

Exhibit No.: _____
Issues: Rate Design/Cost of Service
Witness: Jessica A. York
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: City of Bolivar, Missouri
Case No.: WR-2024-0104/SR-2024-0105
Date Testimony Prepared: October 24, 2024

BEFORE THE
STATE OF MISSOURI PUBLIC SERVICE COMMISSION

_____)
In the Matter of the Request of)
Liberty Utilities (Missouri Water))
LLC d/b/a Liberty for Authority to) **File No. WR-2024-0104 /**
Implement a General Rate) **SR-2024-0105**
Increase for Water and)
Wastewater Service Provided in)
its Missouri Service Areas)
_____)

Surrebuttal Testimony and Schedule of

Jessica A. York

On behalf of

City of Bolivar, Missouri

October 24, 2024



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

)	
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its Missouri Service Areas)	
)	

STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS) SS

Affidavit of Jessica A. York

Jessica A. York, being first duly sworn, on her oath states:

1. My name is Jessica A. York. I am a consultant with Brubaker & Associates, Inc., having its principal place of business at 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017. We have been retained by the City of Bolivar, Missouri in this proceeding on their behalf.

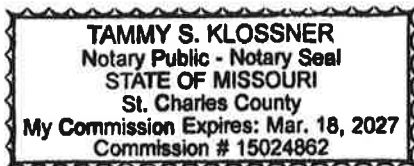
2. Attached hereto and made a part hereof for all purposes are my surrebuttal testimony and schedule which were prepared in written form for introduction into evidence in the State of Missouri Public Service Commission, File Nos. WR-2024-0104 and WR-2024-0105.


3. I hereby swear and affirm that the surrebuttal testimony and schedule are true and correct and that they show the matters and things that they purport to show.



Jessica A. York

Subscribed and sworn to before me this 24th day of October, 2024.





Notary Public

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)	
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Liberty Utilities (Missouri Water))	
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**Jessica A. York
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**BEFORE THE
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Surrebuttal Testimony of Jessica A. York

- 1 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**
- 2 A Jessica A. York. My business address is 16690 Swingley Ridge Road, Suite 140,
- 3 Chesterfield, MO 63017.

- 4 **Q ARE YOU THE SAME JESSICA A. YORK WHO PROVIDED DIRECT TESTIMONY**
- 5 **IN THIS PROCEEDING ON SEPTEMBER 10, 2024?**
- 6 A Yes, I am.

- 7 **Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?**
- 8 A I am appearing on behalf of the City of Bolivar, Missouri (“Bolivar” or “City”).

- 9 **Q WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**
- 10 A The purpose of my surrebuttal testimony is to respond to the rebuttal testimonies of
- 11 Liberty Utilities (Missouri Water) LLC d/b/a Liberty’s (the “Company” or “Liberty”)
- 12 witnesses Ms. Cindy Wilson and Mr. Thomas O’Neill.

1 My silence with regard to any position taken by any other party in any filings in
2 this case should not be construed as agreement with those positions.

3 **Response to Ms. Wilson**

4 **Q MS. WILSON CLAIMS THAT SETTING BOLIVAR’S WATER RATE BASE AT THE**
5 **LEVEL IDENTIFIED IN THE ACQUISITION DOCKET, PLUS THE ACQUISITION**
6 **PREMIUM, WOULD IGNORE IMPROVEMENTS THAT LIBERTY HAS MADE TO**
7 **BOLIVAR’S WATER SYSTEM. WHAT IMPROVEMENTS DID MS. WILSON**
8 **IDENTIFY?**

9 A Ms. Wilson identifies several improvements that are in service and used and useful for
10 Bolivar’s water customers, such as the conversion from chlorine gas to liquid, Mission
11 monitoring on lift stations, lift station upgrades, SCADA upgrades on water, well pump
12 replacements, new standby generators, and the new Customer First System.¹ The
13 Company’s Direct Schedule BR-1 suggests that the investment associated with these
14 improvements to Bolivar’s water system amount to about \$1.4 million.

15 **Q WERE THESE INVESTMENTS CONTEMPLATED IN THE ORDER IN**
16 **CASE NO. WA-2020-0397?**

17 A Only two of these investments were specifically identified in that order. The order in
18 Case No. WA-2020-0397 specifically stated that Bolivar’s drinking water system
19 required “relatively minor upgrades,” and identified short-term improvements including,
20 “upgrades to the SCADA system and replacement of the gaseous chlorine cylinder
21 supplied disinfection with a chlorine solution supplied alternative.”²

¹ Rebuttal Testimony of Cindy Wilson at pages 12-13.

