. No party other than Staff and Liberty Utilities has proposed a revenue requirement other than the one agreed to in Liberty Utilities' and Staff's position statement.

Conclusions of Law and Decision:

Sections 393.130 and 393.140, RSMo, mandate that utilities provide safe and adequate service and at rates set by the Commission that are just and reasonable. The United States Supreme Court advises that "the fixing of 'just and reasonable' rates, involves a balancing of the investor and the consumer interests."⁶⁴ Furthermore, "Rates

⁶¹ Exhibit No. 101, Barnes Rebuttal, Page 2.

⁶² Exhibit No. 302, Stannard Surrebuttal, Page 7.

⁶³ Commission Exhibit No. 1, Attachment A.

⁶⁴ *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 603, 64 S.Ct. 281, 88 L.Ed. 333 (1944) (*Hope*).

which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the services are unjust, unreasonable and confiscatory.”⁶⁵

Liberty Utilities did not put forth sufficient evidence to sustain its burden that its originally requested increase of \$995,844 in annual water system operating revenues and \$196,617 in annual sewer revenues are just and reasonable. However, Liberty Utilities produced sufficient evidence to support that its requested rate increase of \$818,800 for water operations and \$196,782 for sewer operations in its joint position statement is just and reasonable. The standard of proof, as stated above in general conclusions of law, is preponderance of the evidence. The question before the commission is: balancing the interests of investors and ratepayers, is it more likely than not that the proposed increase of \$818,800 for water operations and \$196,782 for sewer operations will result in just and reasonable rates?

The Commission concludes that it is more likely than not that the increase will result in just and reasonable rates. Liberty Utilities has not come to the Commission for a rate increase for any of its water or sewer systems in more than seven years, and during that time, the ratepayers have enjoyed low rates that have not changed in more than half a decade. Silverleaf’s rates have not changed in more than a decade. Meanwhile, Liberty Utilities has made necessary improvements to the system in excess of 2.5 million dollars. Additionally it has experienced higher costs of service with increasing operation and management expenses.

⁶⁵ *Bluefield Water Works & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 690 (1923).

For the reasons discussed above, the Commission is ordering an annual revenue requirement for Liberty Utilities' water system operations of \$1,690,117 and an annual revenue requirement for Liberty Utilities' sewer system operations of \$455,163.

1. Return on Equity

- ***What is the appropriate return on equity for Liberty Utilities?***

The Commission must determine an appropriate return on equity for Liberty Utilities. Staff filed testimony with the Commission supporting a return on equity of 10 percent.⁶⁶ Liberty Utilities filed testimony with the Commission supporting a return on equity of 10.25 percent.⁶⁷ Silverleaf filed testimony supporting a return on equity within a range of 8 percent to 9 percent.⁶⁸

Staff and Liberty Utilities later filed with the Commission the *Non-Unanimous Stipulation and Agreement* of which they were both signatories. As part of that agreement, which the Commission is treating as a joint position statement of the signatories, Staff and Liberty both support a return on equity of 9.75 percent.

Findings of Fact:

1. James Busch is the Staff witness supporting the *Non-Unanimous Stipulation and Agreement*.⁶⁹
2. Liberty Utilities believes that the *Non-Unanimous Stipulation and Agreement* represents a reasonable compromise of all revenue requirement issues but

⁶⁶ Exhibit No. 109, Murray Substitute Rebuttal, Page 3.

⁶⁷ Exhibit No. 4, Magee Surrebuttal, Page 3.

⁶⁸ Exhibit No. 302, Stannard Refined Rebuttal, Page 10.

⁶⁹ Exhibit No. 103, Busch Surrebuttal, Page 15.

one.⁷⁰ A return on equity of 9.75 percent is one of the resolved revenue requirement issues in the *Non-Unanimous Stipulation and Agreement*.⁷¹

3. The Commission accepts that the proposed return on equity of 9.75 percent is just and reasonable. This return on equity is close to the return on equity proposals separately made by Staff and Liberty Utilities in their direct testimony.⁷²

4. Staff witness David Murray filed testimony in support of a 10 percent return on equity which was derived by adding 20 basis points to Spire Missouri's most recent Commission approved return on equity of 9.8 percent. The reason for this adjustment was because Liberty Utilities capital structure is more leveraged than Spire Missouri's.⁷³ Staff quantified the recommended 20 basis point increase by evaluating spreads between 'BBB' rated bonds and 'A' rates bonds.⁷⁴ Staff does not explain why either the reason or quantification substantiates the addition of 20 basis points.

5. Silverleaf witness William Stannard filed testimony in support of a return on equity range of 8 percent to 9 percent. Stannard added the Duff & Phelps equity risk premium of 5 percent to the 2.97 percent 30-year treasury rate for a return on equity of 7.97 percent, which supports his proposed return on equity range.⁷⁵

6. Staff finds Duff & Phelps to be an authoritative source for estimating cost of capital and relies on it for purposes of testing the reasonableness of Staff's cost of equity estimates.⁷⁶

⁷⁰ Exhibit No. 3, Schwartz Surrebuttal, Page 7.

⁷¹ Commission Exhibit No. 1, Page 2, Cost of Service/Revenue Requirement, C. Return on Equity.

⁷² Exhibit No. 105, Harrison Direct, Page 5, and Exhibit No. 1, Schwartz Direct, Page 6.

⁷³ Exhibit No. 110, Murray Surrebuttal, Page 3.

⁷⁴ Exhibit No. 110, Murray Surrebuttal, Page 3.

⁷⁵ Exhibit No. 302, Stannard Refined Rebuttal, Pages 9-10.

⁷⁶ Exhibit No. 110, Murray Surrebuttal, Page 2.

7. David Murray credibly testified that William Stannard did not apply Duff & Phelps' risk premium as Duff & Phelps intended by not adjusting the equity risk premium to reflect that utility stocks are less volatile than the broader markets. Applying Duff & Phelps' risk premium correctly yields a return on equity of 7 percent.⁷⁷

8. Staff does not use a 7 percent return on equity because David Murray used previous Commission decisions as guidance for a just and reasonable return on equity, giving the 9.8 percent return on equity in Spire Missouri's gas rate cases, GR-2017-0216 and GR-2017-0217, the most weight.⁷⁸

9. Keith Magee credibly testified for Liberty that Duff & Phelps understates the risk premium authorized for gas utilities and that the risk factors between natural gas companies are similar.⁷⁹ Magee testified that the method used by William Stannard to calculate return on equity has consistently produced return on equity estimates more than 100 basis points below average authorized returns since 2012.⁸⁰

10. Liberty Utilities proposes a 10.25 percent return on equity, within a range of 9.9 percent to 10.35 percent⁸¹ Keith Magee used a proxy group of comparable companies to arrive at an appropriate return on equity range.⁸²

11. In May 2018, the Commission approved a stipulation and agreement specifying a return on equity range of 9.5 percent to 10 percent for Missouri American Water Company.⁸³

⁷⁷ Exhibit No. 110, Murray Surrebuttal, Page 3.

⁷⁸ Exhibit No. 110, Murray Surrebuttal, Page 3.

⁷⁹ Transcript, Page 95.

⁸⁰ Exhibit No. 4, Magee Surrebuttal, Page 5.

⁸¹ Exhibit No. 4, Magee Surrebuttal, Page 3.

⁸² Exhibit No. 4, Magee Surrebuttal, Schedule KM-S13, Page 4.

⁸³ Exhibit No. 4, Magee Surrebuttal, Page 17.

12. Average authorized return on equity from January 2018 to June 2018 for Illinois, California, New Jersey, Missouri, and North Carolina encompass a return on equity range of 9.05 percent to 10.5 percent with an average return on equity of 9.69 percent.⁸⁴

Conclusions of Law and Decision:

A disputed issue in this case is the estimated cost of common equity, or the return on equity. Estimating the cost of common equity capital is a difficult task, as academic commentators have recognized.⁸⁵ Determining a rate of return on equity is imprecise and involves balancing a utility's need to compensate investors against its need to keep prices low for consumers.⁸⁶ Accordingly, the Commission cannot simply find a rate of return on equity that is unquestionably scientifically, mathematically, or legally correct. Such a "correct" rate does not exist. Missouri court decisions recognize that the Commission has flexibility in fixing the rate of return, subject to existing economic conditions.⁸⁷

Liberty Utilities has proposed the Commission authorize a return on equity of 10.25 percent, which is on the upper end of its proposed range of 9.9 percent to 10.35 percent. 10.25 percent is outside of the range of 9.5 percent to 10 percent recently approved by the Commission for a water utility. Liberty Utilities notes that the Commission authorized a return on equity of 12 percent for Indian Hills in February

⁸⁴ Exhibit No. 4, Magee Surrebuttal, Table 7: Average Authorized Water Utility Returns by State, Page 17.

⁸⁵ See Phillips, *The Regulation of Public Utilities*, Public Utilities Reports, Inc., p. 394 (1993).

⁸⁶ *State ex rel. Public Counsel v. Public Service Commission*, 274 S.W.3d 569, 574 (Mo. Ct. App. 2009).

⁸⁷ *State ex rel. Laclede Gas Co. v. Public Service Commission*, 535 S.W.2d 561, 570-571 (Mo. App. 1976).

2018.⁸⁸ However, Indian Hills was an extremely distressed water system with an extremely high cost of debt.

Silverleaf's proposed range of 8 percent to 9 percent starts outside the Commission's recently approved range of 9.5 percent to 10 percent. William Stannard calculated the return on equity using Duff & Phelps equity risk premium at 7.97 percent. David Murray credibly testified that Stannard miscalculated and that the correct return on equity using Duff & Phelps would be 7 percent. Keith Magee testified at the evidentiary hearing that Duff & Phelps underestimates the risk premium authorized for gas utilities.⁸⁹ Keith Magee also points out that Silverleaf's return on equity recommendation is based on a single model.

Staff's 10 percent return on equity, based upon the Commission's recently approved return on equity for Spire Missouri of 9.8 percent, seeks to add 20 basis points due to Liberty Utilities more leveraged capital structure. Staff states that the 20 basis point adjustment is quantified by evaluating the spreads between 'BBB' rated bonds, and 'A' rated bonds, but offers no explanation as to how that difference produces an additional 20 basis points. The Commission finds the addition of 20 basis points to the return on equity of 9.8 percent authorized for Spire Missouri to be unwarranted absent an explanation. The 9.8 percent return on equity recently authorized for Spire Missouri is not unreasonable and is within the range of 9.5 percent to 10 percent the Commission recently authorized for a water utility.

The evidence shows that both Liberty Utilities and Staff' agree that an appropriate return on equity is 9.75 percent. 9.75 percent is within a range of 9.5

⁸⁸ Exhibit No. 4, Magee Surrebuttal, Page 18.

⁸⁹ Transcript, Page 95.

percent to 10 percent that would be a reasonable and accurate estimate of the current market cost of capital for Liberty Utilities. Based on the competent and substantial evidence in the record and on its balancing of the interests of the company's ratepayers and shareholders, the Commission concludes that 9.75 percent is a fair and reasonable return on equity for Liberty Utilities.

2. Capital Structure

- ***What is the appropriate capital structure to apply to Liberty Utilities?***

The Commission is tasked with determining the appropriate capital structure to apply to Liberty Utilities. Capital structure is expressed as a debt-to-equity ratio that indicates how a company finances its operations and provides an overview of a company's risk. Only two capital structures were presented by the parties: Liberty Utilities position is that the capital structure should consist of 53 percent common equity and 47 percent long term debt.⁹⁰ Staff's position is that Liberty Utilities' capital structure should consist of 42.83 percent common equity and 57.17 percent long term debt.⁹¹ No alternative capital structures were proposed by any party.

Findings of Fact:

1. Liberty Utilities proposes applying the same capital structure Liberty Utilities' witness Keith Magee recommended for Liberty Midstates in GR-2018-0013.⁹²
2. A 53 percent equity and 47 percent debt capital structure was approved by the Commission as part of the settlement agreement in Liberty Midstates gas rate case

⁹⁰ Exhibit No. 4, Magee Surrebuttal, Page 3,4.

⁹¹ Exhibit No. 109, Murray Substitute Rebuttal, Page 3

⁹² Exhibit No. 4, Magee Surrebuttal, Page 3, Liberty Midstates is an affiliated natural gas utility.

(GR-2018-0013) for the limited purpose of calculating an infrastructure investment surcharge.⁹³

3. Liberty Utilities' witness Keith Magee's recommendation for capital structure is based on the mean equity ratio of several proxy gas companies with similar risk characteristics to Liberty Utilities, which he updated for this rate case to the eight quarters ending Q1 2018.⁹⁴

4. Staff witness David Murray disagrees with Liberty Utilities' capital structure because it assumes that Liberty Utilities is capitalized with more equity than what Algonquin Power and Utilities Corp. considers appropriate for its low-risk regulated utility assets.⁹⁵

5. David Murray also disagrees with Liberty Utilities capital structure recommendation because it is not consistent with its parent company, LUCo's corporate strategy of using a higher proportion of debt to finance its regulated utility assets.⁹⁶

6. David Murray's recommendation for capital structure is based on the actual capital structure of LUCo as of December 31, 2017.⁹⁷

7. LUCo is the intermediate holding company which supplies the debt financing for Algonquin's United States regulated utility assets, including Liberty Midstates and Liberty Utilities, through Liberty Utilities Finance GP1.⁹⁸

8. Liberty Utilities issues no independent debt.⁹⁹

⁹³ Transcript, Page 100.

⁹⁴ Exhibit No. 4, Magee Surrebuttal, Pages 9-10.

⁹⁵ Exhibit No. 109, Murray Substitute Rebuttal, Page 3.

⁹⁶ Exhibit No. 109, Murray Substitute Rebuttal, Page 4.

⁹⁷ Exhibit No. 109, Murray Substitute Rebuttal, Page 2.

⁹⁸ Exhibit No. 109, Murray Substitute Rebuttal, Page 2.

⁹⁹ Exhibit No. 109, Murray Subditute Rebuttal, Page 3.

9. LUCo's capital structure is used to finance LUCo's United States' regulated utility assets, including Liberty Midstates and Liberty Utilities. LUCo's capital structure contains 42.83 percent common equity.¹⁰⁰

10. The Commission has previously adopted Staff's recommended capital structure by using LUCo's capital structure in GR-2014-0152 for Liberty Midstates.¹⁰¹

11. LUCo is composed of over 30 water, gas, and electric utilities and Liberty Utilities' customers are less than 1 percent of the 762,000 customers served by LUCo.¹⁰²

12. Silverleaf witness William Stannard supports Staff's proposed capital structure as reasonable.¹⁰³ Stannard, states that if the Commission approves a 9.75 percent return on equity it should be accompanied by a stated capital structure of 42.83 percent equity and 57.17 percent debt.¹⁰⁴

13. OPC agrees with Staff's proposed capital structure.¹⁰⁵

Conclusions of Law and Decision:

The issue for determination is whether to apply a capital structure based upon the mean ratio of a set of proxy gas companies that Liberty Utilities' witness Keith Magee believes closely resembles the risk characteristics of Liberty Utilities, a hypothetical capital structure, or whether to apply a capital structure based upon Liberty Utilities' parent holding company, LUCo. Staff notes that its method of determining

¹⁰⁰ Exhibit No. 109, Murray Subdstitute Rebuttal, Page 3.

¹⁰¹ Exhibit No. 109, Murray Substitute Rebuttal, Page 3.

