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Improvements, Staff Recommended Orders
Witness: Antonio D. Penna Jr.
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(Missouri Water) LLC d/b/a Liberty
Case No.: WR-2024-0104
Date Testimony Prepared: September 2024

**Before the Public Service Commission
of the State of Missouri**

Rebuttal Testimony

of

Antonio D. Penna Jr.

on behalf of

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

September 27, 2024



Liberty™

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LIBERTY UTILITIES (MISSOURI WATER) LLC D/B/A LIBERTY
BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
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1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Antonio D. Penna Jr. My business address is 1100 State Street, Pine Bluff,
4 Arkansas, 71601-6070.

5 **Q. Are you the same Antonio D. Penna Jr. who provided direct testimony in this**
6 **matter on behalf of Liberty Utilities (Missouri Water) LLC d/b/a Liberty**
7 **(“Liberty” or the “Company”)?**

8 A. Yes.

9 **Q. What is the purpose of your rebuttal testimony in this proceeding before the**
10 **Missouri Public Service Commission (“Commission”)?**

11 A. I will be addressing certain aspects of the direct testimony of Commission Staff
12 witnesses Michael J. Abbott, Daronn A. Williams, and Andrew Harris as to Liberty’s
13 planning, operations and future improvements and positions as to certain Staff
14 recommendations.

15 **II. DROUGHT RESILIENCY**

16 **Q. Staff witness Abbott discusses drought resiliency as it relates to resource planning.**
17 **He indicates that drought resiliency is “the ability of a water entity to manage and**
18 **even significantly reduce negative impacts caused by drought by developing and**
19 **implementing mitigating strategies, plans, and actions.” (Abbott Dir., p. 2). Is**
20 **Liberty mindful of drought resiliency?**

21 A. Yes.

1 **Q. Mr. Abbott indicates that Missouri, generally, has “an abundant supply of water,”**
2 **but that “there are regions of Missouri like the Southwest area of Missouri that is**
3 **experiencing a slow and steady decline in groundwater levels” and an “example**
4 **of water supply decline can be found in the Northwest region of Missouri.”**
5 **(Abbott Dir., p. 3). What, if anything, does Liberty do to monitor its water**
6 **supplies?**

7 A. All of Liberty’s water sources are wells. These wells tap different aquifers throughout
8 the state, but all of our Missouri water sources are ultimately aquifers. Liberty monitors
9 well levels through air line readings. These level reports are reviewed by the
10 Operations Leadership team and each well is assessed for adequacy and resiliency.
11 Additionally, we have our well contractor perform annual well inspections and provide
12 written reports.

13 **Q. Staff witness Abbott alleges that Liberty does not have satisfactory drought**
14 **resiliency. (Abbott Dir., p. 5). Do you agree with that statement?**

15 A. No. While Liberty does not have a written plan in Missouri, it is aware of guidance
16 from state agencies such as the Missouri Department of Natural Resources (“DNR”)
17 Drought Response System.

18 **Q. What does that mean for Liberty?**

19 A. Our plan of action is to align ourselves and work with the DNR as they proceed through
20 the five phases of the DNR Drought Response Plan. Those phases are as follows:

PHASE	LIBERTY ACTION
0 - No Drought Conditions	No actions are required by Liberty.
1 - Dry Conditions are Possible in Coming Month	No actions are required by Liberty.
2 - Alert Phase	The Drought Assessment Committee (“DAC”) is activated and populated by representatives from key state and

	<p>federal agencies and supported by input from stakeholders representing impacted counties or regions. Impact teams (ITs) may be formed to interact with key stakeholders and assist in data gathering and review.</p> <p>If drought conditions reach this level of severity, Liberty will be engaged with state agencies and will support their efforts by providing any requested data, such as well soundings, well logs, meter data, etc. If specific drought related or conservation communications are prepared, Liberty will share them with our customers.</p>
3 - Conservation Phase	<p>Liberty will communicate the severity of the drought and the need to conserve water. Liberty will also implement any restrictions imposed by the state.</p>
4 - Drought Emergency	<p>Liberty will communicate the severity of the drought and the need to conserve water. Liberty will also implement any restrictions imposed by the state.</p>

1 **Q. Mr. Abbott criticizes the Company’s treatment of conservation on its web site as**
2 **being “geared toward how customers can save money through conservation**
3 **efforts” and being in more than one location on the website. (Abbott Dir., p. 7).**
4 **How do you respond?**

5 A. First, I think we do have to include a cost savings aspect to get customers’ attention.
6 The result of “saving water” and “saving money” is the same as it relates to water
7 service. I believe there is a price point for most customers that encourages
8 conservation. Our approach has been to share water saving tips and to relate those
9 conservation efforts to money saved.

