

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held by telephone
and internet audio conference on
the 2nd day of December, 2020.

In the Matter of The Empire District)
Electric Company d/b/a Liberty, The)
Empire District Gas Company, Liberty)
Utilities (Missouri Water), LLC d/b/a Liberty)
Utilities, and Liberty Utilities (Midstates)
Natural Gas) Corp. d/b/a Liberty Utilities)
for Accounting Authority Orders Allowing)
the Electric, Gas, Water, and Wastewater)
Utilities to Record and Preserve Costs)
Related to COVID-19)

File No. AU-2021-0072

ORDER DIVIDING AAO APPLICATION INTO SEPARATE FILES

Issue Date: December 2, 2020

Effective Date: December 2, 2020

On September 17, 2020, The Empire District Electric Company (EDE), The Empire District Gas Company (EDG), Liberty Utilities (Missouri Water), LLC, and Liberty Utilities (Midstates Natural Gas) Corp. (collectively the “Four Applicants”) applied in a single application for five accounting authority orders (AAOs) related to COVID-19.¹ The Four Applicants are affiliated and share a parent company. The purpose of an AAO is to defer a final decision on current extraordinary costs until a rate case. The Commission has approved the intervention requests of Midwest Energy Consumers Group (MECG), Missouri School Boards’ Association (MSBA), the National Housing Trust (NHT), and Renew Missouri.

¹ The Commission counts two natural gas company AAO requests (EDG and Midstates Natural Gas), one electric company request (EDE), and one water AAO and one sewer AAO request from Missouri Water. The Commission’s earlier order considered only dividing the application by company, but given the discussion *infra*, the Commission will separate Missouri Water’s applications for a sewer AAO and a water AAO.

The Commission expressed concerns regarding the processing of a single file with multiple applications, and is concerned that COVID-19 will have differing impacts according to individual company and industry. The Commission directed all parties to respond to a list of inquiries as it considered why this file should not be divided. The Staff of the Missouri Public Service Commission (Staff), the Four Applicants, MEEG, and MSBA replied. Only MSBA supported dividing the application.

There are administrative efficiencies associated with handling all five applications in a single file. The legal standard for authorization of an AAO is identical across the five applications. The Four Applicants are affiliates and share a parent company. The Four Applicants share some internal services, which results in the same witnesses providing testimony for all Four Applicants. Additionally, the Four Applicants and Staff have already begun discovery, which will complicate separating this file into five new files.

There are also potential problems and complexities in keeping the evidentiary record clear as to what testimony, exhibits, and evidence applies to which company. Five applications in a single file seemingly offers administrative savings, but in the context of a dispute, it is clear that establishing five File Numbers would best serve the objective of preserving the evidentiary record such that a company-specific dispute can be addressed individually.

Lastly, Commission rules prescribe that all utilities are required to use the Uniform System of Accounts.² The Uniform System of Accounts for gas and electric,³ water,⁴ and

² See 20 CSR 4240-20.030 (electric); 20 CSR 4240-40.040 (gas); 20 CSR 4240-50.030 (water); and 20 CSR 4240-61.020 (sewer).

³ 18 CFR Ch. 1, Part 101, General Instruction 7 (addressing gas and electric).

⁴ Uniform System of Accounts Class D Water – 1976 Revisions, General Instruction 4; Uniform System of Accounts Class C Water – 1976 Revisions, General Instruction 8; Uniform System of Accounts Class A and B Water – 1976 Revisions, General Instruction 7.

sewer⁵ all provide that a utility's net income should generally reflect all items of profit and loss, however the instructions for each allow for special treatment of extraordinary items. These General Instructions regarding extraordinary items, which include the same language for gas and electric, in pertinent part, states:

Those items related to the effects of events and transactions which have occurred during the current period and which are of unusual nature and infrequent occurrence shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which are abnormal and significantly different from the ordinary and typical activities **of the company** and which would not reasonably be expected to recur in the foreseeable future. (emphasis added)

For water and sewer utilities, the General Instruction regarding extraordinary items language varies slightly, "Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities **of the company** shall be considered extraordinary items" (emphasis added).

The Commission has relied in part on these instructions when considering whether to approve AAO requests. The Commission chooses to consider extraordinary events in light of the specific company in each utility industry, even when the event affects multiple affiliated companies in similar ways, or multiple industries served by one company as is the case of Missouri Water. The Commission acknowledges that this standard could also be met in a combined case, but is mindful of the advantages separate files offer. There was no showing of administrative efficiencies that would outweigh the potential for disparate outcomes among the Four Applicants' requests.

⁵ Uniform System of Accounts Class C and D Sewer – 1977, General Instruction 8; and Uniform System of Accounts Class A and B Sewer – 1976, General Instruction 7.

The Commission determines that the applications of the Four Applicants can best be considered in five separate File Numbers. Therefore, the Commission will direct the division of File Number AU-2021-0072 into five File Numbers, with each File Number respectively representing the separate AAO applications of EDE, EDG, Missouri Water (water), Missouri Water (sewer), and Midstates Natural Gas. The application filed on September 17, 2020, in File Number AU-2021-0072 will be duplicated and shown as being filed on September 17, 2020, in each of the five new File Numbers with a notation of its transfer. The Commission will also direct that the intervenors be assigned as parties to the AAO application of the company or companies indicated in their responses. As NHT and Renew Missouri did not respond, the Commission will direct that they be added as parties to all five File Numbers.

The joint proposed schedule filed on November 9, 2020, in File Number AU-2021-0072 will be rejected as it contemplated one file. The Commission will separately direct filings of new joint proposed schedules under the new File Numbers. To be clear, the Commission's intent is that each of the five new File Numbers will be treated as if having been filed separately from the start. The next procedural step in all five will be an order directing submission of a jointly proposed procedural schedule. The separation of the five files does not preclude a proposal to conduct a joint hearing on some or all of the five files, but the Commission does not decide that question in this order.

THE COMMISSION ORDERS THAT:

1. The Data Center shall divide the application among five new File Numbers as follows:

EU-2021-0145 - EDE;

GU-2021-0146 - EDG,
WU-2021-0147 - Missouri Water (water);
SU-2021-0148 - Missouri Water (sewer);
GU-2021-0149 - Midstates Natural Gas.

2. MCEG, NHT, and Renew Missouri are assigned as parties to all five new File Numbers.
3. MSBA is assigned as a party to the File Numbers GU-2021-0146 and GU-2021-0149.
4. The Jointly Proposed Procedural Schedule is rejected.
5. File Number AU-2021-0072 shall be closed upon completion of the processes necessary to establish and transfer files to the five new File Numbers.
6. This order shall be effective when issued.



BY THE COMMISSION

Morris L. Woodruff

Morris L. Woodruff
Secretary

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

Hatcher, Regulatory Law Judge