¹⁰² Exhibit No. 4, Magee Surrebuttal, Pages 11-12.

¹⁰³ Exhibit No. 302, Stannard Refiled Rebuttal, Page 9.

¹⁰⁴ Exhibit No. 303, Stannard Surrebuttal, Page 7.

¹⁰⁵ Transcript, Page 78.

capital structure using LUCo has been used by the Commission before for Liberty Utilities' affiliate company, Liberty Midstates, in GR-2014-0152.

Liberty Utilities argues that it is inappropriate to base its capital structure on a parent company that has grown significantly since 2014. Liberty argues that a sizable portion of the debt in LUCo's capital structure is not related to Liberty Utilities and should not be used to set Liberty Utilities capital structure.¹⁰⁶ Liberty also argues that LUCo's characteristics and circumstances are not the same as they were at the time of the company's last rate case as the company has been growing. However, Staff's recommendation is based on the more recent capital structure of LUCo on December 31, 2017, which takes into account the time elapsed since 2014.

Staff's witness, David Murray, testified that it is the intention of the company to do all its financing with third-party investors at the LUCo level.¹⁰⁷ Applying LUCo's capital structure is appropriate because LUCo's capital structure is used to finance LUCo's United States' regulated utility assets. Staff's approach to base Liberty Utilities' authorized capital structure on its parent intermediate holding company is more reasonable for the reason that LUCo is the company which provides all corporate debt financing both Liberty Utilities and Liberty Midstates.¹⁰⁸ It is logical to apply the actual capital structure of the company providing the financing for Liberty Utilities because Liberty Utilities issues none of its own debt.

¹⁰⁶ Exhibit No. 4, Magee Surrebuttal, Page 9.

¹⁰⁷ Transcript, Page 121-122

¹⁰⁸ Exhibit No. 109, Murray Substitute Rebuttal, Page 2.

The Commission concludes that the appropriate capital structure to apply to Liberty Utilities consists of 42.83 percent common equity and 57.17 percent long term debt.

3. Rate Case Expense

- ***What is the appropriate amount of rate case expense to allow Liberty Utilities to recover in its rates for expenses incurred presenting its case to the Commission?***
- ***What is the appropriate recovery period for rate case expense?***

The Commission will determine what amount of rate case expense, if any, that Liberty Utilities is allowed to recover in rates for expenses incurred in the preparation and presentation of its case to the Commission. Staff and Liberty Utilities agree that the company should be allowed to recover reasonable expenses through the end of the case. The parties disagree on the time period for recovery of rate case expense.

Findings of Fact:

1. Utility companies incur various expenses in the preparation and presentation of a rate case before the Commission. Included in these costs are expenses for outside counsel, expert witnesses, and miscellaneous expenses for items such as travel expenses and copying costs.¹⁰⁹

2. Jill Schwartz credibly testified that Liberty has incurred attorney and expert witness fees associated with processing this case.¹¹⁰ Jill Schwartz additionally testified that, “The Company is mindful of the costs of rate cases and has worked hard to keep rate case expenses low given the small customer base in this case.”¹¹¹

¹⁰⁹ Exhibit No. 105, Harrison Direct, Page 6.

¹¹⁰ Exhibit No. 1, Schwartz Direct, Page 7.

¹¹¹ Exhibit No. 2, Schwartz Rebuttal, Page 2.

3. Liberty proposes that rate case expense be normalized over two years.¹¹² Liberty asks for the shorter period of time because it expects that another rate case will be filed in several years due to the acquisition of additional water systems.¹¹³

4. Staff originally recommended normalizing rate case expense over five years. Staff based its initial recommendation on how often Liberty Utilities has filed for a rate increase in the past. It has been seven to eleven years since any Liberty Utilities water or sewer system has had a rate increase.¹¹⁴ Staff, using the Non-Unanimous Stipulation and Agreement as its current position statement, recommends amortizing rate case expense over three years.¹¹⁵ Normalizing takes an ongoing expense and builds it into cost of service, whereas amortizing takes a lump sum amount and spreads it over a select number of years to allow full recovery.¹¹⁶

5. Silverleaf supports a five year recovery period for rate case expense and notes that any amounts included in base rates will continue to be recovered until new rates are implemented in a future rate case.¹¹⁷

Conclusions of Law and Decision:

Liberty Utilities, in its brief, has requested to recover rate case expenses through at least September 11, 2018, when reply briefs are due. Staff witness Paul Harrison also affirmed September 11, 2018, as a period of time in which rate case expenses could continue to accrue.¹¹⁸ Counsel for Liberty noted that the revenue requirement to

¹¹² Exhibit No. 1, Schwartz Direct, Page 7.

¹¹³ Exhibit No. 1, Schwartz Direct, Page 8.

¹¹⁴ Exhibit No. 106, Harrison Rebuttal, Page 3.

¹¹⁵ Transcript, Pages 142-143.

¹¹⁶ Transcript, Pages 145-146

¹¹⁷ Exhibit No. 303, Stannard Surrebuttal, Pages 2-3.

¹¹⁸ Transcript, Page 149.

cover rate case expense is unknown at the time because rate case expense was still accruing.¹¹⁹ The Commission understands that Commission allowed rate case expenses will be an addition to the revenue requirement determined in this report and order. There are incentives for Liberty Utilities to file another rate case in the next few years due to potential acquisitions. However, the company has not filed a rate case for any of its water or sewer systems within the last five years, and the Commission is not in this order setting a time in which Liberty Utilities must file another rate case.

The Commission concludes that the company should be allowed to recover in rates prudently incurred rate case expense through September 11, 2018. Rate case expenses are to be amortized over a five year period with any over or under recovery to be placed in a regulatory asset or regulatory liability account to be considered in Liberty Utilities' next rate case.

B. Rate Design.

1. Customer Charge

- ***What is the appropriate customer charge for Liberty Utilities service areas?***
- ***What is the appropriate commodity charge for Liberty Utilities service areas?***
- ***Should any of Liberty Utilities' water systems be consolidated?***

The Commission will determine the appropriate rates to charge Liberty Utilities customers by service area. The Commission will determine whether any of Liberty Utilities' systems should be consolidated. Because rate case expense has not been calculated yet, any rate calculated is subject to change based upon the final allowable rate case expense.

¹¹⁹ Transcript, Page 41.

Findings of Fact:

1. The rate structure consists of a fixed monthly customer charge and a commodity (usage) charge. The customer charge is developed by comparing certain costs that are generally considered fixed. Commodity charges are generally developed by comparing the remaining costs and the usage characteristics of each system.¹²⁰

2. Most of the Liberty Utilities' water and sewer tariffs specify a monthly minimum base rate and a usage charge per 1,000 gallons of usage for each additional 1,000 gallons of usage thereafter. In addition, some of Liberty Utilities' customers' water and sewer rates are unmetered and are charged a flat monthly rate.¹²¹

3. Liberty is made up of 11 water and three sewer systems that compose nine water tariff districts and two sewer tariff districts. Liberty acquired these systems by purchasing KMB's water and sewer operations, Silverleaf's water and sewer operations, and Noel's water operations.¹²²

4. Silverleaf proposes applying the overall percentage increase in rate revenues needed for each system to each charge equally for water and sewer.¹²³

5. Silverleaf is opposed to Staff's rate design placing much of the increase in rates within the fixed customer charge. Silverleaf's witness testified that this method shifts much of the cost of the increase onto low volume users, impeding their ability to control their monthly bill.¹²⁴

¹²⁰ Exhibit No. 100, Barnes Direct, Page 3.

¹²¹ Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 1.

¹²² Exhibit No. 100, Barnes Direct, Page 2.

¹²³ Exhibit No. 302, Stannard Refiled Rebuttal, Pages 22-23.

¹²⁴ Exhibit No. 302, Stannard Refiled Rebuttal, Pages 24-25.

6. Staff witness Matthew Barnes found that Silverleaf analyzed data from roughly 7,000 monthly bills. Two accountholders account for over 3,000 of those monthly bills. Of those two accountholders, 1,300 monthly bills have zero usage, but those same two accountholders also have the highest number (2,100) of monthly bills. Those accountholders put a tremendous strain on the system. The system has to be built to meet peak demand, and the users who are causing the highest stress on the system should be the ones paying for that system. Even if a substantial amount of the accountholders' monthly bills are for zero usage, the system has to be built to support the one or two months when usage is maxed. This means that the fixed costs for having a properly sized system should be collected from those customers every month through the customer charge.¹²⁵

7. Staff calculated the following customer charge amounts: \$23.88 for a 5/8" meter at the Noel water system, \$30.04 for a 5/8" meter at the consolidated KMB water system, and \$26.65 for the smallest meters (both 5/8" and 3/4") at the Silverleaf water systems.¹²⁶

8. The appropriate amounts for the sewer system customer charges are \$45.67 for the Cape Rock Village sewer system and \$37.07 for the Timber Creek and Ozark Mountain sewer system.¹²⁷

9. The appropriate amount for commodity charge, per thousand gallons, is \$3.04 for the Noel water service system, \$6.65 for the KMB water service system, and \$6.73 for the Silverleaf water service system. The appropriate amount for the

¹²⁵ Exhibit No. 102, Barnes Surrebuttal, Pages 2-3.

¹²⁶ Commission Exhibit No. 1, Attachment A.

¹²⁷ Commission Exhibit No. 1, Attachment A.

commodity charge is \$26.97 for the Timber Creek and Ozark Mountain sewer system.¹²⁸

10. Staff notes that because rate case expense has not been calculated yet, the proposed rates will change. Staff asks the Commission to approve the methodology used to reach the rates.¹²⁹

11. On January 13, 2018, Liberty Utilities formally requested that Staff and OPC consider the consolidation of customer rates, charges and fees, and rules and regulations.¹³⁰

12. Liberty Utilities agreed to consolidate rules and regulations for all of its water systems in the Partial Disposition Agreement. Liberty is requesting that the Commission approve consolidation of customer rates for its KMB and Noel water customers and KMB sewer customers.¹³¹

13. Liberty Utilities acquired the KMB water systems in 2010 and did not keep books and records separate for each of the seven different KMB properties. Liberty consolidated all the rate base and expenses for the KMB properties but kept the rates charged for each property separate according to the appropriate tariffs.¹³²

14. Liberty cites a joint publication by the United States Environmental Protection Agency and National Association of Regulatory Utility Commissioners titled Consolidated Water Rates: Issues and Practices in Single-Tariff Pricing in support of its

¹²⁸ Commission Exhibit No. 1, Attachment A.

¹²⁹ EFIS No. 133, Staff's Initial Brief, Page 25.

¹³⁰ Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 4.

¹³¹ Exhibit No. 1, Schwartz Direct, Page 8.

¹³² Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 3.

position for consolidation and lists the following reasons from that publication for consolidating its system rates:¹³³

- a. Mitigation of the impact of large rate increases
- b. Lower administrative costs to utilities and regulatory commissions
- c. Addresses small-system viability issues
- d. Improves service affordability for customers
- e. Facilitates compliance with drinking water standards
- f. Encourages investment in water supply infrastructure
- g. Promotes regional economic development

15. Staff proposed two rate design plans for Liberty Utilities. One plan involved district specific pricing where each currently tariffed service area would maintain its own rate structure based on its particular cost of service.¹³⁴ The Commission's Staff also proposed an alternative plan to consolidate the KMB service areas into one tariffed area.¹³⁵

16. Liberty is agreeable to the alternative rate design proposal that consolidates seven sets of rates for the KMB water system.¹³⁶

Conclusions of Law and Decision:

Rate design is how Liberty Utilities collects its revenue requirement. The Commission is keeping the current rate design in regard to each service area having a fixed customer charge regardless of usage and a commodity charge based upon usage.

¹³³ Exhibit No. 1, Schwartz Direct, Page 9, citing Consolidated Water Rates: Issues and Practices in Single-Tariff Pricing, by Jancie A. Beecher Ph.D., September 1999.

¹³⁴ Exhibit No. 100, Barnes Direct, Page 5.

¹³⁵ Exhibit No. 100, Barnes Direct, Page 7.

¹³⁶ Exhibit No. 2, Schwartz Rebuttal, Page 6.

The Commission finds that this creates just and reasonable rates by charging customers not only for the amount of water actually used, but also for use of the system, to assist in maintaining system integrity and readiness. The Commission rejects the notion that merely distributing any increase equally across all systems will result in just rates in this case. As Staff witness Barnes notes, when a low number of account holders have the highest and lowest usage, the stress on the system is severe. Placing a portion of the increase in the fixed charge helps balance seasonal and non-seasonal usage. The Commission is therefore adopting Staff's proposed rate methodology, with adjustments in the final amount to accommodate approved rate case expenses.

Liberty has proposed consolidating its rates for the KMB and Noel systems into one single-tariff rate. The Commission's Staff has proposed maintaining district specific pricing, or, in the alternative, just consolidating KMB properties. There are advantages to each. With district specific pricing, those who cause an expense bear the cost of that expense, while single-tariff pricing can mitigate large capital expenditures made in a particular district.¹³⁷ No party proposed consolidating the Silverleaf service at this time, and no party opposed consolidating the KMB properties.

The Commission concludes that the KMB system should be consolidated, but not the Noel system, which is a much larger system with 665 customers, most of which are permanent residents.¹³⁸

¹³⁷ Exhibit No. 100, Barnes Direct, Page 4.

¹³⁸ Exhibit No. 101, Barnes Rebuttal, Page 4.

2. Phase-in Rates

- *Should rates for Holiday Hills, Ozark Mountain, and Timber Creek be phased-in over a period of five years?*
- *Should carrying costs be allowed to be recovered if rates are phased-in?*

Silverleaf is requesting that the Commission order phase-in rates to mitigate the size of any increase on the Silverleaf system customers. The Commission will determine whether to order phase-in rates for Silverleaf or any other Liberty Utilities system.

Findings of Fact:

1. A phase-in rate design is an approach to rate design that allows for rates to be increased on an incremental basis to reach the ultimate Commission approved revenue requirement.¹³⁹

2. Staff does not generally oppose the use of phased-in rates when the magnitude of the rate increase when compared to existing rates makes a slower approach to increasing rates a better option for the customers.¹⁴⁰ Staff is opposed to phase-in rates in this case.¹⁴¹

3. Silverleaf proposes using phase-in rates for customers in the Silverleaf water and sewer systems as a way of mitigating rate shock.¹⁴² The phase-in approach would “stair step” any increase in rates such that only 1/4 of the increase is felt in year 1 and customers have time to adjust their budgets to take into account this new, unavoidable expense.”¹⁴³

¹³⁹ Exhibit No. 103, Busch Surrebuttal, Page 3.

¹⁴⁰ Exhibit No. 103, Busch Surrebuttal, Pages 3-4.

¹⁴¹ Transcript, Page 56.

¹⁴² Exhibit No. 302 – Stannard Refiled Rebuttal, Pages 25-27.

¹⁴³ Exhibit No. 302, Stannard Refiled Rebuttal, Page 28.

