

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

In the Matter of Liberty Utilities (Missouri )                      File No.      WR-2018-0170  
Water) LLC’s Application for a Rate Increase.                      )                      SR-2018-0171

**SUR-REPLY OF LIBERTY UTILITIES  
TO REPLY OF MOVANTS**

**COMES NOW** Liberty Utilities (Missouri Water) LLC (“Liberty Utilities” or “Company”), by and through counsel, and, for its Sur-Reply to *Movant’s Reply to Staff and Liberty Utilities (Missouri Water’s) Response to the Motion to Dismiss, or in the Alternative, to Order Liberty Utilities (Missouri Water), LLC to File a Tariff Pursuant to Section 393.140(11)* filed by Orange Lake Country Club, Inc. and Silverleaf Resorts, Inc. (hereinafter “Reply”), states as follows to the Missouri Public Service Commission (“Commission”):

1.        On February 26, 2018, Movants filed their Reply to the responsive pleadings of Staff and Liberty Utilities. Movants contend that Liberty Utilities has more than 36,686 customers and, consequently, does not qualify for the Commission’s SURP.<sup>1</sup>

2.        Movants rely on an interpretation of the term “Customer” defined in 4 CSR 240-3.010(7), which is at odds with the plain language used. That clause defines a customer as “any person . . . that ***accepts financial and other responsibilities in exchange for services provided*** by” a utility.<sup>2</sup> (emphasis added) Commission Rule 4 CSR 240-13.015(G) similarly defines Customer to mean “a person or legal entity ***responsible for payment for service . . .***” (emphasis added)

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<sup>1</sup> Reply, p. 1.

<sup>2</sup> This language is consistent with the definition of “customer” in the Company’s tariff. *See*, P.S.C. MO No. 2, Orig. Sheet No. 6.

3. The Company is surprised to be told by Movants that it has so many customers that have accepted financial responsibility for services provided by Liberty Utilities. If the Commission were to direct Movants to provide the names and mailing addresses of these individuals, Liberty Utilities would be able to reconcile this information with its own billing information and determine who among the many thousands of persons referenced by Movants have not been paying the monthly customer charge (likely for both water and sewer) in accordance with the Company's tariff. Presumably, any such persons should be billed going forward (and back-billed as permitted) should the Commission determine that they are, in fact, customers of the Company.

4. Having said this, the Company's tariff language does require some affirmative act on the part of a person to request service and to be charged for it. Under its current business practice, the Company identifies a customer on the application for service it has received under its approved tariff.<sup>3</sup> It is by this mechanism that the Company calculates the number and type of connections to which it applies its applicable customer charge(s) and volumetric rate element for billing purposes. Using this approach, the time share owners identified by Movants are not "customers" within the meaning of either the Commission rules or the Company's tariff sheets.

**WHEREFORE**, Liberty Utilities again requests that the Commission deny the Motion for the reasons aforesaid.

Respectfully submitted,

*Dean L. Cooper*

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<sup>3</sup> See, Rule 4(a) at P.S.C. MO No. 2, Orig. Sheet No. 10.

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ATTORNEYS FOR LIBERTY UTILITIES  
(MISSOURI WATER) LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was sent via electronic mail on this 7<sup>th</sup> day of March, 2018, to:

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*Dean L. Cooper*