10 In terms of website organization, Liberty will take these comments into
11 consideration in regard to future updates and refinements of the site.

1 **Q. The Staff witness also recommends that Liberty develop drought resiliency**
2 **strategies as well as locate those strategies in one (1) consolidated plan document;**
3 **communicate with DNR’s Drought Assessment Committee or seek to provide**
4 **representation; and be more proactive regarding the drought management**
5 **strategy categories of Mitigation, Impact Assessment, and Response. (Abbott Dir.,**
6 **pp. 7-8). Do you disagree with these recommendations?**

7 A. No. As the Vice President and General Manager of Water for Liberty in Missouri, I
8 must always be mindful of balancing costs with benefits.

9 **Q. What does Staff witness Abbott ultimately recommend?**

10 A. Mr. Abbott recommends that Liberty be required to file a drought resiliency plan in this
11 case within one year of the effective date of a Commission Order establishing new
12 rates. (Abbott Dir., p. 10). Mr. Abbott further recommends that this plan be updated,
13 as Liberty deems necessary, and any such updates be filed with its subsequent rate
14 cases.

15 **Q. Is this something Liberty can do?**

16 A. Yes. However, creating a meaningful drought resiliency plan with targeted and specific
17 outreach activities that will completely align with the state agencies is a full-time effort
18 for at least one person. Additionally, experience at other Liberty locations in the arid
19 southwest region of the United States shows us that changes to water use comes much
20 faster when incentivized. To that end a successful conservation plan and drought
21 preparedness program would need to incentivize conservation and provide
22 disincentives for large and non-necessary usage. Offering incentives requires a budget
23 to offer water savings devices, such as low flow toilets, low flow shower heads and
24 nozzles, toilet flapper valves, etc., to customers at no additional cost. Price point

1 disincentives can be addressed with tiered rates, with exceptions for large families or
2 medical situations. A program with both incentives and disincentives, coupled with
3 comprehensive educational outreach can be very successful in conserving water. A
4 successful conservation program will also have a dramatic effect on revenue, so there
5 needs to be consideration to decoupling rates from sales (or other mechanisms) to
6 ensure the utility collects the needed revenue to safely and properly operate the utility.
7 If these issues can be addressed, Liberty is excited to work on the plan proposed by Mr.
8 Abbott.

9 **III. BOLIVAR IMPROVEMENTS**

10 **Q. Staff witness Harris describes several challenges associated with the Bolivar sewer**
11 **system such as sanitary sewer overflows, inability to meet discharge limits of its**
12 **permit and necessary bypasses of the treatment plant equipment during**
13 **significant rain events. (Harris Dir., p. 2). Do you agree with Mr. Harris’**
14 **description of the challenges?**

15 A. Yes.

16 **Q. Were these challenges present when Liberty purchased the Bolivar sewer system?**

17 A. Yes. As mentioned by Mr. Harris, the U.S. Environmental Protection Agency first
18 issued an enforcement order against the City of Bolivar in September of 2007.

19 **Q. Given these challenges, was it necessary for Liberty to take any action with the**
20 **Missouri Department of Natural Resources in regard to the Bolivar sewer system?**

21 A. Yes. Because of the existing violations, Liberty entered into an Abatement Order on
22 Consent (“AOC”) with the Missouri Department of Natural Resources (“DNR”) on
23 June 16, 2022.

1 **Q. What does an AOC accomplish?**

2 A. Without such agreement, a purchaser would be in violation of environmental
3 requirements on day one. DNR recognizes that problems such as those experienced in
4 the Bolivar sewer system are not conducive to a quick fix. Thus, the AOC sets out a
5 schedule and process for improvements. If that schedule is met, the new owner is not
6 held responsible for violations that may result during that period of improvement.