4. Rate shock is the financial harm caused to customers from a sudden, significant increase in customer utility bills caused by an increase in utility rates.¹⁴⁴

5. Silverleaf considers Liberty Utilities' time lapse between rate cases a management decision and the cause of any resulting harm done to customers from rate shock.¹⁴⁵ Its witness said: "The decision to wait nine years before filing a rate case did not lie with those customers. It was the choice of Liberty Utilities. These customers should not be penalized for Liberty Utilities' failure to file for timely rate adjustments over the years."¹⁴⁶

6. Silverleaf's phase-in proposal is that rates be phased in over a period of four years with the company earning its authorized rate in year five.¹⁴⁷

7. Silverleaf's proposed phase-in rates would have Liberty Utilities under-recovering in years one and two, and over-recovering in years three and four¹⁴⁸ with, "an adjustment to reflect the under-recovery during the phase-in period."¹⁴⁹

8. Staff is not familiar with a phase-in approach that does not compensate a utility for receiving its Commission approved revenue requirement, or that would result in recovery above the revenue requirement.

9. The plan proposed by Silverleaf does not promote rate stability. "Ultimately, under Mr. Stannards's plan, rates in years three and four will have to be

¹⁴⁴ Exhibit No. 302, Stannard Refiled Rebuttal, Page 16.

¹⁴⁵ Transcript, Page 66.

¹⁴⁶ Exhibit No. 302, Stannard Refiled Rebuttal, Page 25.

¹⁴⁷ Exhibit No. 302, Stannard Refiled Rebuttal, Page 26.

¹⁴⁸ Exhibit No. 302, Stannard Refiled Rebuttal, Page 26-27, Tables 14 and 15.

¹⁴⁹ Exhibit No. 302, Stannard Refiled Rebuttal, Page 26.

higher than they would have been if the entire revenue requirement was put into the initial rates under a normal rate design.”¹⁵⁰

10. Carrying costs are the interest the utility could have earned on the revenue it received; if the utility received its full Commission approved rate rather than a lesser amount. Carry costs occur when, during the phase-in, the utility’s rates are not designed to collect the Commission approved revenue requirement during the initial years of the phase-in.¹⁵¹

11. Silverleaf is not supportive of allowing carrying costs for Liberty Utilities, as its witness said: “The purpose of the phase-in is to mitigate the impact of a large rate increase, the magnitude of which is principally driven by Liberty Utilities failure to file for periodic rate adjustments... Accordingly, the carrying cost of a phase-in should be borne by Liberty Utilities.”¹⁵²

12. Customers are not being penalized by the utility waiting nine years to file a rate case. The Commission agrees with Staff’s witness that, “although the rate increase being proposed is high, the customers did have the advantage of paying lower rates over the past few years rather than paying the higher rates sooner... Customers are advantaged by paying a lower rate between actual rate cases than they otherwise would have paid if Liberty had received a rate increase prior to this rate case.”¹⁵³

13. Phasing-in rates for just the Silverleaf service areas would result in an undue and unreasonable preference.

¹⁵⁰ Exhibit No. 103, Busch Surrebuttal, Page 5.

¹⁵¹ Exhibit No. 103, Busch Surrebuttal, Page 5.

¹⁵² Exhibit No. 302, Stannard Refiled Rebuttal, Page 27.

¹⁵³ Exhibit No. 103, Busch Surrebuttal, Page 8.

Conclusions of Law and Decision:

Silverleaf proposes that the Commission require Liberty Utilities to phase-in its new rates for the Silverleaf service area.¹⁵⁴ It is unclear from William Stannard's testimony whether he is proposing phase-in rates for Silverleaf's service area only or for all of Liberty Utilities service areas. Phase-in rates should not be applied in this rate case under either proposition.

The rate increase for Liberty Utilities' service areas is significant compared to what its customers had previously been paying. The Commission's last approved rate increases for Liberty Utilities' water and sewer systems was in 2011 for the KMB properties, 2007 for the Silverleaf properties, and 2009 for the Noel properties.¹⁵⁵ The Commission does not agree that Liberty Utilities' decision to not come to the Commission for a rate increase earlier was merely a management decision devoid of other factors. Liberty Utilities has invested \$1,952,614 for water and \$621,830 for sewer improvements to meet Department of Natural Resource standards and improve the quality of service.¹⁵⁶ Additionally, because Liberty Utilities has not come to the Commission for a rate case in several years, its customers have benefited from having low, stable rates for a significant time. Silverleaf's argument that Liberty Utilities' customers are being "punished" for the "management decision" of not applying for a rate case sooner is unpersuasive.

Phase-in rates for Liberty Utilities' service areas are not appropriate. Silverleaf's proposed phase-in rate plan is not a gradual increase in rates toward earning a

¹⁵⁴ Exhibit No. 302, Stannard Refiled Rebuttal, Page 25.

¹⁵⁵ Exhibit No. 105, Harrison Direct, Page 5.

¹⁵⁶ Exhibit No. 105, Harrison Direct, Pages 5-6.

Commission approved revenue requirement, but a period of under-earning followed by a period of over-earning, followed by a reduction to a Commission approved revenue requirement. This does not conform to predictability or stability of rates for customers; customer rates would go up every year for four years before going down to a Commission approved revenue requirement. Under the proposed phase-in, if Liberty Utilities were to have a rate case within the next six years, customers would not see the same rates yearly for more than half a decade.

If Silverleaf is proposing that the phase-in rates apply only to Silverleaf service areas, then the Commission would be treating one group of Liberty Utilities' customers different than others without a compelling reason. The result would be inequitable for rate payers, with some service areas paying their full cost of service while the Silverleaf service area does not during the first two years of the phase-in. This shortfall of revenue from the phase-in service area could result in a detriment across the whole system due to less money being available for customer service or maintenance.¹⁵⁷

Likewise, not allowing carrying costs from the revenue shortfall places an undue burden on the utility. Silverleaf suggests that carrying costs should be disallowed because of the time lapse in Liberty Utilities filing a rate case. As stated earlier, customers benefited from low rates for a longer period of time due to the company not requesting a rate increase. Not allowing carrying costs would punish the company without wrongdoing and potentially incentivize more frequent rate case filings and rate case expense, some of which would ultimately be borne by the rate payers.

¹⁵⁷ Exhibit No. 103, Busch Surrebuttal, Page 7.

The Commission concludes that any change in rates for Liberty Utilities should be applied at one time and not phased-in over time. Carrying cost treatment does not need to be determined as the Commission is not applying any phase-in of rates.

C. Future Rate Case Exemption

- ***Should Silverleaf service areas be exempt from consideration in a subsequent rate case?***

Silverleaf has requested that they be exempted from consideration in any future rate case based upon a system acquisition by Liberty Utilities. The Commission will determine whether to exempt Silverleaf from any future Liberty Utilities rate cases.

Findings of Fact:

1. Silverleaf has proposed that the Silverleaf systems should not be included in any future rate cases solely related to Liberty Utilities acquisition of another system.¹⁵⁸

2. The water and sewer systems that serve Silverleaf are separate and detached from Liberty Utilities' other systems.¹⁵⁹

3. Liberty Utilities was approved to acquire seven additional water systems (including Ozark International, Inc.) in Case No. WM-2018-0023, potentially adding 900 customers to its system.¹⁶⁰

4. The Commission's Staff recommends that a utility come in for a rate case or rate review recommendation within 18-24 months after completing acquisition of a new system if there are anticipated major capital improvements, material changes in the

¹⁵⁸ Exhibit No. 302, Stannard Refiled Rebuttal, Page 6.

¹⁵⁹ Exhibit No. 302, Stannard Refiled Rebuttal, Page 7.

¹⁶⁰ Exhibit No. 105, Harrison Direct, Page 8.

composition of the acquiring utility customer base, or if the operational characteristics of the acquiring utility may change.¹⁶¹

5. The Commission's Staff has recommended that Liberty Utilities file another rate case within two years.¹⁶²

6. Another reason the Commission's Staff recommends that Liberty Utilities file a rate case within the next two years is that the company's books and records were not being kept in accordance with Commission rules. A review in 18-24 months will ensure books are being kept appropriately and rates set accordingly.¹⁶³

7. Silverleaf is concerned that it is unfair for Silverleaf systems to be punished by additional rate case costs and other "substantial burdens" based upon Liberty Utilities acquisition of an unrelated system.¹⁶⁴

8. Liberty Utilities expects to file a rate case within the next few years, due to its recent acquisition of a number of additional water systems from Ozark International, Inc., and its desire to address, among other things, the issues of overhead allocations and shared services and, also, to pursue tariff and rate consolidations.¹⁶⁵

9. While Liberty Utilities has received approval to acquire the Ozark International, Inc. systems, closing on the sale and transfer has not yet occurred.¹⁶⁶

10. Liberty Utilities' acquisition of additional systems has the potential to benefit Silverleaf customers.¹⁶⁷

¹⁶¹ Exhibit No. 103, Busch Surrebuttal, Page 9.

¹⁶² Exhibit No. 105, Gateley Direct, Page 5.

¹⁶³ Exhibit No. 103, Busch Surrebuttal, Page 9.

¹⁶⁴ Exhibit No. 302, Stannard Refiled Rebuttal, Page 5.

¹⁶⁵ Exhibit No. 1, Schwartz Direct, Page 8.

¹⁶⁶ Exhibit No. 103, Busch Surrebuttal, Page 9.

¹⁶⁷ Exhibit No. 103, Busch Surrebuttal, Pages 10-11.

11. Liberty Utilities has three full time employees that work out of its Noel office.¹⁶⁸ According to the company, all employees providing services to Liberty Utilities are employed by Liberty Utilities Service Corp.¹⁶⁹ The Company uses outside contractors to perform water and wastewater operator functions, meter reading, maintenance, and operations for all of Liberty Utilities systems except for Noel.¹⁷⁰

12. One of the Commission's Staff's recommendations to Liberty Utilities is that it perform a cost benefit analysis prior to any future rate case to determine if use of in-house employees would be more cost effective than paying outside contractors.¹⁷¹

13. Although Silverleaf is currently served by a separate rate schedule, it is part of Liberty Utilities. In order for the Company to achieve fair and reasonable rates for all of its customers, all of its revenues, expenses and investments need to be reviewed as part of a rate case. This is particularly important to ensure the proper allocation of the costs of shared services and corporate overhead allocations.¹⁷²

Conclusions of Law and Decision:

Silverleaf's proposition that the Silverleaf system be excluded from a future rate proceeding is premised on two assertions: 1) Systems acquired by Liberty Utilities are unrelated to Silverleaf's cost of service, and 2) Systems acquired by Liberty Utilities will negatively impact the rates of the Silverleaf system.

The first assertion is incorrect because while Silverleaf is a separate system from the other Liberty Utilities systems, and while it is not being consolidated like the KMB

¹⁶⁸ Exhibit No. 105, Harrison Direct, Schedule PRH-d2, Page 8.

¹⁶⁹ Exhibit NO. 1, Schwartz Direct, Page 3.

¹⁷⁰ Exhibit No. 105, Harrison Direct, Page 7.

¹⁷¹ Exhibit No. 105, Harrison Direct, Page 8.

¹⁷² Exhibit No. 3, Schwartz Surrebuttal, Page 3.

system, it still shares the same management and corporate structure. Any change in that management or corporate structure will necessarily change the cost of service for the Silverleaf system. Additionally Liberty Utilities currently uses outside contractors to service and maintain the Silverleaf and some other Liberty Utilities systems. Should that change, it would also impact Silverleaf's cost of service.

The second assertion is incorrect because the effect of any change to corporate structure or management is speculative and not necessarily negative. Many of the suggestions the Commission's Staff has made, such as cost analysis of contractors and using continuous chlorine monitoring equipment in the KMB system,¹⁷³ have the potential to reduce cost of service. The acquisition of the Ozark International, Inc. system and 900 additional customers has not closed yet, and the impact of such an addition is speculative as to overall rates. However, as Staff witness James Busch points out, an addition of 37 percent more customers will likely lower Silverleaf's cost of service through depreciation alone. Also, adding customers under shared corporate management, coupled with other shared services, is likely to positively affect Silverleaf's cost of service in subsequent rate proceeding.

Section 393.130.2, RSMo addresses preferential treatment:

No ... water corporation or sewer corporation ... shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand collect or receive from any person or corporation a greater or less compensation for ... water, sewer [service] ..., except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

Subsection 3 adds:

¹⁷³ Exhibit No. 105, Gateley Direct, Pages 2-3.

No ... water corporation or sewer corporation shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

The statute says that utilities cannot give any “undue or unreasonable” preference or disadvantage to any particular customer, or class of customers, or locality.

As stated above regarding phase-in rates, separating out one system for exclusion from a future rate case creates both an undue and unreasonable preference and an advantage to the Silverleaf system over other systems. An increase in rates that does not apply to one system burdens the other systems with the cost of shared services and management. Likewise, if some customers are excluded from review, those customers in the excluded service area will not be recognized in rates, and the utility could collect revenues above those authorized. An effective rate case requires that all relevant factors are reviewed in order to set just and reasonable rates.¹⁷⁴

The Commission concludes that the Silverleaf systems should not be exempted from any future rate case. The Commission is not ordering that Liberty Utilities file a rate case within two years.

D. Customer Service

- ***Has Liberty Utilities adequately responded to customer service issues?***
- ***Does the Commission wish to take any action regarding customer service issues?***

OMCA intervened in this rate case because of concerns it had about what it considered inadequate service by Liberty Utilities in providing water service. The

¹⁷⁴ Exhibit No. 103, Busch Surrebuttal, Page 12.

Commission will determine what, if any, service issues exist, and decide if any action needs to be taken to resolve or improve service.

Findings of Fact:

1. OMCA's concerns in this case are specifically whether the service provided by Liberty Utilities is safe and adequate, and whether the rates the company proposes are just if service is not consistently safe and adequate.¹⁷⁵

2. Don Allsbury, the property manager employed by OMCA testified as to water and sewer issues he recorded between 2009 and 2018 at the condominiums in Ozark Mountain Resort.¹⁷⁶ The issues recorded by Don Allsbury are summarized as follows:

- a. 2009 – Five water main breaks
- b. 2010 – Several water main freezes
- c. 2011 – One valve malfunction
- d. 2012 – One loss of water pressure
- e. 2015 – Several frozen water meters
- f. 2015 – Over 42 days of high, low, and no water pressure
- g. 2018 – Two frozen water meters¹⁷⁷

3. In April 2018, Liberty Utilities terminated its contract with outside contractor R K Water Operations LLC after experiencing several issues involving quality of service provided. Before that time, the Ozark Mountain system was primarily

¹⁷⁵ Transcript, Page 71.

¹⁷⁶ Exhibit No. 401, Allsbury Direct, Pages 1-2.

¹⁷⁷ Exhibit No. 112, Roos Rebuttal, Page 2.

operated by R K Water Operations LLC.¹⁷⁸ Ozark Mountain was purchased from Silverleaf Resorts Inc. in 2005 and is part of the Silverleaf system.¹⁷⁹

4. Liberty Utilities is planning to remedy the issues and concerns raised by OMCA. Its witness explained:

“[T]he fact that the issues identified and included in Mr. Allsbury’s direct testimony do not extend beyond January 2018, that the Company has already made significant improvements in the quality of service provided and is preparing a list and plan to remedy the issues and concerns raised by OMCA. Specifically, Mr. Allsbury identified multiple issues and reports of water pressure issues. As a result, the Company is currently installing generators in Ozark Mountain’s pressurized water system so that customers will continue to have water during power outages. The Company anticipates that the installation of these generators will be complete by the end of August 2018.”¹⁸⁰

5. Staff met with Paul Carson, Liberty Utilities’ Operations Manager, on February 9, 2018. From that meeting Staff determined that the water pressure problems in 2015 were a combination of equipment failure and operator error. Staff determined that the incidents recounted in Don Allsbury’s testimony have been resolved. According to Staff’s witness, “The water system has been repaired and is currently a reliable source of water. Staff is not aware of any current operational issues with the Ozark Mountain Resort’s water system.”¹⁸¹

6. Liberty has agreed to make changes to bring it into compliance with Commission Rule 4 CSR 240-13.040 as part of the Partial Disposition Agreement adopted by the Commission in this case. Staff’s witness testified, “Liberty has stated it is modifying contract procedures, and referring all customer inquiries to its call center so

¹⁷⁸ Exhibit No. 2, Schwartz Rebuttal, Page 3.