² Case No. WA-2020-0397, Order dated December 8, 2021, page 4.

1 Notably, the conversion from chlorine gas to liquid must have been a minor
2 upgrade that cost less than \$50,000, as it was not identified in the Company's Direct
3 Schedule BR-1, which specifically identified investment in projects greater than
4 \$50,000.

5 **Q HAS THE COMPANY PROVIDED INFORMATION REGARDING THE TIMING OF**
6 **WHEN IT BEGAN CONTEMPLATING THE VARIOUS IMPROVEMENTS IT HAS**
7 **MADE IN BOLIVAR'S WATER SYSTEM?**

8 A Yes. The Company asserts that it began contemplating the majority of these
9 investments at the time of the acquisition.³ However, Liberty indicates that in 2017, it
10 started evaluating its systems and business processes, many of which were obsolete
11 and required significant manual work which promoted the need for a multi-functional
12 platform such as Customer First.⁴

13 With the exception of the Customer First project, Liberty's response shows that
14 these additional investments in the water system were being contemplated at the time
15 of the acquisition. Thus, Liberty should have made it clear to customers in Bolivar that
16 it was contemplating improvements to the water system, as well as the wastewater
17 system. Moreover, Liberty should have included the expected costs of these projects
18 in the estimated rate impacts presented to the Bolivar residents prior to the public vote.

19 **Q DO YOU HAVE ANY COMMENTS REGARDING THE CUSTOMER FIRST**
20 **PROJECT?**

21 A Yes. As noted by Liberty in response to Data Request BOL-41, the Company began
22 contemplating a platform such as Customer First in 2017. Thus, this project was

³ Liberty's response to Bolivar's Data Request No. BOL-41, included as Schedule JAY-2.

⁴ *Id.*

1 presumably being contemplated for Liberty's other water and sewer service areas well
2 in advance of Liberty's application to acquire Bolivar, which was filed in late 2020.
3 Despite this project being driven by non-Bolivar service areas, Liberty's direct testimony
4 filing in this case includes about \$5.05 million of plant in service for this project, of
5 which, about \$1.05 million (or 20.86%) has been allocated to Bolivar water customers
6 and \$807,652 (15.99%) has been allocated to Bolivar wastewater customers.⁵

7 This represents one example of a significant investment in the Bolivar water
8 system, which was 1) being contemplated at the time of the Bolivar acquisition docket
9 for non-Bolivar systems, 2) was not disclosed to Bolivar customers prior to the
10 acquisition, and 3) was not included in the projected rate increases that were advertised
11 to the Commission and to Bolivar prior to the public vote on the acquisition, or during
12 the course of the acquisition docket.

13 **Q DO YOU HAVE ANY OTHER CONCERNS REGARDING INVESTMENT IN**
14 **BOLIVAR'S WATER SYSTEM GENERALLY?**

15 A Yes. The Commission's Order in Case No. WA-2020-0397 was clear that the
16 wastewater system is in noncompliance with U.S. EPA Administrative Order of
17 Compliance due to infiltration and inflow, causing the treatment plant to violate permit
18 limits, and causing bypassing, which is a discharge of partially treated wastewater.⁶
19 Further, the order stated that Bolivar's sewer system needs to be brought into
20 compliance to ensure safe and adequate service.⁷

21 Given that it is widely known that the Bolivar sewer system requires costly
22 upgrades, and that the Company has been earning revenues in excess of the cost of

⁵ Liberty's workpaper labeled "RB ADJ 1 – Plant Additions and Related Accum Dep," tab labeled, "Customer First Plant Add."

⁶ Case No. WA-2020-0397, Order dated December 8, 2021, page 4.

⁷ *Id.*

1 providing service to its sewer customers, it is unclear why improvements to the water
2 system were prioritized over improvements to the sewer system.