7 **Q. Has Liberty complied with the AOC thus far?**

8 A. Yes. As described by Mr. Harris (Harris Dir., p. 5), Liberty contracted with Burns &
9 McDonnell to conduct a sewer system study to assess solutions. That plan has been
10 submitted to DNR. At a high level, the plan calls for both inflow and infiltration (I &
11 I) reductions and treatment plant upgrades. Liberty witness Bruce Robinson will
12 provide a more specific timeline of our current plans for the Bolivar systems.

13 **Q. Staff recommends the Commission order that I&I improvements begin in 2025 in**
14 **order to prevent any delays in implementing the Plan. Staff also recommends that**
15 **Liberty Water be ordered to file a status report on the I&I improvements every**
16 **six months, by February 1st and October 1st, that summarizes work completed in**
17 **the previous six months and planned and budgeted for the following six months.**
18 **(Harris Dir., p. 7). Does Liberty believe such a Commission order is appropriate?**

19 A. No. Liberty certainly agrees that it is appropriate to move forward with I&I
20 improvements as soon as possible, and in fact, I&I efforts have begun. However, we
21 are not convinced that this timing should be driven by the Commission. As described
22 above, the AOC process, to include a schedule of compliance, is directed by the DNR.
23 It seems duplicative for the Public Service Commission to issue its own schedule of
24 compliance. Also, Liberty does not believe that semi-annual reports are needed.

1 Instead, Liberty believes that the issue would be better addressed by semi-annual
2 meetings with Liberty Operations Management and Staff to discuss the progress.

3 **Q. Having said that, is Liberty moving forward with the Bolivar I & I work?**

4 A. Yes. Burns & McDonnell completed an I & I Study that identified and ranked the I &
5 I in several areas of the collection system. Liberty used the ranking within the Study
6 to prioritize its smoke testing.

7 **Q. Has Liberty conducted the smoke testing?**

8 A. Yes. Liberty contracted with TREKK Design Group to complete smoke testing on
9 75,432 linear feet of sanitary sewer in one of the most critical areas in Bolivar. Smoke
10 testing was performed, and field crews canvassed the area and conducted a perimeter
11 check of all buildings in close proximity for evidence of smoke. These inspection
12 activities were focused around identifying illicit or defective sanitary sewer
13 connections to ultimately eliminate excess water entering the collection system.

14 **Q. What was the result of this testing?**

15 A. The investigation identified 54 defects. There were 16 defects on Liberty's system and
16 38 on the customer side. Each defect had an I & I flowrate calculated. The flowrates
17 were quantified for all 54 defects and a total study area defect flowrate was calculated
18 at 487.42 GPM (about 0.7 MGD).

19 **Q. What is the next step?**

20 A. Remediating defects will begin with more extensive field investigations to determine
21 the best course for repairs. Field investigations will consist of manhole inspections on
22 all manholes that showed signs of smoke, closed circuit television (CCTV)
23 investigations of line segments that showed smoke, and CCTV investigations of
24 adjacent line segments to smoking manholes. Acoustic sounding inspections of the

1 study area will be completed alongside CCTV investigations. Once these
2 investigations are completed, repairs can be quantified and a rehabilitation schedule
3 can be put together.

4 **Q. What did Burns & McDonnell recommend in regard to Bolivar treatment plant
5 upgrades?**

6 A. The plan identified short-term and long-term upgrades (to possibly be constructed in
7 three (3) phases over approximately ten years) at a very substantial estimated cost.

8 **Q. Staff witness Williams suggests that the Staff has concerns about the speed with
9 which Liberty is moving forward (Williams Dir., p. 2) and Staff witness Harris
10 indicates his belief that the Company is not committed to the schedule found in
11 the Burns & McDonnell facility plan and indicates that Liberty is in the process
12 of soliciting additional engineering opinions (Harris Dir., p. 7). Is there a reason
13 Liberty is taking this second look?**

14 A. Yes.

15 **Q. Why?**

16 A. As mentioned, the cost estimate for the treatment plant upgrades in the Burns &
17 McDonald plan is quite substantial. Liberty Utilities has very recent experience with a
18 similar treatment plant project in Arizona with a lower cost than the Burns & McDonald
19 estimate. Based on that experience, Liberty believes it is in its customers' best interest
20 for the Company to gather additional input before fully committing to a particular
21 strategy.