¹⁷⁹ Exhibit No. 302, Stannard Refiled Rebuttal, Page 3.

¹⁸⁰ Exhibit No. 2, Schwartz Rebuttal, Pages 7-8.

¹⁸¹ Exhibit No. 112, Roos Rebuttal Pages 2-3.

that all customer inquiries are logged and properly responded to in a timely manner. In Staff's opinion, replacement of the PRV [pressure release valve], the new contract operator, and Liberty's recent customer service changes have led to more reliable service."¹⁸²

7. Some service issues have not been resolved. Rotting meter boxes reported to Liberty Utilities in 2015¹⁸³ have still not been repaired.¹⁸⁴ Don Allsbury described multiple occasions where calling Liberty to report customer service problems failed to produce satisfactory results because either the company offices were closed, or the company would not act without information unavailable to Allsbury.¹⁸⁵

Conclusion:

OMCA intervened in this case largely because it was concerned that Liberty Utilities was requesting, and would receive, a rate increase for the Ozark Mountain service area without addressing what it felt were numerous instances of inadequate service. While this is not a formal complaint case, the Commission has the responsibility to examine all relevant factors when determining rates.¹⁸⁶ During the hearing, the Commission inquired of OMCA as to what it would like the Commission to do when it comes to customer service.¹⁸⁷ OMCA answered simply, "Better customer service, use of in-house employees, prompter reporting not a month later[.]"¹⁸⁸

¹⁸² Exhibit No. 112, Roos Rebuttal, Pages 3-4.

¹⁸³ Exhibit No. 401, Allsbury Direct, Page 4.

¹⁸⁴ Exhibit No. 401, Allsbury Direct, Page 8.

¹⁸⁵ Exhibit No. 401, Allsbury Direct, Pages 175, 178.

¹⁸⁶ *State ex rel. Util. Consumers' Council of Missouri, Inc. v. Pub. Serv. Comm'n*, 585 S.W.2d 41, 56 (Mo. banc 1979).

¹⁸⁷ Transcript, Pages 75, 77.

¹⁸⁸ Transcript, Page 77.

The Commission recognizes that Liberty Utilities has already made some changes such as terminating its contract with unsatisfactory third party contractors. Liberty Utilities has also agreed to other changes related to customer service that are contained in the Partial Disposition Agreement. OMCA in its brief asked the Commission to order Liberty Utilities to do six things:

- 1) Record all customer inquiries *and service-related complaints* received by Company personnel, as well as all customer inquiries and service-related complaints received and reported by the Company's contractors, in the customer's account records in the customer information system.
- 2) Require Liberty to require all its contractors to report all customer inquiries and service-related complaints to Company personnel, at or near the time the inquiry is received, but no later than one business day thereafter.
- 3) Require Liberty to use local employees for normal, day to day operations.
- 4) Require Liberty to use local employees or local contractors to provide all on-site water system repairs, and where local contractors are utilized, require a local employee to either provide direct, on-site supervision while the work is performed, or to inspect and document the contractor's work no later than one business day after the work is performed.
- 5) Require Liberty's operations manager to make an on-site visit at the Silverleaf water system with Mr. Allsbury within 30 days of issuance of the Commission's Report and Order in this Rate Case, and to document all issues of concern reported to him by Mr. Allsbury.
- 6) Require Liberty to include with specificity, in its 5-year capital improvements plan, how it will resolve issues of concern at the Silverleaf water system reported by Mr. Allsbury, and to specify firm deadlines by which it resolve them.

OMCA also asks that the Commission take into consideration Liberty Utilities' customer service history in determining what rate increase would be just and reasonable to both Liberty Utilities and its customers.¹⁸⁹

¹⁸⁹ EFIS No. 135, Ozark Mountain Condominium Association, Inc.'s Post Hearing Brief.

Decision:

The Commission concludes that based upon the evidence offered in relation to customer service issues, and in consideration of progress made in addressing customer service issues, Liberty Utilities shall do the following:

- 1) Record all service-related complaints received by Company personnel, and service-related complaints received and reported by the Company's contractors, in the customer's account records in the customer information system.
- 2) Require all its contractors to report all service-related complaints to Company personnel, at or near the time the inquiry is received, but no later than one business day thereafter.
- 3) Require Liberty's operations manager to make an on-site visit at the Silverleaf (Ozark Mountain is in the Silverleaf system) water system with Mr. Allsbury within 90 days of issuance of the Commission's Report and Order in this Rate Case, and to document all issues of concern reported to him by Mr. Allsbury.
- 4) Include with specificity, in its 5-year capital improvements plan, how it will resolve issues of concern at the Silverleaf water system (Ozark Mountain is in the Silverleaf system) reported by Mr. Allsbury, and to specify firm deadlines by which it will resolve them.

The Commission is not changing or reducing the rates it is authorizing due to any customer service issues.

THE COMMISSION ORDERS THAT:

1. Liberty Utilities' motion to strike OPC's response to *Notice of no Objections to Non-unanimous Stipulation and Agreement, Request to Modify Hearing Schedule, and Motion for Expedited Treatment* is denied.
2. Silverleaf's motion to strike the testimony of Keith Magee is denied.

3. No party timely objected to the *Non-Unanimous Stipulation and Agreement*. The Commission is treating the *Non-Unanimous Stipulation and Agreement* as non-unanimous. The Commission is not adopting the *Non-Unanimous Stipulation and Agreement*.

4. The Commission adopts the provisions, other than those issues disputed at the evidentiary hearing, of the *Partial Disposition Agreement and Request for Evidentiary Hearing* filed on May 24, 2018, including attachments. The signatories are ordered to comply with the terms of these partial disposition agreements, which are attached hereto as Attachment A and incorporated herein by reference as if fully set forth.

5. Liberty Utilities is authorized to file tariff sheets sufficient to recover revenues approved in compliance with this order. Liberty Utilities shall file its compliance tariff sheets no later than November 5, 2018.

6. Liberty Utilities shall file the information required by Section 393.275.1, RSMo 2016, and Commission Rule 4 CSR 240-10.060 no later than November 8, 2018.

7. The Staff of the Missouri Public Service Commission shall file its recommendation concerning approval of Liberty Utilities' compliance tariff sheets no later than November 8, 2018.

8. Any other party wishing to respond or comment regarding Liberty Utilities' compliance tariff sheets shall file its response or comment no later than November 8, 2018.

9. This Report and Order shall become effective on November 3, 2018.

BY THE COMMISSION



Morris L Woodruff

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur.

Clark, Regulatory Law Judge

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

In the Matter of the Application of Rate Increase)
Request for Liberty Utilities (Missouri Water), LLC)
d/b/a Liberty Utilities) **File No. WR-2018-0170**

**PARTIAL DISPOSITION AGREEMENT AND
REQUEST FOR EVIDENTIARY HEARING**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel and for the Partial Disposition Agreement hereby state:

1. On December 19, 2017, Liberty Utilities (Missouri Water), LLC. (“Liberty”) filed a letter with the Missouri Public Service Commission (“Commission”) requesting that the Commission approve increases in its annual water operating revenues. On December 19, 2017, Staff filed its Small Utility Rate Case Timeline, outlining several dates for events, both informal and formally required by regulations.

2. In accordance with Liberty’s request for rate increase and the then-effective Small Utility Rate Case procedures 4 CSR 240-3.050, Staff has conducted an investigation and audit of Liberty’s operations, met with the company and the Office of the Public Counsel (OPC) and the intervening parties, Orange Lake Country Club, Inc., Silverleaf Resorts, Inc., and Ozark Mountain Condominium Association, Inc.. and provided all parties its preliminary results of its investigation and audit. On Day 120, Staff also provided the parties with a proposed settlement of this matter.

3. Staff, Liberty, and OPC have reached a partial disposition agreement (“Partial Disposition”) regarding the resolution of some issues raised by Liberty’s rate increase request. A copy of the Partial Disposition is attached. The Partial Disposition

includes various attachments related to the dispositions. The Partial Disposition outlines the details of the issues resolved by agreement among the signatory parties.

4. The issues left unresolved between the parties include: (a) revenue requirement, (b) return on equity, (c) capital structure, (d) rate base, (e) rate case expense, (f) rate design and rate consolidation, and (g) compliance with § 393.140(4) RSMo, 4 CSR 240-50.030(1) and 4 CSR 204-61.020(1), the use of *The Uniform System of Accounts*.

5. Because the parties have not reached an agreement on the remaining issues listed in paragraph 4, Staff hereby requests those issues be resolved through an evidentiary hearing, in accordance with standard contested case procedures, pursuant to 4 CSR 240-3.050(21), which provides that at any time after a case is opened it becomes clear to the utility or the staff that agreements cannot be reached on even a portion of the issues related to the utility's request, even through the use of mediation or arbitration, either may file a motion asking that the utility's request be resolved through contested case procedures conducted in the time remaining in the rate case process.

6. Liberty is current on its annual report filings and has no other actions pending before the Commission at this time.

WHEREFORE, Staff prays that the Commission will approve this Partial Disposition, grant this request for an evidentiary hearing; and grant such other and further relief as the Commission considers just in the circumstances.

Respectfully submitted,

/s/ Jacob T. Westen

Jacob T. Westen

Deputy Counsel

Missouri Bar No. 65265

P.O. Box 360

Jefferson City, MO 65102

573-751-5472 (Voice)

573-751-9285 (Fax)

jacob.westen@psc.mo.gov

Attorney for the Staff of the

Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and or counsel of record on this 24th day of May, 2018.

/s/ Jacob T. Westen

PARTIAL DISPOSITION AGREEMENT
OF SMALL WATER AND SEWER COMPANY REVENUE INCREASE REQUEST

LIBERTY UTILITIES (MISSOURI WATER), LLC D/B/A LIBERTY UTILITIES

MO PSC FILE NO. WR-2018-0170, SR-2018-0171

BACKGROUND

Liberty Utilities (Missouri Water), LLC d/b/a Liberty Utilities ("Company") initiated the small company revenue increase request ("Request") for water and sewer service, which is the subject of the above-referenced Missouri Public Service Commission ("Commission") File Numbers by submitting a letter to the Secretary of the Commission in accordance with the provisions of Commission Rule 4 CSR 240-3.050, Small Utility Rate Case Procedure ("Small Company Procedure"). In its request letter, received by the Commission on December 15, 2017, the Company set forth its request for an increase of \$995,844 in its total annual water service operating revenues and \$196,617 in its total annual sewer service operating revenues. The Company also acknowledged that the design of its customer rates, service charges, customer service practices, general business practices and general tariff provisions would be reviewed during the Commission Staff's ("Staff") review of the revenue increase request, and could thus be the subject of Staff's recommendations. The Company provides service to approximately 1,954 water customers and 416 sewer customers located in eastern and southwest Missouri.

Pursuant to the provisions of the Small Company Procedure and related internal operating procedures, Staff initiated an audit of the Company's books and records, a review of the Company's customer service and general business practices, a review of the Company's existing tariff, an inspection of the Company's facilities and a review of the Company's operation of its facilities. (These activities are collectively referred to hereinafter as "Staff's investigation of the Company's Request" or "Staff's investigation.")

Upon completion of Staff's investigation of the Company's Request, Staff provided the Company, the Office of the Public Counsel ("OPC"), with information regarding Staff's investigation and the results of the investigation, including Staff's initial recommendations for the resolution of the Company's Request.

PARTIAL RESOLUTION OF THE COMPANY'S RATE INCREASE REQUEST

Pursuant to negotiations held subsequent to the parties' receipt of the above-referenced information regarding Staff's investigation of the Company's Request, the parties hereby state the following agreements:

(1) The schedule of depreciation rates in Attachment A, incorporated by reference herein, includes the depreciation rates used by Staff in its revenue requirement analysis and shall be the prescribed schedule of plant depreciation rates for the Company;

(2) Within thirty (30) days of the effective date of an order approving this Partial Disposition Agreement, the Company agrees to implement the recommendations contained in the Customer Experience Department Report, attached hereto as Attachment B and incorporated by reference herein, and provide proof of implementing the recommendations to the Manager of the Commission's Customer Experience Department and to OPC:

- (a) The Company's call center representatives will include the Company name "Liberty Utilities" in the opening response to after-hours telephone calls;
- (b) The Company agrees to ensure the accuracy of information presented on all Company billing statements.
- (c) The Company agrees to use the four (4) credit criteria provided in Commission Rule 4 CSR 240-13.030(C) when determining whether it may collect a deposit from new customers.
- (d) The Company agrees to comply with Commission Rule 4 CSR 240-13.040.
- (e) The Company agrees to review and update the information presented in the Company rights and responsibilities brochure and website to eliminate all inaccurate statements and ensure that this information is consistent with Company practices and Commission rules. (A link to the Company's tariffs must be provided.)

(3) Within one hundred eighty days (180) days of the effective date of an order approving this Partial Disposition Agreement, the Company shall implement the recommendations contained in the Water & Sewer Department Memorandum, attached hereto as Attachment C and incorporated by reference herein, and agrees to provide proof of implementing the recommendation to the Manager of the Commission's Water & Sewer Unit and to OPC:

- (a) The Company agrees to test, and then repair or replace water meters as necessary, on according to the schedule provided in 4 CSR 240-

10.030(38). Meters that do not comply with 4 CSR 240-10.030(37) shall be replaced.

(4) The Company shall mail its customers a final written notice of the rates and charges included in its proposed tariff revisions prior to or with its next billing cycle after issuance of the Commission order approving the terms of this Partial Disposition Agreement. The notice shall include a summary of the impact of the proposed rates on an average residential customer's bill. When the Company mails the notice to its customers, it shall also file a copy of the notice in EFIS;

(5) Staff and OPC may conduct follow-up reviews of the Company's operations to ensure that the Company has complied with the provisions of this Partial Disposition Agreement;

(6) Staff or OPC may file a formal complaint against the Company if the Company does not comply with the provisions of this Partial Disposition Agreement;

(7) The Parties agree that they have read the foregoing Partial Disposition Agreement, that the facts stated therein are true and accurate to the best of the Company's knowledge and belief, that the foregoing conditions accurately reflect the agreement reached between the Company OPC and Staff; and that the Company freely and voluntarily enters into this Disposition Agreement; and

(8) The above agreements satisfactorily resolve all issues identified by Staff, OPC and the Company regarding the Company's Request, except as otherwise specifically stated herein.

ADDITIONAL MATTERS

The parties acknowledge that they have previously agreed to an extension of the normal "Day-150" date by which an agreement regarding the resolution of a small company revenue increase request is to be reached. The extension was necessary due to delays in Company responses to Data Requests. A copy of the extension agreement can be found in the above-referenced EFIS Case No. at EFIS item 28 - Notice of Extension..