3 **Q LIBERTY CLAIMS THAT PRIOR TO ITS ACQUISITION OF THE BOLIVAR WATER**
4 **AND WASTEWATER SYSTEMS, NO SPECIFIC REPRESENTATIONS WERE MADE**
5 **WITH RESPECT TO THE RATE INCREASES IT WOULD SEEK IN 2024. DO YOU**
6 **AGREE WITH THIS CHARACTERIZATION?**

7 A No. Liberty claims that no specific rate representations were made, other than a
8 promise to not seek a rate increase until 2024.⁸ However, it is clear that prior to the
9 City's vote on the acquisition, Liberty left Bolivar's residents with the impression that
10 the rate increase they would face in 2024 would be around 19% to 20%. For example,
11 a rate increase of 19% for "these systems" was clearly stated in a presentation given
12 to the City prior to the public vote on the acquisition.⁹ In addition, the testimony of
13 Liberty witness Jill Schwartz in Case No. WA-2020-0397 stated the following:

14 As part of its community outreach prior to the public vote, Liberty Missouri
15 Water estimated that the monthly increase to customers' bills would be
16 between \$8 and \$10, or approximately 20%.¹⁰

17 Further, at the local public hearings in the City of Bolivar, residents commented
18 that the expected rate increase was around 19%. For example, one resident made the
19 following statements:

20 In June of 2020 voters approved the privatization of Bolivar's water and
21 sewer utilities subsequently turned over the utility systems to Liberty Utility.
22 In the lead up to that vote voters were told publicly that if the city kept the
23 utilities and worked to fix the EPA challenges facing the sewer system rates
24 would increase 38 percent over the next 18 years. At the same time Liberty
25 told the public that if they were to own and manage the utilities their rates
26 would increase in the range of \$8.22 to \$9.52, or a 19 percent increase,
27 over the same time period, 18 years.

⁸ Rebuttal Testimony of Cindy Wilson at page 13.

⁹ Schedule SM-2, Bolivar Water Presentation_KP_3-17-20 at page 13 of 19.

¹⁰ Case No. WA-2020-0397, Direct Testimony of Jill Schwartz at pages 8-9.

1 They understood the challenges facing the sewer systems here in Bolivar
2 and they said they could fix the problems for a cost of about six million
3 dollars which was about two-thirds of the cost that the City had indicated
4 would need to be spent. They obviously had done their due diligence.
5 They also stated that their rates would be about 15 percent less than the
6 same rates from the City.

7 To assure voters prior to the 2020 ballot issue both the City and Liberty
8 stated that our rates would be better with Liberty. Liberty going as far as
9 to say that if the ballot issue fails the City will have no new revenues for
10 other city priorities in the community without raising taxes. Public
11 statements were made by both the City and Liberty Utilities and I believe
12 **the voters were misled** by those public comments.¹¹

13 Another resident made similar comments:

14 They indicated – City indicated that there would be a 38 percent rate
15 increase for the wastewater and Liberty indicated that it would be roughly
16 half of that, according to Brian Bayhe (phonetic), I believe. He was the
17 central VP of the region at the time.¹²

18 Overall I just think **the citizens of Bolivar were misled** at the referendum.
19 I didn't vote for it because I was concerned about something like this
20 happening, I didn't and I'm sorry to see that it's come to fruition.¹³
21

22 **Q DID THE MISSOURI PUBLIC SERVICE COMMISSION STAFF COMMENT ON**
23 **LIBERTY'S ESTIMATED BILL IMPACT OF \$8 TO \$10 (20 PERCENT) IN THE**
24 **ACQUISITION PROCEEDING, CASE NO. WA-2020-0397?**

25 **A** Yes. In that case, Staff witness Curt Gateley stated that Staff did not attempt to
26 recreate Liberty witness Ms. Schwartz's estimation of an \$8-\$10 increase for Bolivar
27 customers, as this would have required multiple assumptions and estimations, and
28 Ms. Schwartz did not describe her methodology.¹⁴

¹¹ Local Public Hearing Transcript, Volume IV, dated September 19, 2024, at pages 12-13.

¹² Local Public Hearing Transcript, Volume V, dated September 19, 2024, at page 43.

¹³ *Id.* at page 45.

¹⁴ Case No. WA-2020-0397, Rebuttal Testimony of Mr. Gateley at page 3.

1 **Q HAS LIBERTY MADE OTHER CHARACTERIZATIONS ABOUT THE PROJECTED**
2 **RATE INCREASE IT ADVERTISED TO BOLIVAR RESIDENTS PRIOR TO THE**
3 **VOTE ON THE ACQUISITION?**

4 A Yes. Ms. Wilson states that the pre-vote discussion focused on the sewer system and
5 possible, projected rate increases for sewer.¹⁵ She states that the City and Liberty did
6 project that rate increases would be less under Liberty than under the City, but that
7 projection was focused on sewer (not water), did not include Liberty's recovery of the
8 \$23.5 million paid to the City for the assets, and did not include the costs that vary
9 between a regulated utility and a municipal provider.¹⁶ Liberty also points to that
10 projection being made prior to the high inflation, labor, and supply chain issues that
11 existed over the last four years.¹⁷