1 **IV. STAFF RECOMMENDED ORDERS**

2 **Q. Does Staff witness Williams make any recommendations as to potential**
3 **Commission orders?**

4 A. Yes. He recommends that the Commission order Liberty to take certain actions in
5 specified periods of time. (Williams Dir., pp. 19-20).

6 **Q. Would you identify and address the Company’s position as to those recommended**
7 **orders?**

8 A. Yes.

9 **A. Replace Ozark Mountain Storage Tank**

10 **Q. Mr. Williams recommends that Liberty be ordered to “Replace the storage tank**
11 **at the Ozark Mountain water system by December 31, 2025.” What is the**
12 **Company’s position as to this recommendation?**

13 A. Liberty agrees with Mr. Williams that a new tank should be installed as soon as
14 possible. In August 2024, Liberty accepted a bid from K&B Equipment to fabricate a
15 100,000 gallon tank at Ozark Mountain. The current schedule shows fabrication
16 completed in the third quarter of 2025 and installation in the fourth quarter of 2025.
17 Having said this, we have learned over the past few years, that supply and labor issues
18 can slow the best of plans.

19 **B. Collect and Retain Gallons of Water Pumped and Sold**

20 **Q. Mr. Williams recommends that Liberty be ordered to “Collect and retain gallons**
21 **of water pumped and sold for each individual water system separately and not**
22 **grouped together.” What is the Company’s position as to this recommendation?**

1 A. Liberty does not object to collecting and retaining pumping data in this fashion. Liberty
2 has begun planning to collect and retain production and sales data for each individual
3 water system.

4 C. Replace Master Meters

5 Q. Mr. Williams recommends that Liberty be ordered to “Replace all master meters
6 by December 31, 2025.” What is the Company’s position as to this
7 recommendation?

8 A. Liberty agrees with Mr. Williams’ recommendation to replace all master meters.
9 Liberty is planning to have all master meters replaced by the end of 2025. However,
10 any such requirement would have to recognize that meter supply times have been
11 extended in recent years and completion of these replacements may not be completely
12 within Liberty’s control.

13 D. Submit Annual Water Loss Report/Study

14 Q. Mr. Williams recommends that Liberty be ordered to “Submit an annual water
15 loss report/ study that details main breaks and lost and unaccounted-for water by
16 each drinking water system (not tariffed service area, not profit center, but
17 individual drinking water system) on a monthly and annual basis.” What is the
18 Company’s position as to this recommendation?

19 A. Liberty agrees with Mr. Williams’ recommendation to track unaccounted-for-water by
20 individual water system. Planning efforts are currently underway to implement this in
21 2025. However, Liberty does not believe that monthly reports will have great benefit
22 to this issue. Instead, Liberty believes that the issue would be better addressed by either
23 semi-annual or annual meetings with Liberty Operations Management and Staff to
24 discuss unaccounted-for-water and overall system operations.

1 **E. Non-Revenue Water (NRW) Actions**

2 **Q. Mr. Williams recommends that Liberty be ordered to “For any system**
3 **experiencing NRW equal to or greater than 20% on an annual basis, deploy leak**
4 **detection equipment to locate and correct leaks and broken mains, and file**
5 **summary reports of such leak detection efforts.” What is the Company’s position**
6 **as to this recommendation?**

7 A. Liberty agrees with Mr. Williams’ recommendation to investigate non-revenue water
8 (NRW). Given that Liberty has replaced contract operators with Liberty operators and
9 given the previously discussed system improvements across the Missouri systems,
10 Liberty does not feel an annual report is necessary, but rather, recommends semi-annual
11 or annual meetings with Liberty Operations Management and Staff to discuss NRW
12 and overall system operations.