Staff has completed a Summary of Case Events and has included that summary as Attachment D to this Company/Staff/OPC Disposition Agreement.

REQUEST FOR EVIDENTIARY HEARING

The parties were unable to reach a full disposition agreement for this case. This partial disposition resolves only the items listed in the section above. The remaining issues are:

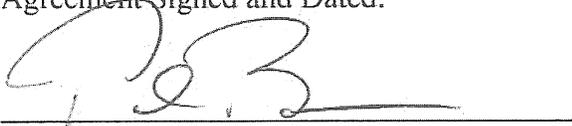
1. Revenue requirement, including all portions of the calculation not specifically noted above;
2. Return on equity;
3. Capital structure;
4. Rate base;
5. Rate case expense;
6. Rate design and rate consolidation; and
7. Compliance with § 393.140(4) RSMo, 4 CSR 240-50.030(1) and 4 CSR 204-61.020(1), the use of *The Uniform System of Accounts*.

The parties acknowledge that Staff will be filing this Partial Disposition Agreement and the attachments hereto. The parties also acknowledge that Staff and the Company may make other filings in this case.

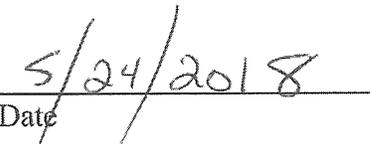
Additionally, the Company agrees that subject to the rules governing practice before the Commission and without waiving the confidentiality of the facts and positions disclosed in the course of settlement, Staff shall have the right to provide an oral explanation to support its entering into this Partial Disposition Agreement, if the Commission requests one at any agenda meeting at which this case is noticed to be considered by the Commission. Subject to the rules governing practice before the Commission and without waiving the confidentiality of the facts and positions disclosed in the course of settlement, Staff will be available to answer Commission questions regarding this Partial Disposition Agreement. To the extent reasonably practicable, Staff shall provide the Company with advance notice of any such agenda meeting so that they may have the opportunity to be present and/or represented at the meeting.

SIGNATURES

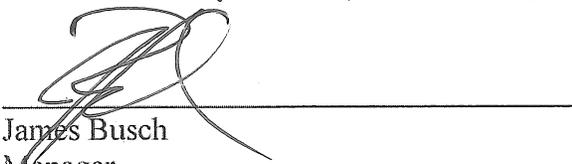
Agreement Signed and Dated:



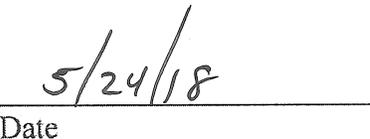
Paul A. Boudreau
Brydon, Swearingen, & England P.C.
Counsel for Liberty Utilities (Missouri Water), LLC d/b/a Liberty Utilities



Date



James Busch
Manager
Water & Sewer Department
Missouri Public Service Commission Staff



Date

/s/ Lera Shemwell

Lera Shemwell
Senior Counsel
The Office of the Public Counsel

Date

List of Attachments

- Attachment A – Schedule of Depreciation Rates
- Attachment B – Customer Experience Department Report
- Attachment C – Water & Sewer Unit Memorandum
- Attachment D – Summary of Events

LIBERTY UTILITIES (MISSOURI WATER)
KMB (CAPE ROCK VILLAGE)
SCHEDULE of DEPRECIATION RATES
SEWER
WR-2018-0170 (SR-2017-0171)

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEPRECIATION RATE</u>	<u>AVERAGE SERVICE LIFE (YEARS)</u>	<u>NET SALVAGE</u>
COLLECTION PLANT				
351	Structure & Improvements	2.5%	44	-10%
352.2	Collection Sewers (Gravity)	2.0%	50	0%
353	Services (A & B)	2.0%	50	0%
354	Flow Measurement Devices	3.3%	30	0%
PUMPING PLANT				
361	Structures and Improvements	4.0%	27.5	-10%
363	Electric Pumping Equipment	10.0%	10	0%
TREATMENT & DISPOSAL PLANT				
371	Structures and Improvements	3.7%	30	-10%
372	Treatment & Disposal Facilities	5.0%	22	-10%
372.1	Oxidation Lagoons	4.0%	40	-60%
373	Plant Sewers	5.0%	20	0%
374	Outfall Sewer Lines	2.0%	50	0%
GENERAL PLANT				
390	Structures and Improvements	2.5%	40	0%
391	Office Furniture & Equipment	5.0%	20	0%
391.1	Office Electronic & Computer Equip.	14.3%	7	0%
392	Transportation Equipment	13.0%	7	9%
393	Stores Equipment	4.0%	25	0%
394	Tools, Shop, and Garage Equipment	5.0%	18	10%
395	Laboratory Equipment	5.0%	20	0%
396	Power Operated Equipment	6.7%	13	13%
397	Communication Equipment	6.7%	15	0%
399	Other Tangible Plant	5.0%	20	0%
SHARED SERVICES PLANT**				
374	Land and Land Rights - Corporate	0.0%		
390	Structures and Improvements - Corporate	2.5%	40	0%
391	Office Furniture and Equipment - Corporate	5.0%	20	0%
392.1	Transportation Equipment less than 12,000 lbs - Corporate	9.4%	10	6%
394	Tools, Shop, and Garage Equipment - Corporate	5.0%	20	0%
398	Miscellaneous Equipment - Corporate	5.0%	20	0%
399	Other Tangible Property - Corporate	14.3%	7	0%
399.1	Other Tangible Property - Servers - H/W - Corporate	20.0%	5	0%
399.3	Other Tangible Property - Network - H/W - Corporate	14.3%	7	0%
399.4	Other Tangible Property - PC Hardware - Corporate	20.0%	5	0%
399.5	Other Tangible Property - Software - Corporate	14.3%	7	0%

**Depreciation Rates for Shared Services Plant will conform to ordered rates for Shared Services Accounts in GR-2018-0013. If the ordered rates for Shared Services Plant in GR-2018-0013 differ from the Shared Services Rates shown on this schedule, then the rates from GR-2018-0013 have precedent.

LIBERTY UTILITIES (MISSOURI WATER)
OZARK MOUNTAIN RESORT & TIMBER CREEK RESORT
SCHEDULE of DEPRECIATION RATES
SEWER
WR-2018-0170 (SR-2017-0171)

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEPRECIATION RATE</u>	<u>AVERAGE SERVICE LIFE (YEARS)</u>	<u>NET SALVAGE</u>
COLLECTION PLANT				
351	Structures & Improvements	4.0%	27.5	-10%
352.1	Collection Sewers (Force)	2.0%	50	0%
352.2	Collection Sewers (Gravity)	2.0%	50	0%
353	Services (A & B)	2.0%	50	0%
354	Flow Measurement Devices	3.3%	30	0%
355	Flow Measurement Installations	3.3%	30	0%
PUMPING PLANT				
361	Structures and Improvements	4.0%	27.5	-10%
362	Receiving Wells	4.0%	26	-5%
363	Electric Pumping Equipment	0.0%	*	
TREATMENT & DISPOSAL PLANT				
371	Structures and Improvements	3.7%	30	-10%
372	Treatment & Disposal Facilities	5.0%	22	-10%
373	Plant Sewers	2.5%	40	0%
374	Outfall Sewer Lines	2.0%	50	0%
GENERAL PLANT				
390	Structures & Improvement	2.5%	44	-10%
391	Office Furniture & Equipment	5.0%	20	0%
391.1	Office Electronic & Computer Equip.	14.3%	7	0%
392	Transportation Equipment	13.0%	7	9%
393	Stores Equipment	4.0%	25	0%
394	Tools, Shop, and Garage Equipment	5.0%	18	10%
395	Laboratory Equipment	5.0%	20	0%
396	Power Operated Equipment	6.7%	13	13%
397	Communication Equipment	6.7%	15	0%
399	Other Tangible Plant	5.0%	20	0%
SHARED SERVICES PLANT**				
374	Land and Land Rights - Corporate	0.0%		
390	Structures and Improvements - Corporate	2.5%	40	0%
391	Office Furniture and Equipment - Corporate	5.0%	20	0%
392.1	Transportation Equipment less than 12,000 lbs - Corporate	9.4%	10	6%
394	Tools, Shop, and Garage Equipment - Corporate	5.0%	20	0%
398	Miscellaneous Equipment - Corporate	5.0%	20	0%
399	Other Tangible Property - Corporate	14.3%	7	0%
399.1	Other Tangible Property - Servers - H/W - Corporate	20.0%	5	0%
399.3	Other Tangible Property - Network - H/W - Corporate	14.3%	7	0%
399.4	Other Tangible Property - PC Hardware - Corporate	20.0%	5	0%
399.5	Other Tangible Property - Software - Corporate	14.3%	7	0%

* Account fully accrued.

**Depreciation Rates for Shared Services Plant will conform to ordered rates for Shared Services Accounts in GR-2018-0013. If the ordered rates for Shared Services Plant in GR-2018-0013 differ from the Shared Services Rates shown on this schedule, then the rates from GR-2018-0013 have precedent.

LIBERTY UTILITIES (MISSOURI WATER)
KMB
SCHEDULE of DEPRECIATION RATES
WATER
WR-2018-0170

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEPRECIATION RATE	AVERAGE SERVICE LIFE (YEARS)	NET SALVAGE
Source of Supply				
314	Wells & Springs	2.0%	55	-8%
316	Supply Mains	2.0%	50	0%
Pumping Plant				
321	Structures & Improvements	2.5%	44	-10%
325	Electric Pumping Equipment	0.0%	*	
328	Other Pumping Equipment	0.0%	*	
Water Treatment Plant				
332	Water Treatment Equipment	2.9%	35	0%
Transmission and Distribution				
342	Distribution Reservoirs & Standpipes	2.5%	42	-5%
343	Transmission & Distribution Mains	2.0%	50	0%
345	Customer Services	2.5%	40	0%
346	Customer Meters	0.0%	*	
347	Customer Meter Pits & Installation	2.5%	40	0%
348	Hydrants	2.0%	50	0%
General Plant				
390	Structures & Improvements	2.5%	44	-10%
391	Office Furniture & Equipment	5.0%	20	0%
391.1	Office Electronic & Computer Equip.	0.0%	*	
392	Transportation Equipment	13.0%	7	9%
393	Stores Equipment	4.0%	25	0%
394	Tools, Shop, Garage Equipment	5.0%	18	10%
395	Laboratory Equipment	5.0%	20	0%
396	Power Operated Equipment	6.7%	13	13%
397	Communication Equipment	6.7%	15	0%
399	Other Tangible Plant	5.0%	20	0%
Shared Services Plant**				
374	Land and Land Rights - Corporate	0.0%		
390	Structures and Improvements - Corporate	2.5%	40	0%
391	Office Furniture and Equipment - Corporate	5.0%	20	0%
392.1	Transportation Equipment less than 12,000 lbs - Corporate	9.4%	10	6%
394	Tools, Shop, and Garage Equipment - Corporate	5.0%	20	0%
398	Miscellaneous Equipment - Corporate	5.0%	20	0%
399	Other Tangible Property - Corporate	14.3%	7	0%
399.1	Other Tangible Property - Servers - H/W - Corporate	20.0%	5	0%
399.3	Other Tangible Property - Network - H/W - Corporate	14.3%	7	0%
399.4	Other Tangible Property - PC Hardware - Corporate	20.0%	5	0%
399.5	Other Tangible Property - Software - Corporate	14.3%	7	0%

* Account fully accrued.

**Depreciation Rates for Shared Services Plant will conform to ordered rates for Shared Services Accounts in GR-2018-0013. If the ordered rates for Shared Services Plant in GR-2018-0013 differ from the Shared Services Rates shown on this schedule, then the rates from GR-2018-0013 have precedent.

LIBERTY UTILITIES (MISSOURI WATER)
NOEL
SCHEDULE of DEPRECIATION RATES
WATER
WR-2018-0170

<u>ACCOUNT NUMBER</u>	<u>ACCOUNT DESCRIPTION</u>	<u>DEPRECIATION RATE</u>	<u>AVERAGE SERVICE LIFE (YEARS)</u>	<u>NET SALVAGE</u>
Source of Supply				
310	Land and Land Rights	0.0%	0	0%
314	Wells & Springs	2.0%	55	-8%
316	Supply Mains	2.0%	50	0%
Pumping Plant				
321	Structures & Improvements	2.5%	44	-10%
325.1	Submersible Pumping Equipment	10.0%	12	-20%
325.2	High Service or Booster Pumping Equip.	6.7%	15	0%
328	Other Pumping Equipment	4.0%	25	0%
Water Treatment Plant				
332	Water Treatment Equipment	2.9%	35	0%
Transmission and Distribution				
342	Distribution Reservoirs & Standpipes	2.5%	42	-5%
343	Transmission & Distribution Mains	2.0%	50	0%
345	Customer Services	2.5%	40	0%
346	Customer Meters	3.3%	30	0%
347	Customer Meter Pits & Installation	2.5%	40	0%
348	Hydrants	2.0%	50	0%
General Plant				
390	Structures & Improvements	2.5%	44	-10%
391	Office Furniture & Equipment	6.7%	15	0%
391.1	Office Electronic & Computer Equip.	14.3%	7	0%
392	Transportation Equipment	13.0%	7	9%
393	Stores Equipment	4.0%	25	0%
394	Tools, Shop, Garage Equipment	5.0%	18	10%
395	Laboratory Equipment	5.0%	20	0%
396	Power Operated Equipment	6.7%	13	13%
397	Communication Equipment	6.7%	15	0%
399	Other Tangible Plant	5.0%	20	0%
Shared Services Plant**				
374	Land and Land Rights - Corporate	0.0%		
390	Structures and Improvements - Corporate	2.5%	40	0%
391	Office Furniture and Equipment - Corporate	5.0%	20	0%
392.1	Transportation Equipment less than 12,000 lbs - Corporate	9.4%	10	6%
394	Tools, Shop, and Garage Equipment - Corporate	5.0%	20	0%
398	Miscellaneous Equipment - Corporate	5.0%	20	0%
399	Other Tangible Property - Corporate	14.3%	7	0%
399.1	Other Tangible Property - Servers - H/W - Corporate	20.0%	5	0%
399.3	Other Tangible Property - Network - H/W - Corporate	14.3%	7	0%
399.4	Other Tangible Property - PC Hardware - Corporate	20.0%	5	0%
399.5	Other Tangible Property - Software - Corporate	14.3%	7	0%

**Depreciation Rates for Shared Services Plant will conform to ordered rates for Shared Services Accounts in GR-2018-0013. If the ordered rates for Shared Services Plant in GR-2018-0013 differ from the Shared Services Rates shown on this schedule, then the rates from GR-2018-0013 have precedent.