12 Liberty should have made it very clear to the residents of Bolivar what
13 assumptions were reflected in its projected rate increases, and should have included
14 all known costs. This is particularly important, as the City of Bolivar's interests were
15 not represented in the acquisition case because the City was assured by Liberty that it
16 did not need to go to the expense of sending its lawyer to participate in that case.¹⁸

17 **Q DO YOU BELIEVE IT WAS OBVIOUS TO BOLIVAR RESIDENTS THAT THE**
18 **ADVERTISED 19% TO 20% INCREASE WAS ONLY RELATED TO THE SEWER**
19 **SYSTEM, AND NOT WATER?**

20 A No. As noted earlier in this testimony, the presentation given to Bolivar made multiple
21 references to both the water and wastewater systems. In addition, the Company's
22 testimony in Case No. WA-2020-0397 clearly stated that the 20% estimated monthly

¹⁵ Rebuttal Testimony of Cindy Wilson at page 13.

¹⁶ *Id.* at 14.

¹⁷ *Id.*

¹⁸ Direct Testimony of Thomas Relford, City Administrator, at page 6.

1 increase included an assumption that the ratemaking rate base be established on the
2 fair market value of \$20 million, as well as \$6.5 million of capital improvements,
3 specifically over \$5 million for the wastewater system.¹⁹ Notably, the \$20 million fair
4 market value included both the water and sewer system assets.²⁰

5 Thus, between the feedback received at the Bolivar local public hearing, and
6 the additional information cited here, I believe it is clear that Liberty left Bolivar
7 customers with the impression that the combined water and sewer rate increase they
8 would be facing if Liberty acquired the system would be around 19% to 20%. This
9 compares to a 38% increase that would have been required if the City kept the assets
10 and performed the needed improvements itself.²¹

11 **Q DOES MS. WILSON TAKE ISSUE WITH YOUR RECOMMENATION TO OFFSET**
12 **THE BALANCE OF THE SEWER REGULATORY ASSET WITH EXCESS**
13 **REVENUES THAT HAVE BEEN PROVIDED BY BOLIVAR'S SEWER CUSTOMERS**

14 **A** Yes. Ms. Wilson claims this recommendation reflects single issue ratemaking.²²

15 **Q WHAT IS YOUR RESPONSE?**

16 **A** First, I believe the establishment of a regulatory asset for the acquisition premium in
17 and of itself reflects single issue ratemaking, as it isolates one component of the cost
18 of service for recovery without consideration of the totality of Liberty's costs and
19 revenues for Bolivar. Second, it is important to note that I am not opposing the recovery
20 of the acquisition premium, but rather I am arguing that a portion of it has already been
21 recovered because Bolivar sewer customers have been providing revenues in excess

¹⁹ Case No. WA-2020-0397, Direct Testimony of Jill Schwartz at pages 8-9.

²⁰ *Id.* at page 6.

²¹ Direct Testimony of Thomas Relford, City Administrator, at page 4.

²² Rebuttal Testimony of Ms. Wilson at page 15.

1 of their cost of service, as evidenced by Liberty's proposed rate decrease for those
2 customers in this case. Third, my approach is conservative, in light of the fact that
3 Liberty has agreed in at least one other jurisdiction not to recover an acquisition
4 premium at all.²³ Fourth, I believe my proposal is justified given the major discrepancy
5 between the rate representations made by Liberty to Bolivar customers prior to the
6 public vote on the acquisition and the overall rate increase being requested for Bolivar
7 in this case. Lastly, my recommendation reflects consideration of the fact that Bolivar
8 sewer customers have been paying excessive rates for inferior service (i.e. wastewater
9 service that does not comply with EPA requirements), and will continue receiving this
10 inferior service until the necessary improvements are made to the sewer system.

11 **Response to Mr. O'Neill**

12 **Q HOW DID MR. O'NEILL RESPOND TO THE ISSUES RAISED ON CLASS COST OF**
13 **SERVICE ISSUES IN YOUR DIRECT TESTIMONY?**

14 A Mr. O'Neill included one question and answer in his rebuttal testimony responding to
15 my concerns about class cost of service and rate design.²⁴ He admitted that it would
16 be ideal to have more historic information to support the class allocation factors, and
17 stated that the Company and Staff are using the most relevant and pertinent data
18 available to make their rate design proposals.²⁵

19 **Q WHAT IS YOUR RESPONSE?**

20 A Mr. O'Neill's very limited response to the issues I raised in my direct testimony provides
21 further support for my recommendation to spread both the water and sewer rate

²³ Arkansas Public Service Commission Docket No. 19-064-U-DOC. Order dated August 7, 2020, page 3.

