

**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

RESPONSE TO MOTION TO DISMISS

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Response to Motion to Dismiss*, states as follows:

1. On December 15, 2107, Liberty Utilities (Missouri Water), LLC d/b/a Liberty Utilities (“Liberty Utilities” or “Company”) submitted a request to implement a general rate increase in its water and sewer rates, pursuant to 4 CSR 240-3.050.

2. On February 8, 2018, Orange Lake Country Club Inc. and Silverleaf Resorts, Inc. (“Intervenors”) filed a *Motion to Dismiss or in the Alternative, to Order Liberty Utilities (Missouri Water), LLC to File a Tariff Pursuant to Section 393.140(11)*.

3. On February 13, 201, the Commission filed its *Order Directing Response to Motion to Dismiss* ordering Staff and Liberty Utilities to file response to the *Motion to Dismiss* no later than February 23, 2018.

4. 4 CSR 240-3.050(1) states that “...a water or sewer utility serving eight thousand (8,000) or fewer customers...shall be considered a small utility under this rule.” Under 4 CSR 240-3.050(2) further states that “a small utility may initiate a rate case by filing a letter requesting an increase in its overall annual operating revenues with the secretary of the commission.”

5. Liberty Utilities has met the requirements of 4 CSR 240-3.150(1) and (2).

6. Commission regulation 4 CSR 240-3.050(4) allows for dismissal of a small utility rate case when the utility is not current on Commission assessments or annual reports, not in good standing with the Secretary of State, or fails to timely provide information necessary to conduct an investigation to Staff or Public Counsel. Staff's review of the *Motion to Dismiss* concludes that none of the requirements for dismissal pursuant to those regulations have been met.

7. Finally, general practice Commission regulation 4 CSR 240-2.116(4) allows for dismissal of a case "for good cause found by the commission after a minimum ten (10) days notice to all parties involved."

8. Staff has reviewed the Interveners' *Motion to Dismiss*. In their *Motion*, the Interveners do not cite to any Commission rule or law violated by the Company's use of the Small Utility Rate Case procedures. Moreover, the *Motion to Dismiss* raises no issues that rise to the level of good cause to prevent or remedy a manifest injustice.¹ Thus, there is no good cause under which the case should be dismissed.

9. Alternatively, the Interveners request that the Commission order Liberty Utilities to file a tariff under Section 393.140(11). However, this would also require the case to be dismissed, and Staff finds no grounds for dismissal present in the Interveners' *Motion*.

WHEREFORE, Staff respectfully submits this *Response to Motion to Dismiss*.

¹ ***B. L. C. (K) v. W. W. C.***, 568 S.W.2d 602, 605 (Mo. App. 1978)(holding that while good cause was not defined by the Missouri Rules of Civil Procedure, "it obviously intends a remedial purpose and is applied with discretion to prevent a manifest injustice or to avoid a threatened one.")

Respectfully Submitted,

/s/ Casi Aslin

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of February, 2018.

/s/ Casi Aslin