LIBERTY UTILITIES (MISSOURI WATER)
HOLIDAY HILLS RESORT, OZARK MOUNTAIN RESORT & TIMBER CREEK RESORT
SCHEDULE of DEPRECIATION RATES
WATER
WR-2018-0170

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	DEPRECIATION RATE	AVERAGE SERVICE LIFE (YEARS)	NET SALVAGE
Source of Supply				
311	Structures & Improvements	2.5%	44	-10%
314	Wells & Springs	2.0%	55	-8%
316	Supply Mains	2.0%	50	0%
Pumping Plant				
321	Structures & Improvements	2.5%	44	-10%
325	Electric Pumping Equipment	0.0%	*	
325.2	High Service or Booster Pumping Equip.	6.7%	15	0%
328	Other Pumping Equipment	4.0%	25	0%
Water Treatment Plant				
332	Water Treatment Equipment	2.9%	35	0%
Transmission and Distribution				
341	Structures & Improvements	2.5%	44	-10%
342	Distribution Reservoirs & Standpipes	2.5%	42	-5%
343	Transmission & Distribution Mains	2.0%	50	0%
345	Customer Services	2.5%	40	0%
346	Customer Meters	5.0%	20	0%
348	Hydrants	2.0%	50	0%
General Plant				
390	Structures & Improvements	2.5%	44	-10%
391	Office Furniture & Equipment	5.0%	20	0%
391.1	Office Electronic & Computer Equip.	14.3%	7	0%
392	Transportation Equipment	13.0%	7	9%
393	Stores Equipment	4.0%	25	0%
394	Tools, Shop, Garage Equipment	5.0%	18	10%
395	Laboratory Equipment	5.0%	20	0%
396	Power Operated Equipment	6.7%	13	13%
397	Communication Equipment	6.7%	15	0%
399	Other Tangible Plant	5.0%	20	0%
Shared Services Plant**				
374	Land and Land Rights - Corporate	0.0%		
390	Structures and Improvements - Corporate	2.5%	40	0%
391	Office Furniture and Equipment - Corporate	5.0%	20	0%
392.1	Transportation Equipment less than 12,000 lbs - Corporate	9.4%	10	6%
394	Tools, Shop, and Garage Equipment - Corporate	5.0%	20	0%
398	Miscellaneous Equipment - Corporate	5.0%	20	0%
399	Other Tangible Property - Corporate	14.3%	7	0%
399.1	Other Tangible Property - Servers - H/W - Corporate	20.0%	5	0%
399.3	Other Tangible Property - Network - H/W - Corporate	14.3%	7	0%
399.4	Other Tangible Property - PC Hardware - Corporate	20.0%	5	0%
399.5	Other Tangible Property - Software - Corporate	14.3%	7	0%

* Account fully accrued.

**Depreciation Rates for Shared Services Plant will conform to ordered rates for Shared Services Accounts in GR-2018-0013. If the ordered rates for Shared Services Plant in GR-2018-0013 differ from the Shared Services Rates shown on this schedule, then the rates from GR-2018-0013 have precedent.

CONSUMER EXPERIENCE DEPARTMENT

FINAL REPORT

The purpose of the Customer Experience Department (“CXD”) is to investigate and make recommendations to the Commission on issues related to the customer experience and customer expectations which include promoting and encouraging efficient and effective utility management and customer service. These objectives contribute to the Commission’s overall mission to ensure that Missourians receive safe and reliable utility service at just, reasonable, and affordable rates.

The objectives of this review are to document and analyze the management control processes, procedures, and practices used by Liberty Utilities to ensure that its customers’ service needs are met and to make recommendations, where appropriate, by which the Company may improve the quality of services provided to its customers. The findings of this review will also provide the Commission with information regarding the Company’s customer service and business operations.

The scope of this review focuses on processes, procedures, and practices related to:

- Meter Reading
- Customer Billing
- Payment Remittance
- Credit and Collections
- Complaints and Inquiries
- Customer Communication

The CXD Staff examined the Company’s tariffs, annual reports, Commission complaint and inquiry records, and other documentation related to the Company’s customer service and business operations. In preparation of this report, the CXD Staff submitted initial data requests to the Company on January 2, 2018, and conducted interviews on February 14, 2018, with Company personnel.

Overview

The Liberty Utilities business office is located at 110 Foster Street, Noel, Missouri 64854. Its hours of operation are 7:30 a.m. to 4:00 p.m. (closed 12:00-12:30 p.m. for lunch) Monday through Friday. Company personnel are available 24/7 by telephone. During regular business hours, customer calls are answered by business office personnel in Noel, Missouri. From 4:00 p.m. – 7:00 p.m., Monday through Friday, customer calls may be answered by Company personnel at an Ozark, Missouri office, or by call center personnel at Empire District Electric Company in Joplin, Missouri. All customer calls received at other times are handled by call center personnel at Empire District Electric Company. The CXD Staff called the after-hours telephone number and although a call center representative gave her name and asked how she could help, no mention was made that someone representing Liberty Utilities or any other corporation had answered the call. Company management asserts that all customer data is backed up with duplicate data centers and stored in two different geographical locations.

The full-time staff of Liberty Utilities consists of six individuals. This includes a customer service representative who is responsible for the business office activity in Noel, Missouri. One certified operator is responsible for the outside operations activity in all service areas of the Company. Two individuals read meters and perform routine maintenance work in the Noel service area. The billing function is supported by two individuals in Jackson, Missouri. Some responsibilities are handled by shared-services employees who have duties outside of the water and sewer operation of Liberty Utilities. The Company utilizes outside contractors to perform operations responsibilities in all service areas except Noel. The Noel business office is the only customer-accessible office in the Liberty Utilities water and sewer service areas. All employees keep time records. Monthly vehicle inspection forms are maintained for each Company vehicle that include the miles each vehicle was used. Company personnel asserted that all vehicles are dedicated solely to Company business and are not driven for personal use by Company employees. The CXD Staff observes that daily vehicle logs are common and necessary in companies that use vehicles for purposes outside of regulated business activities.

As mentioned above, Liberty Utilities provided inconsistent customer numbers in two Commission staff data request responses. Commission staff Data Request No. 7 asked for the number of customers by service area. Data provided by the Company indicated it provided water and sewer service to 2,404 customers in December 2016 and 2,367 customers in December 2017. In the Data Request No. 52 response, the Company asserted there were 2,845 customers at end-of-year 2016 and 2,781 customers at end-of-year 2017. At this time, the Company has not provided information that the CXD Staff requested to verify actual customer number totals. The following table provides water and sewer customer number totals in each service area for December 2016 and December 2017 based on the Data Request No. 7 response. The city location of each service area is also included.

Number of Water and Sewer Customer in Each Liberty Utilities Service Area				
Service Area/Missouri City	December 2016		December 2017	
	Water	Sewer	Water	Sewer
Noel, MO	672		665	
Timber Creek / Desoto, MO	25	16	25	16
Ozark Mountain / Kimberling City, MO	256	230	256	231
Holiday Hills / Branson, MO	491		476	
KMB - Cape Rock Village / Cape Girardeau, MO		171		171
KMB - Warren Woods / House Springs, MO	19		21	
KMB - Scotsdale / Scotsdale, MO	36		39	
KMB - Lakewood Hills / Pacific, MO	114		114	
KMB - Catawissa, MO	33		33	
KMB - High Ridge Manor / House Springs, MO	81		87	
KMB - Crestview Acres / Pacific, MO	55		55	
KMB - Cedar Hills Estates / Cedar Hills, MO	205		178	
	1,987	417	1,949	418

Source: Liberty Utilities DR No. 7 Response

Company personnel estimated a customer growth potential of about 5%.

Meter Reading

Liberty Utilities meter reading responsibilities are divided between Company and contract personnel. Two Company meter readers read the water meters in the Noel service territory and contract meter readers are responsible for meter reading in the remaining Liberty Utilities service territories. Most meter readings are recorded manually with the exception of the KMB service territory where most meter readings are entered into Itron handheld meter reading devices. Meters are typically read between the 4th and 12th of each month. Company staff in the Noel business office review all bills for accuracy by comparing the usage with high and low parameters established for each customer. Company staff represent that questionable meter readings result in rereads prior to bill calculation. All meters, including inactive meters, are read on a monthly basis. Meter readings are transmitted to the Company's office in Jackson, Missouri, to complete the bill calculation process prior to the 22nd of each month. Company personnel represent there have been no documented cases of theft of service in 2016 and 2017. Liberty Utilities is gradually converting to radio-read meters when meters are replaced for other reasons.

Customer Billing

Liberty Utilities generates all customer bills out of its Jackson, Missouri, office using its customer account record software, Microsoft GP Cogsdale. With the exception of bills for the Timber Creek service area, the Company uses Captum, a third-party vendor from Glendale, Illinois, to print and mail the billing statements. Timber Creek billing statements are printed locally and mailed directly to customers. All billing statements are mailed on the 22nd of each month. Company personnel did not indicate that random tests for bill accuracy are performed after the bills are generated and before they are mailed. Company personnel assert that all bills are due 21 days after mailing. Customers may return the top portion of the billing statement with their payment and retain the bottom portion for their own records. The Company's four water tariffs and two sewer tariffs include the applicable rates in each respective service territory where water and/or sewer service is provided.

The billing statement contains line entries for the present meter reading, the previous meter reading, gallons used, current amount due, any balance in arrears, the base monthly water charge, the commodity water charge, the due date, the net amount due, and any late fees that are due. The Company's six tariffs governing water and sewer service have different provisions for late fees. One tariff does not provide for a late fee, three tariffs include a provision for the greater of \$5.00 or 3% of the unpaid balance, and two tariffs provide for the greater of \$2.00 or 3% of the unpaid balance. A CXD Staff review of a sample of 30 billing statements revealed one instance of apparent incorrect calculation of the late fee. Company personnel could not provide an explanation for the miscalculation at a CXD Staff on-site meeting and has not offered an explanation since the error was brought to their attention. The billing statements also include one phone number to call for billing questions and a different after-hours emergency phone number. Company personnel asserted that customers only need to call the first regular telephone number presented on each billing statement when they want to contact the Company.

Payment Remittance

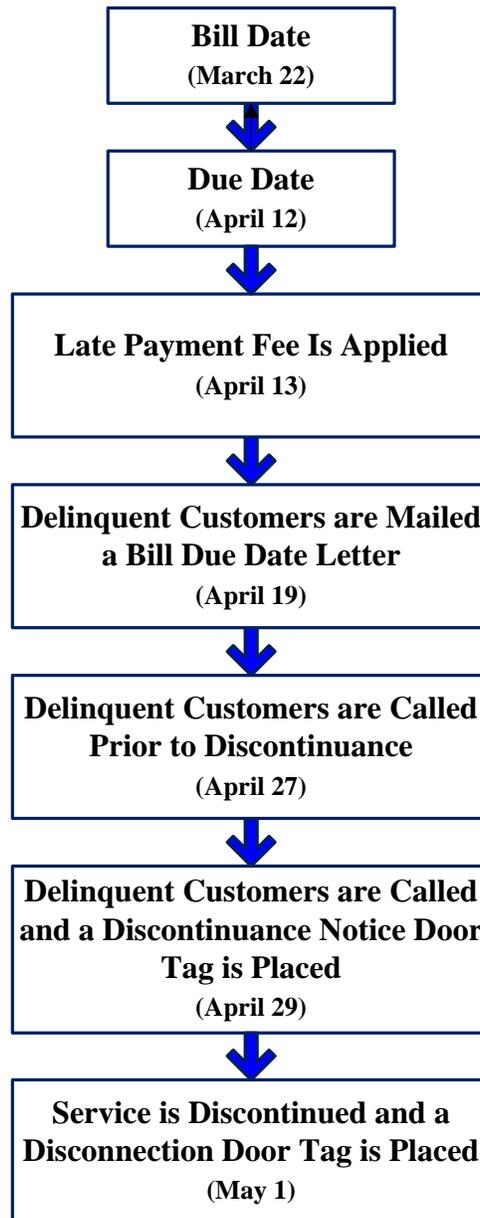
Customer payment options include checks, credit and debit cards, money orders, and electronic bank drafts. Cash payments are also accepted in the business office located in Noel, Missouri. Most Liberty Utilities customers make their bill payments by check, although electronic bank drafts and credit and debit cards are also very popular. A Jackson, Missouri, office mailing address included on the billing statements is used for payment remittance. Customers may access the Company's website to make payments from their checking account or with a credit or debit card. The website also provides options for customers to set up paperless billing or make automatic payments from a checking or savings account. A payment table is provided to inform customers of the time they must allow for payments to be processed. The payment table states that a credit card payment made by telephone requires two business days to process although Company personnel informed the CXD Staff they do not accept telephone payments. Company personnel assert that bill payments are processed and recorded on the day they are received and bank deposits are made daily.

Credit and Collections

Customers requesting water or sewer service are required to complete a written application. Residential customers who do not meet the Company's credit criteria must pay a deposit as a condition for providing service. Deposit amounts range from \$25.00 - \$55.00 depending on the amount authorized in the Company's Commission-approved tariff. Company personnel represent that deposits are collected from new customers unless they enroll for automatic payment of their monthly water or sewer bill or unless they provide a satisfactory credit reference letter. These credit criteria are not consistent with credit criteria that are provided in Company tariffs and the Company's Missouri Responsibilities and Rights brochure. These documents include four credit criteria provided in Commission Rule 4 CSR 240-13.030 whereby customers may avoid paying a security deposit. Company management indicated that 149 deposits were collected in 2016 and 154 deposits were received in 2017. Liberty Utilities personnel indicate that deposits are refunded with the interest authorized in the applicable tariff after 12 months of satisfactory payment history or when customers move. Company personnel assert there were 13 returned checks in 2016 and 11 returned checks in 2016. The Company's current tariff provisions for returned check fees range from \$20.00 to \$25.00.

Liberty Utilities has an established procedure for handling delinquent accounts. The following illustration shows the actions that would be taken on delinquent accounts:

Delinquent Account Actions



Source: Liberty Utilities DR No. 71 Response

Liberty Utilities data indicate that an average of six customers have their service discontinued each month for nonpayment of their bills. The Company's tariffs provide for reconnection fees ranging from \$15.00 to \$25.00 depending on the service area of the customers. The Company indicated that, as of January 15, 2018, 74 customers had been delinquent 31 to 60 days and 30 customers were delinquent from 61 to 90 days. The Company also responded in Data Request No. 72 that 178 accounts have been delinquent over 150 days. The CXD Staff requested the number of write-offs in 2016 and 2017. The Company responded that no accounts have been sent to a collection agency in 2016 and 2017. The Company also indicated that it has

had no contracts with collection agencies in 2016 and 2017. Additional information regarding the Company's policy on the collection of delinquent accounts that remain unpaid for an extensive period of time will be presented in the Commission's Auditing Department's Day 120 report.

Complaints and Inquiries

Customers with questions or concerns may call the Company using the first telephone number (855/426-4376) that appears on their bill. Office personnel respond to most calls, and operations personnel may also become involved in certain situations. Liberty Utilities personnel assert that information regarding customer contacts requiring follow-up action is recorded in individual customer account notes, but no other summary log is kept of all customer complaints and inquiries. Company personnel indicated that reasons for calls may be noted; however, specific customer information regarding the date, customer's name, service location, and description of the complaint/inquiry is not recorded. A review of the Commission's complaint/inquiry records for water service since 2016 showed there was one complaint in February 2018 regarding water quality, service, and opposition to the rate increase request. Commission records for Liberty Utilities sewer service indicate one inquiry in February 2018 opposing the rate increase request.

Customer Communication

Customer bills, billing inserts, special letters, and the Company's website are all ways the Company conveys information to the customer. A Company brochure about rights and responsibilities required by Commission Rule 4 CSR 240-13.040 is also provided to new customers. However, a CXD Staff review of the brochure showed inconsistencies with information presented on customer bills and the website. For example, the brochure provides three after-hours telephone numbers, customer bills provide one after-hours telephone number, and Company management asserts there is no separate after-hours telephone number. Customers may call the same number after hours that they can call during regular business hours. The CXD Staff also noted that the credit criteria communicated to customers in the brochure is not consistent with the actual credit criteria Company representatives use to determine whether a customer must remit a security deposit prior to establishing new service.

