

Exhibit No.:
Issue(s):
Witness/Type of Exhibit:
Sponsoring Party:
Case No.:

NOL in ADIT
Riley/Rebuttal
Public Counsel
WR-2024-0104

REBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

**LIBERTY UTILITIES (MISSOURI WATER) CORP.
D/B/A LIBERTY UTILITIES'**

CASE NOS. WR-2024-0104

September 27, 2024

REBUTTAL TESTIMONY

OF

JOHN S RILEY

**LIBERTY UTILITIES (Missouri Water) LLC
d/b/a Liberty**

CASE NO. WR-2024-0104

1 **Q. What is your name and what is your business address?**

2 A. John S. Riley, PO Box 2230, Jefferson City, Missouri 65102.

3 **Q. By whom are you employed and in what capacity?**

4 A. I am employed by the Missouri Office of the Public Counsel (“OPC”) as a Utility Regulatory
5 Supervisor.

6 **Q. What is your educational background?**

7 A. I earned a B.S. in Business Administration with a major in Accounting from Missouri State
8 University.

9 **Q. What is your professional work experience?**

10 A. I was employed by the OPC from 1987 to 1990 as a Public Utility Accountant. In this capacity,
11 I participated in rate cases and other regulatory proceedings before the Public Service
12 Commission (“Commission”). From 1994 to 2000 I was employed as an auditor with the
13 Missouri Department of Revenue. I was employed as an Accounting Specialist with the
14 Office of the State Court Administrator until 2013. In 2013, I accepted a position as the Court
15 Administrator for the 19th Judicial Circuit until April 2016 when I joined the OPC as a Public
16 Utility Accountant III. I have also prepared income tax returns, at a local accounting firm, for
17 individuals and small business from 2014 through 2017.

1 **Q. Are you a Certified Public Accountant (“CPA”) licensed in the State of Missouri?**

2 A. Yes. As a CPA, I am required to continue my professional training by attending Missouri
3 State Board of Accountancy qualified educational seminars and classes. The State Board of
4 Accountancy requires that I spend a minimum of 40 hours a year in training that continues
5 my education in the field of accountancy. I am also a member of the Institute of Internal
6 Auditors (“IIA”) which provides its members with seminars and literature that assist CPAs
7 with their annual educational requirements.

8 **Q. Have you previously filed testimony before the Missouri Public Service Commission?**

9 A. Yes I have. A listing of my case filings and certification is attached as JSR-R-1.

10 **Q. What is the purpose of your rebuttal testimony?**

11 A. To point out that Liberty Utilities (Missouri Water) LLC d/b/a Liberty (Water and Sewer)
12 witness Mr. Michael McCuen has mistakenly included a Missouri state specific net operating
13 loss (“NOL”) in the rate base of the water and sewer utilities. He has also provided no
14 information to verify the proper amount of federal NOL to be included in rate base.

15
16 **Q. Why is including a Missouri specific NOL in rate base a mistake?**

17 A. I rely on the instructions to the Missouri Corporate tax return. Form MO – 1120, General
18 Information. I quote the specific section below:

19 NET OPERATING LOSSES Corporations that file a Missouri return with a
20 federal net operating loss (NOL) must treat the loss under the provisions of
21 the Internal Revenue Code. Corporations that file a consolidated federal and
22 separate Missouri return shall compute the separate federal taxable income
23 as if each member filed a separate federal return. The corporation is bound
24 by the federal return election to carry losses forward or back, (i.e., if the loss
25 is carried back on your federal return, the separate company loss must be
26 carried back).

1 If there is a consolidated gain, the corporation may elect to carry the federal
2 separate company loss forward or back pursuant to the Internal Revenue
3 Code on a separate company basis in Missouri.

4 The only net operating loss subject to carry forward or carryback is the loss
5 from your federal tax return. **Missouri does not have provisions for a state**
6 **net operating loss deduction.** A negative number on Form MO-1120, Lines
7 8, 9, or 12 is not a net operating loss.

8 As I read the instructions, there is no Missouri NOL or carry forward (“NOLC”) recognized.

9 **Q. A logical next question then would be: If the State of Missouri doesn’t recognize NOLs**
10 **is it necessary to recognize the state specific ADIT?**

11 A. Yes. Remember that accumulated deferred income tax (“ADIT”) is the product of a current
12 interest free loan from the ratepayer for the expectation of paying taxes in the future. We are
13 looking at two different areas. One, a payment from the ratepayers and another is a merely a
14 tax return item.

15 **Q. Are you proposing any more NOL adjustments to Liberty’s rate base?**

16 A. I will, however, I have not located the necessary depreciation numbers in Staff’s data requests
17 and Company workpapers and will attempt to formulate a reduction to the federal NOL
18 balance in my surrebuttal testimony.

19 **Q. Does this conclude your testimony at this time?**

20 A. Yes.