13 **F. Maps and Legal Descriptions**

14 **Q. Staff witness Williams discusses issues he believes exist in regard to the maps and**
15 **legal descriptions contained in the Company’s tariff books. (Williams Dir., pp. 17-**
16 **18). Do you generally agree with his assessment?**

17 A. In regard to the maps, I am in general agreement. Many of those maps have been in
18 tariff books (either Liberty’s or those of predecessors for many, many years). Given
19 current technologies for the creation and duplication of such maps, I believe those can
20 certainly be improved.

21 The legal descriptions are a little more problematic. We certainly can improve
22 the readability of those descriptions. Similar to the maps, many of them are very old
23 and have been subject to reproduction that has not helped their visual clarity. However,
24 Staff seems to also want a rewriting of those descriptions to use “plain language” and

1 to update references. Because the descriptions represent the precise area for which the
2 Commission has granted a certificate of convenience and necessity (“CCN”), this
3 rewriting may be more of a challenge as there is no authority to expand such CCN areas
4 through a tariff filing.

5 **Q. Mr. Williams recommends that the Commission order Liberty Water to revise the**
6 **maps and legal descriptions listed in his direct testimony (Schedule DAW-d2) no**
7 **later than December 31, 2025. (Williams Dir., p. 18). How does Liberty respond**
8 **to this recommendation?**

9 A. Liberty does not oppose this recommendation as it seems to be a reasonable period of
10 time for Liberty to complete the actions necessary to update the maps and legal
11 descriptions. It just comes with the recognition that the ability to truly rewrite the
12 existing legal descriptions may be somewhat limited by specific circumstances.

13 **G. Venice on the Lake - Distribution System**

14 **Q. Mr. Williams recommends that Liberty be ordered to “Complete the current**
15 **distribution system replacement projects via DNR’s OSP no later than December**
16 **31, 2027, at the Venice on the Lake water system, with a status report filed in the**
17 **docket for this rate case at least every six months (on June 30 and December 31 of**
18 **every year).” What is the Company’s position as to this recommendation?**

19 A. Liberty has sought the counsel of a reputable engineering firm (Olsson Engineering) to
20 independently assess the system status and to prioritize the system needs of the Venice
21 on the Lake water system. Olsson analyzed the system and prepared engineering
22 documents in accordance with the DNR’s Owner Supervisor Program. Liberty plans
23 to proceed in a prudent manner to replace pipeline in the time allocated by the DNR

1 program. This approach will be beneficial to the customers from both a service
2 reliability and affordability perspective.

3 Liberty does not feel that written status reports will be helpful to providing
4 service improvements. However, Liberty would be willing to participate in semi-
5 annual or annual meetings with Liberty Operations Management and Staff to discuss
6 progress, tour the system and discuss overall system operations.

7 **H. Venice on the Lake - Well, Wellhouse and Storage Tank**

8 **Q. Mr. Williams recommends that Liberty be ordered to “Complete the installation
9 of the new well, wellhouse and storage tank at the Venice on the Lake water system
10 no later than December 31, 2027, with a status report filed in the docket for this
11 rate case at least every six months (on June 30 and December 31 of every year).”
12 (Williams Dir., p. 20). What is the Company’s position as to this recommendation?**

13 **A.** Similar, to the preceding item, Liberty agrees with Mr. Williams that a new well, well
14 house and storage tank should be installed as soon as possible. Liberty has acquired
15 the property, performed the required environmental surveys, obtained the needed
16 permits and is scheduled to begin clearing the lot in mid-October 2024. Additionally,
17 Liberty is currently soliciting bids for the well drilling, which is expected to occur in
18 the fourth quarter of 2024. Well House construction, tank landing and associated
19 piping and controls are scheduled throughout 2025 and 2026 as shown in Rebuttal
20 Schedule RB-1 in the rebuttal testimony of Bruce Robinson..

21 Liberty does not feel that written status reports are necessary, but rather,
22 recommends semi-annual or annual meetings with Liberty Operations Management
23 and Staff to discuss project progress, tour the system and discuss overall system
24 operations.

1 Q. Does this conclude your rebuttal testimony at this time?

2 A. Yes.

VERIFICATION

I, Antonio D. Penna Jr., under penalty of perjury, on this 27th day of September, 2024,
declare that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Antonio D. Penna Jr.