Findings, Conclusions, and Recommendations

The following discussion presents a summary of the findings, conclusions, and recommendations pertaining to Liberty Utilities' customer service operations. The information presented in this section focuses on the following five issues that require Company's attention:

- Customer Telephone Contact Procedure
- Bill Accuracy
- Deposit Credit Rating Criteria
- Customer Complaint Log
- Customer Rights and Responsibilities Brochure

Customer Telephone Contact Procedure

Company personnel answering after-hours customer telephone calls do not consistently identify the Company name at the beginning of the call. The CXD Staff called the after-hours telephone number and a call center representative gave her name and asked how she could help,

but no mention was made that someone representing Liberty Utilities had answered the call. When the CXD Staff member asked who they had reached, the representative responded “Empire.” When the CXD Staff member explained they were trying to reach Liberty Utilities, the representative replied that Empire takes Liberty Utilities’ calls after hours. Since it is likely that most Liberty Utilities customers would not know that the Empire District Electric Company takes after-hours telephone calls for Liberty Utilities, it is possible that some customers may be confused, frustrated, and possibly hang up before providing the reason for their call. An introductory statement by the call center representative that correctly identifies the Company would enable customers to conduct the business of their calls in a timelier manner and increase customer satisfaction.

THE CXD STAFF RECOMMENDS THAT COMPANY MANAGEMENT:

Initiate procedures that ensure call center representative include the Company name in the opening response to after-hours telephone calls. This recommendation should be completed within ninety (90) days of the effective date of the Commission order.

Bill Accuracy

Liberty Utilities customer billing statements include inaccuracies related to the calculation of a late payment charge and the provision of an after-hours telephone contact number. A CXD Staff review of a sample of 30 billing statements revealed an instance of apparent incorrect calculation of the late fee. Company personnel could not provide an explanation for the miscalculation at a CXD Staff on-site meeting and has not offered an explanation since the error was brought to their attention. Company personnel did not indicate that random tests for bill accuracy are performed after the bills are generated and before they are mailed. The Company’s billing statements also present inaccurate information regarding the after-hours telephone number provided to customers. The billing statements include one telephone number to call for billing questions and a different after-hours emergency telephone number. Company personnel asserted that customers only need to call the first regular telephone number presented on each billing statement when they want to contact the Company, regardless of the time of day or day of the week.

It is critical that customer billing statements provide accurate information to customers. The provision of inaccurate billing information related to late fees and telephone information is a violation of Commission Rule 4 CSR 240.13.020, which requires companies to include specific information on customer billing statements. Miscalculation of the late payment fee also violates the provision in the Company’s tariffs authorizing a late payment fee. In addition, the provision of inaccurate billing statement information can cause customer dissatisfaction and lack of trust in the Company. Customer satisfaction and trust are vital components of the Company and customer relationship.

THE CXD STAFF RECOMMENDS THAT COMPANY MANAGEMENT:

Initiate actions to ensure the accuracy of information presented on Company billing statements. These actions should incorporate a comprehensive analysis of information presented on billing statements including an evaluation of cost components such as calculation of customer charges and late payment fees; also,

a review of general information for accuracy like the contact telephone number for customers. Actions should also include establishing a routine procedure to analyze a random sample of billing statements for accuracy prior to mailing. This recommendation should be completed within thirty (30) days of the effective date of the Commission order.

Deposit Credit Rating Criteria

The credit rating criteria used by Liberty Utilities to determine whether new customers must remit a deposit is not consistent with the credit rating criteria specified in Commission Rule 4 CSR 240-13.030(C), the Commission's Company-approved tariffs, or the Company's Missouri Responsibilities and Rights brochure provided to new customers and available on the Company's website. Company personnel represent that deposits are collected from new customers unless they sign up for automatic payment of their monthly water or sewer bill or unless they provide a satisfactory credit reference letter. Commission Rule 4 CSR 240-13.030(C), the Commission's Company-approved tariffs, and the Company's Missouri Responsibilities and Rights brochure specify the following four criteria by which customers may establish an acceptable credit rating and avoid paying a deposit:

1. Owns or is purchasing a home;
2. Is and has been regularly employed on a full-time basis for at least one (1) year;
3. Has a regular source of income; or
4. Can provide adequate credit references from a commercial credit source.

Only one of the four Commission-approved criteria, the credit reference letter, is used to evaluate the need for a deposit.

Inadequate application of credit rating criteria precipitates several negative results. The Company is in violation of Commission Rules and Commission-approved tariffs. Customers may become dissatisfied knowing they are subjected to deposit practices inconsistent with criteria presented to them in the Company's informational brochure. There is the probability of increased Company personnel workload associated with maintaining records for a greater number of deposits than necessary and returning the deposits of customers who have established a satisfactory credit history, with interest, after 12 months. Proper use of the four Commission-approved credit criteria for collecting a deposit from new customers would help ensure compliance with Commission rules, increase customer satisfaction, and decrease Company workload associated with collecting and administering deposits.

THE CXD STAFF RECOMMENDS THAT COMPANY MANAGEMENT:

Initiate consistent use of the four credit criteria provided in Commission Rule 4 CSR 240-13.030(C) when determining the need to collect a deposit from new customers. This recommendation should be completed within thirty (30) days of the effective date of the Commission order.

Customer Complaint Log

The Company does not keep a record of customer contacts about complaints it receives. Liberty Utilities personnel assert that information is recorded within individual customer account notes when follow-up action is required, but no written summary is kept of customer complaints.

Commission Rule 4 CSR 240-13.040(5) states “A utility shall maintain records on its customers for at least two (2) years which contain all information concerning ... (B) The number and general description of complaints registered with the utility; ...”

The availability of summary information about customer contacts is important for several reasons. A log of customer contacts would enable the Company to meet the Commission rule requirement for recording complaint information. The availability of documented customer contact information would enable Company management to evaluate why customers contact the Company, determine if any corrective measures could be taken to reduce customer contacts, and improve customer satisfaction. The availability of documentation regarding customer contacts would also help to show the Company’s responsiveness in addressing customer issues.

THE CXD STAFF RECOMMENDS THAT COMPANY MANAGEMENT:

Develop and implement a process to ensure all customer complaints received by Company personnel are documented and maintained for at least two (2) years. Documentation shall adhere to Commission Rule 4 CSR 240-13.040 and include the customer name, address, nature of the complaint, date of occurrence, as well as an explanation of what the Company has done to address the complaint. This recommendation should be completed within thirty (30) days of the effective date of the Commission order.

Customer Rights and Responsibilities Brochure and Website Information

Some information presented in the Company’s rights and responsibilities brochure and website is inaccurate and inconsistent with Company practice. The brochure provides three after-hours telephone numbers while Company management asserts there is no separate after-hours telephone number. Customers may call the same number after hours that they can call during regular business hours. A payment table on the Company’s website is provided to inform customers of the time they must allow for payments to be processed. The payment table states that a credit card payment made by telephone requires two business days to process although Company personnel informed the CXD Staff they do not accept telephone payments. Inaccurate and inconsistent customer information can contribute to frustration and dissatisfaction. The provision of accurate and consistent information within all Company communication vehicles is essential in order for customers to be able to conduct Company business in an efficient, satisfactory manner.

THE CXD STAFF RECOMMENDS THAT COMPANY MANAGEMENT:

Conduct a comprehensive review of the information presented in the Company rights and responsibilities brochure and website and initiate action to correct all inaccurate statements to ensure that customer information is consistent with Company practices and Commission rules. This recommendation should be completed within thirty (30) days of the effective date of the Commission order.

REPORT OF WATER AND SEWER DEPARTMENT
FIELD OPERATIONS AND TARIFF REVIEW

Case No. WR-2018-0170

Liberty Utilities (Missouri Water), LLC d/b/a Liberty Utilities

Introduction

For this rate case, Liberty Utilities is requesting a rate increase for its Silverleaf Resort water and sewer systems and for the KMB and Noel companies' systems that Liberty Utilities has acquired since its last rate case, Case No. WR-2006-0425.

Liberty Utilities purchased the assets of KMB in Case No. WO-2011-0350 and its certificate of convenience and necessity (CCN) from the Missouri Public Service Commission (Commission) for those systems became effective August 20, 2011. The Company provides water service to approximately 521 customers in seven certificated service areas of Franklin and Jefferson Counties and sewer service to approximately 169 sewer customers in the service area of Cape Rock Village in Cape Girardeau County. The Commission's Water and Sewer Department Staff (Staff) performed an inspection of the sewer system on January 18, 2018 and the water systems on February 15, 2018.

In Case No. WO-2005-0206, Liberty Utilities purchased the Missouri water and sewer utility assets from Silverleaf Resorts (the resorts have recently been purchased by Holiday Inn Club Vacations), which included the utility assets of Timber Creek, Holiday Hills, and Ozark Mountain Resorts. The Commission granted the CCN which became effective September 22, 2005. The Commission's Staff performed an inspection of the Timber Creek (DeSoto) water and sewer systems in Jefferson County on January 23, 2018 and the Branson (Holiday Hills) and Kimberling City (Ozark Mountain) water and sewer systems in Taney County on February 9, 2018.

Liberty Utilities purchased the assets of Noel Water Company in WO-2011-0328. The CCN from the Commission became effective August 20, 2011. Staff performed an inspection of the facilities February 8, 2018.

Observations and system improvements of each facility are listed below each system description.

KMB Facilities

Sewer System Cape Rock Village and Tanglewood Estates subdivisions, Cape Girardeau, Cape Girardeau County

The Cape Rock Village sewer system provides sewer service to approximately 169 customers. The sewer system consists of a three-cell aerated lagoon with the design capacity of

approximately 40,000 gallons per day (gpd) but an actual flow of approximately 35,000 gpd¹. The collection system is composed mostly of PVC and clay pipe with manholes for access. The waste water is delivered by gravity to a lift station on Singing Hills Street. The lift station contains two 25 horsepower pumps which pump the effluent up to the lagoon for treatment. The wet well capacity of the lift station is nearly 12,000 gallons, which provides several hours of storage in the event of an electrical outage, or a failure of both electric pumps. The effluent is presently not disinfected before it is discharged into the receiving stream. The Missouri Department of Natural Resources (DNR) issued a schedule of compliance (SOC) in the Company's last permit dated June 1, 2015 requiring the lagoon to "attain compliance with the final effluent limitations for ammonia and E. coli as soon as reasonably achievable or no later than 4 years of the effective date of this permit." The Company stated it intends to add disinfection to comply with the SOC.

The DNR inspection report from 2012 mentioned that "many items listed as unsatisfactory during the previous inspection on August 21, 2008, had been addressed the maintenance was much improved." **Water Systems**

Hillshine Acres (Catawissa, Franklin County)

The Company provides water service to approximately 29 water service connections. The water system consists of a single well, a master meter, a well house, a chlorine pump for disinfection, and three 119 gallon bladder tanks to maintain pressure on the system. According to past records the well produces about 15 gallons per minute.

Improvements since acquisition:

- Installed chlorination.
- Upgraded the electrical system in the well house.
- Replaced the well pump and pipe in 2017.
- Installed two new bladder tanks in 2016.
- Installed remote monitoring to track of electric issues and system pressure.
- Many of the water meters are located inside the homes in this system. The Company has installed radio read meters for ease of reading.

Crestview Acres (Pacific, Franklin County)

The Company provides water service to approximately 55 water service connections. The water system consists of a single well, a master meter, a well house, a chlorine pump for disinfection, and a 2,000 gallon hydropneumatic tank to maintain pressure on the system. According to past records the well produces about 32 gallons per minute.

¹ Volume estimated in a Dept. of Natural Resources inspection report.

Improvements since acquisition:

- Installed chlorination.
- Upgraded the electrical system in the well house.
- Installed remote monitoring to track of electric issues and system pressure.

Cedar Hill Estates (Cedar Hill, Jefferson County)

The Company provides water service to approximately 185 water service connections. The water system consists of a single well, a master meter, a well house, a chlorine pump for disinfection, and a 51,000 gallon standpipe, approximately half of which is usable, to provide storage and maintain pressure by gravity on the system. According to past records the well produces about 300 gallons per minute.

Improvements since acquisition:

- Cleaned and painted the standpipe.
- Installed an interconnect with the city of Cedar Hill for emergency water supply backup.
- Installed chlorination.
- Installed separate influent pipe extended to the top of the water level for aeration of the water as the tank fills to reduce hydrogen sulfide.
- Upgraded the electrical system in the well house.
- Installed remote monitoring to track electric issues and system pressure.

Scotsdale (Scotsdale, Jefferson County)

The Company provides water service to approximately 33 water service connections. The water system consists of a single well, a master meter, a well house, a chlorine pump for disinfection, and a 100,000 gallon concrete ground storage tank located at the highest point in the system to provide storage and maintain pressure on the system. According to past records the well produces about 75 gallons per minute.

Improvements since acquisition:

- Upgraded the electrical system in the well house.
- Installed remote monitoring to track electric issues and system pressure.
- Installed a gate at the driveway entrance to the well house and tank area to provide security.

High Ridge Manor (House Springs, Jefferson County)

The Company provides water service to approximately 87 water service connections. The water system consists of a single well, a master meter, a well house, a chlorine pump for disinfection, and a 10,000 gallon hydropneumatic tank to maintain pressure on the system. According to past records the well produces about 70 gallons per minute. Several customer comments have been received about water quality. The Company attributes these comments to the iron content in the well. The Company has purchased filters to aid in the removal of iron from the water going into the distribution system. The filters were not in service at the time of Staff's inspection.

Improvements since acquisition:

- Installed chlorination.
- Cleaned the hydropneumatic tank approximately two years ago.
- Upgraded the electrical system in the well house.
- Installed remote monitoring to keep track electric issues and system pressure.
- Installed a new flush hydrant at the end of a dead end line.

Warren Woods Subdivision (House Springs, Jefferson County)

The Company provides water service to approximately 19 water service connections. The water system consists of a single well, a master meter, a well house, a chlorine pump for disinfection, a 15,000 gallon concrete ground storage tank, two high service pumps which pump water out of the storage tank and pressurize the distribution system, and four 119 gallon bladder tanks to maintain pressure on the system. According to past records the well produces about 14 gallons per minute.

Improvements since acquisition:

- Upgraded the electrical system in the well house.
- Installed remote monitoring to track electric issues and system pressure.
- Installed an emergency interconnect with the local public water district.

Lakewood Hills (Pacific, Jefferson County)

The Company provides water service to approximately 113 water service connections. The water system consists of two wells. Each well has a master meter, a well house, and a chlorine pump for disinfection. Well #1 has an 18,000 gallon concrete ground storage tank located at the highest point in the system to provide storage and maintain pressure on the system. The approximate production of Well #1, according to past records, is 42 gallons per minute. Well #2 is presently not in service because the water is exhibiting black flakes in it and the Company

does not want to serve that water to its customers. According to records, Well #2 has the ability to produce approximately 60 gallons per minute.

Improvements since acquisition:

- Upgraded the electrical system in both well houses.
- Installed remote monitoring to track electric issues and system pressure.
- Installed chlorination at both wells.
- Installed a new roof on the well house at Well #1.
- Installed a new well pump, motor, and pipe at Well #1.
- Upgraded piping at Well #1 approximately two years ago.
- Cleaned ground storage tank at Well#1 approximately years ago.
- Built a new well house at Well #2.

Holiday Inn Club Vacations (Formerly Silverleaf Resorts) Facilities

Timber Creek (DeSoto, Jefferson County)

Sewer System

The Company provides sewer service to approximately 16 customers, each of which are recreational multi-unit condominium buildings. Waste water is treated by using an extended aeration plant with a design capacity of 50,000 gpd but the actual flow is approximately 33,600 gpd². The effluent is disinfected with ultraviolet (UV) light for disinfection prior to being discharged into the receiving stream. The waste water is delivered to the treatment facility by gravity through a collection system composed of various sizes of PVC pipe ranging from four inches to ten inches in diameter with manholes for access. The records of all three of the Holiday Inn properties are reported together, therefore Staff does not have a breakdown of the amount of pipe for the Timber Creek nor of the other individual systems. The collection system receives a large amount of inflow and infiltration (I&I). The contract operator told Staff that the collecting sewers have been smoke tested to look for I&I, and the results indicated repairs need to be made to the collection system.

Improvements since the last rate case:

- Installed two new blowers.
- Upgraded electric at the sewer treatment plant.
- Installed additional bulb in UV disinfection.

Water System

² Volume estimated in a Dept. of Natural Resources inspection report.

The Company provides water service to approximately 25 water service connections, most of which are multi-unit recreational condominium buildings. Each of the buildings has one meter for eight units. The water system consists of two wells. Well #1 consists of a well house, a master meter, a chlorine pump for disinfection, a generator to provide backup power, a 210,000 gallon ground storage tank, and a 10,000 gallon hydropneumatic tank and two high service pumps to maintain pressure on the system. According to past records Well #1 produces about 250 gallons per minute. Well #2 consists of a well house, master meter, and a high service pump which pumps the water to Well #1 to be disinfected and stored in the ground storage tank. Well #2 was struck by lightning some time ago and is presently out of service. Historically, Well #2 has been used as a backup well and has the ability to pump 400 gpm.

The Company walks the system looking for water leaks and fixes them as they are found. The Company intends to install some isolation valves to try and isolate parts of the system in order to mitigate water outages. The Company stated that old water meters could be making the water loss problem appear greater than it actually is, due to under registering water usage. These water meters are outdated and have not been replaced in accordance with 4 CSR 240-10.030 (38).

Improvements since the last rate case:

- Replaced gas chlorination with liquid bleach for safety reasons.
- Replaced well pump and motor
- Upgraded the electrical system at Well #1.

Ozark Mountain (Kimberling City, Stone County)

Sewer System

The Company provides sewer service to approximately 221 customers, most of which are multi-unit recreational condominium buildings. Waste water is treated by using an extended aeration plant with a design capacity of 54,000 gallons per day (gpd) but an actual flow of 21,300 gpd³. The effluent is treated with chlorine gas for disinfection prior to being discharged into the receiving stream. The waste water is delivered to one of five lift stations by gravity through a collection system composed of various sizes of PVC pipe ranging in size from two inches to eight inches in diameter. The effluent is pumped from the lift stations to the treatment facility.

Improvements since the last rate case:

- Installed a new blower.
- Installed or maintained buildings over lift stations.
- Rebuilt all five lift stations.

³ Volume estimated in a Dept. of Natural Resources inspection report.

- Installed new filters at treatment plant.
- Reconfigured piping at the treatment plant.
- Added a holding tank at the lift station by the lake to provide additional containment time.

Water System

The Company provides water service to approximately 248 water customers, most of which are multi-unit recreational condominium buildings. Each of the buildings has one meter. Some of these water meters are outdated and have not been replaced in accordance with 4 CSR 240-10.030 (38). This water system consists of one ground water well, a well house, a master meter, a chlorine pump for disinfection, a generator to provide backup power, a 100,000 gallon ground storage tank, and a 10,000 gallon hydropneumatic tank and two high service pumps to maintain pressure on the system. According to past records the well produces about 300 gallons per minute.

Improvements since the last rate case:

- Installed two new generators for emergency electric power.
- Installed a variable frequency drive.
- Replaced gas chlorination with liquid chlorine for safety reasons.
- Replaced well pump and motor.
- Upgraded the electrical system in the well house #1.

Holiday Hills (Branson, Taney County)

Water System

The Company provides water service to approximately 478 water customers, most of which are multi-unit recreational condominium buildings. Each of the buildings has one meter. These water meters are outdated and have not been replaced in accordance with 4 CSR 240-10.030 (38). The water system consists of two wells. Each well consists of a well house, a master meter, a chlorine pump for disinfection, a 100,000 gallon ground storage tank, three high service pumps and a 10,000 gallon hydropneumatic tank to maintain pressure on the system. According to past records, Well #1 produces about 380 gpm and Well #2 has the ability to pump 660 gpm. A booster station which contains a 5,000 gallon hydropneumatic tank and three high service pumps boosts the pressure to the customers at the highest elevation in the distribution system.

Improvements since the last rate case:

- Replaced motors on the high service pumps.
- Inspected and painted the hydropneumatic tank at the booster station.

Noel

Water System

The Company provides water service to approximately 670 water service connections. The Noel municipal area water system consists of six wells. Each well has a master meter, a well house, and a chlorine pump for disinfection. There are three storage tanks with a combined storage of 400,000 gallons of water. The water distribution system consists of over 95,000 feet of pipe ranging from 2 inches to 10 inches in diameter composed of various materials including PVC, galvanized steel, cast iron, and asbestos cement. The distribution system has seven booster stations to ensure the water pressure is sufficient in areas of higher elevation. The yield of each well in the Noel service area, provided by DNR Drinking Water Watch, is listed below:

Well #1 – 190 gallons per minute (gpm)
Well #3 – 250 gpm
Well #4 – 285 gpm
Well #5 – 180 gpm
Well #6 – 465 gpm (presently out of service)
Well #7 – 440 gpm

According to the Company, the water production at Well #1 has been decreasing over the last several years. The Company made the decision to replace the pump, motor, and well drop pipe to increase production. The electrical components for the well house were also upgraded at this time.

The city of Noel is divided by a river. Well #1 and Well #3 are the only wells that provide water service to the southern part of the system south of the river. There is a water main crossing the river, but it is normally closed. System pressure differences and valve accessibility due to river conditions are factors limiting its use. The Company was concerned if Well #3 went down then Well #1 would not be able to keep up with demand so the pump at Well #1 was replaced.

Wells #4, 5, and 7 all pump to the North reservoir which provides water to the Northern part of the service area north of the river. The Company would eventually like to replace the concrete ground storage tank with a standpipe or elevated storage.

Well #6 is not in operation as a result of the well testing high for radionuclides. The Company has indicated that it intends to plug the well.

Improvements since the last rate case:

- Replaced the pump, drop pipe, and electrical components of Well #1 February 26, 2018.

- Replaced the roof on Well #1 and Well #4 well houses
- Installed fencing around Well #3 and Well #4.
- Installed variable frequency drives (VFDs) on all well pumps to regulate the flow of water while pumping and reduce wear and tear on pumps and motors.
- Replaced gas chlorine with liquid chlorine for safety reasons at all well houses.
- Installed remote monitoring to track electric issues and system pressure.

Water Quality and Service

Multiple public comments were received from customers in the former KMB service areas regarding the taste and odor of chlorine, other taste and odor issues, and low water pressure. Staff reviewed the public comments, Liberty Utilities' operating records / laboratory results, DNR correspondence, inspection reports and permits. Staff visited each water system, interviewed Liberty Utilities' system operator and / or the operations manager and comments, contacted customers and performed field testing of drinking water taste, odor and chlorine content. Staff has concluded that:

Liberty Utilities voluntarily added chlorine to the drinking water as a safety precaution in August 2017. Samples taken by Staff and Company samples submitted to DNR show that the Company is not exceeding the permitted parameters allowed by DNR.

Some public comments concerning taste and odor are based on current conditions of supply. Liberty Utilities is in the process of installing greensand filters for the High Ridge Manor system. These filters are designed to remove iron and should improve taste and odor.

Some public comments referenced conditions that occurred several years ago. Since then, Liberty Utilities has made improvements to these systems and the conditions no longer exist.

Review of DNR Records

Staff reviewed Liberty Utilities' Operating Permits, DNR inspection reports and correspondence, and water sample laboratory results. Staff found that the operating permits for each of Liberty Utilities' water and waste water systems were existing and current. A review of DNR inspection reports and correspondence showed that Liberty Utilities is operating its systems in compliance with DNR requirements. Water analysis results showed that Liberty Utilities has historically operated its chlorinated its systems within the Environmental Protection Agency (EPA) guidelines for disinfection.

Customer Contact

From January 16, 2018 through February 15, 2018, the Commission Staff and/or the Office of Public Counsel received public comments from Liberty Utilities' customers. Staff initiated contact with customers whose public comments were service related (i.e. taste, odor, pressure) to ascertain as much information as possible. Some customers responded by phone, some responded by e mail, and some did not respond. Staff spoke with the Company about the issues. The Company stated it was aware of these issues and had spoken to many of these customers about the issues. The Company stated that it was attempting to address the issues by making modifications which it believed would improve the quality of the water and satisfy the customers. Staff made site visits with a Company representative to each of the homes of the customers who had voiced service quality issues in public comments. Staff took water samples in each of the KMB service areas to physically observe the characteristics of the water being received. Staff did not observe any objectionable traits in the water at any of the homes where samples were taken. The water appeared clean. It did not smell or taste like chlorine. Chlorine tests were taken on each sample to determine if chlorine was in the system and all samples showed chlorine present. Staff believes that many of the concerns customers had with chlorine odor and taste is due to the recent addition of chlorine by the Company in August of 2017 to ensure the water is disinfected. The Company has been making adjustments to the chlorine levels since it was installed to ensure it is consistent, and Staff believes the Company has been able to do that over the last two or three months based on sample results recorded on Drinking Water Watch. Staff took pressure readings at the homes where customers expressed a concern with low pressure and found all of those homes to have adequate water pressure by DNR standards. DNR requires that all customer water services are above 20 pounds per square inch (psi) at the meter.

On March 13, 2018, Staff, with Liberty Utilities' system operator, performed field testing of drinking water for taste, odor, and chlorine residual at some of the former KMB systems. Staff sampled at the well houses immediately after chlorine injection and at customers' residences. All water samples from customers' residences were obtained from outside spigots. Staff did not observe any objectionable taste or odor in the water at any of the homes where samples were taken. An initial grab sample was obtained and tested for chlorine. These initial samples typically did not contain measurable amounts of chlorine. The lines were then purged by allowing tap water to flow through the spigot, and then the water was resampled two to three times. In each case, measurable amounts of chlorine were detected in the water samples obtained after purging.

Discussion of Field Testing

Chlorine is one of the most widely used potable water disinfectants. Chlorine can be easily applied, measured and controlled. It is fairly persistent and relatively inexpensive. Liberty

Utilities adds chlorine to the water by using chemical feed systems to inject liquid sodium hypochlorite (bleach) solution into the main distribution line. Missouri DNR does not require Liberty Utilities to chlorinate the KMB systems; however, as a precaution, the Company voluntarily chlorinates these systems. Chlorinated water can taste and smell different than untreated water¹. Some people like the taste and smell of chlorinated water, and others do not. Taste and smell problems may arise depending upon the water quality and amount of chlorine in the water. According to the National Primary Drinking Water Regulations, chlorine levels up to 4 milligrams per liter (mg/L or 4 parts per million (ppm) are considered safe in drinking water⁴. At this concentration no harmful health effects are likely to occur.

Based on the Staff's field work, Staff found that Liberty is safely operating its chlorination systems within the limits of the National Primary Drinking Water Regulations.

Water pressure is the force that allows water to go through pipes and reach people's homes. Some factors that affect water pressure are the elevation of the water reservoir, the proximity of a home in relation to the reservoir and the water usage of customers. Water pressure can vary at different times of the day. Pressure is normally higher later at night when there is less of a water demand, and lower in the morning when more water is being shared by many customers. The Missouri Safe Drinking Water Regulation 10 CSR 60-4.080 (9), requires Liberty Utilities to keep the water pressure above 20 psig in the distribution piping. All pressure readings taken by Staff were above 20 psig.

Customer Complaints and Company Contact

Through discussions with the system operators and the operations manager, Staff became aware that in some instances, customers would contact the system operator with a water quality issue and the system operator would respond to the issue. Although this method minimizes the time for a Company response, no written summary was kept of the customer's complaint. This finding supports CXD Staff's findings and recommendations for a customer complaint log.

Staff Recommendations

Liberty Utilities shall comply with 4 CSR 240-10.030 (38) and test, repair or replace affected water meters within one hundred eighty (180) days of the effective date of the Commission order.

Liberty Utilities shall develop a customer complaint log as described in CXD Staff's recommendation.

Tariff Review

¹ <https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations#Disinfectants>

Staff recommends combining the four existing tariffs for water and the two existing tariffs for sewer so that one set of rules applies to all facilities. Any necessary rules specific to a particular service area would be retained. Since some portions of the existing tariffs have not been updated in more than 20 years, replacing them with an updated consolidated tariff would also bring compliance with current regulations.

Rate Design

Staff recommends maintaining the existing rate designs, with rates updated to the new cost of service for each system.

Disposition Agreement Attachment D

Summary of Case Events

Liberty Utilities (Missouri Water), LLC d/b/a Liberty Utilities
Case No. WR-2018-0170
Summary of Case Events

Date Filed:	December 15, 2017
Day 150:	May 24, 2017
Extension?	Yes
If yes, why?	Needed more information
Amount Requested:	\$995,844 & \$196,617
Amount Agreed Upon:	NA
Item(s) Driving Rate Increase:	Plant investment, increases in operation and maintenance costs
Number of Customers:	1,954 water, 416 sewer
Assessment Current:	Yes
Annual Reports Filed:	Yes
Other Open Cases before Commission:	Yes. WM-2018-0023
Status with Secretary of State:	Good Standing
DNR Violations:	Currently in Compliance
Service/Quality Issues:	Reported Outages in certain service areas. Chlorine Taste/Smell in certain areas.

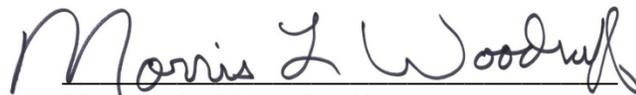
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 25th day of October 2018.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

October 24, 2018

File/Case No. WR-2018-0170

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Liberty Utilities

Paul A Boudreau
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102
PaulB@brydonlaw.com

Liberty Utilities

Dean L Cooper
312 East Capitol
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

**Missouri Public Service
Commission**

Jacob Westen
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
jacob.westen@psc.mo.gov

Orange Lake Country Club, Inc.

Joshua Harden
1201 Walnut St., Suite 2900
Kansas City, MO 64106
Joshua.Harden@stinson.com

**Ozark Mountain Condominium
Association, Inc.**

Sarah E Giboney
111 South Ninth Street, Suite 200
P.O. Box 918
Columbia, MO 65205-0918
giboney@smithlewis.com

Silverleaf Resorts, Inc.

Joshua Harden
1201 Walnut St., Suite 2900
Kansas City, MO 64106
Joshua.Harden@stinson.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.

MISSOURI PUBLIC SERVICE COMMISSION

October 25, 2018

File/Case No. WR-2018-0170

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Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

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