²⁴ Rebuttal Testimony of Mr. O'Neill at page 7.

²⁵ *Id.*

1 changes across the Bolivar customer classes on an across-the-board basis. There is
2 simply no justification for a different approach in this case.

3 In addition, I continue to oppose the Company's alternative recommendation to
4 use the excess revenues produced by the Bolivar wastewater customers to offset the
5 increase required for non-Bolivar customers. Bolivar wastewater customers should not
6 be required to subsidize the non-Bolivar customers while continuing to receive inferior
7 service. The excess revenues must be returned to Bolivar customers.

8 **Q DO YOU HAVE ANY OTHER RECOMMENDATIONS GIVEN THE TESTIMONY OF**
9 **ALL PARTIES IN THIS CASE TO DATE?**

10 A Yes. If the Commission approves an increase greater than 20% for Bolivar water
11 customers, the increase should be phased in over multiple years. The number of years
12 would depend on the magnitude of the overall increase. Further, I would recommend
13 that there be no carrying cost on the deferred amount of the increase, due to the fact
14 that Liberty's representations to the Bolivar residents prior to the public vote on the
15 acquisition were far from accurate, and that the outcome of that vote may have been
16 different had the Bolivar residents had access to complete information about the rate
17 impacts that would result under Liberty's ownership and management.

18 **Q DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

19 A Yes, it does.

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Liberty Utilities (Missouri Water) LLC. d.b.a. Liberty
Case No. WR-2024-0104
City of Bolivar Data Request - BOL-41

Data Request Received: 2024-10-15

Response Date: 2024-10-22

Request No. BOL-41

Witness/Respondent: Cindy Wilson

Submitted by: Peggy Whipple, peggy@healylawoffices.com

REQUEST:

Please refer to Ms. Wilson's rebuttal testimony at page 13, lines 1-5.

- a. Please identify the dollar amount of investment in the City of Bolivar's water system associated with each of the following improvements, which are identified at page 13, lines 1-5:
 - i. Conversion from chlorine gas to liquid to improve safety;
 - ii. Mission monitoring on lift stations;
 - iii. Lift station upgrades;
 - iv. SCADA upgrades on water;
 - v. Well pump replacements;
 - vi. New standby generators; and
 - vii. Customer First System.
- b. For each of the following investments, which are identified at page 13, lines 1-5, please identify the exact (or approximate) timing (month and year) of when the Company began contemplating these investments.
 - i. Conversion from chlorine gas to liquid to improve safety;
 - ii. Mission monitoring on lift stations;
 - iii. Lift station upgrades;
 - iv. SCADA upgrades on water;
 - v. Well pump replacements;
 - vi. New standby generators; and
 - vii. Customer First System.
- c. Please provide all documents supporting the dollar amount of each investment identified in part a, and proving that these investments were specific to the City of Bolivar's water system. Please include all calculations in electronic spreadsheet format with all formulas and links intact.
- d. In electronic spreadsheet format with all formulas and links intact, please provide detailed calculations showing how the investments identified at page 13, lines 1-5 of Ms. Wilson's testimony (and quantified in part a., above) translate to the increase in rate base from the time

that the City of Bolivar's water system was acquired by Liberty to the level of water rate base that the Company proposes to assign to the City of Bolivar's water in this case.

- e. Please reconcile the list of improvements identified at page 13, lines 1-5 (and listed in part a.) with the statement from the Commission's Order in Docket No. WA-2020-0397 (identified in Question BOL-39, part b), which indicated that minor upgrades were required for the City of Bolivar's water system.
- f. Please explain how "relatively minor upgrades," as that phrase is used in the Order in Docket No. WA-2020-0397, resulted in an increase in water rate base for the City of Bolivar of about 65% (i.e., \$9,237,729 as proposed in this case vs. \$5,566,992 identified in the acquisition docket), or an increase of about 37% exclusive of the acquisition premium.

RESPONSE:

- a. For the dollar amounts associated with each investment listed in item a, please refer to the attachment labeled "DR BOL-41_Project Support.xlsx".

Please note that some of the projects referenced above are wastewater projects.

- b. The Company began contemplating the majority of these investments at the time of the acquisition. However, in 2017, LUCo began evaluating its systems and business processes, many of which were obsolete and required significant manual work which further promoted the need for a multi-functional platform such as Customer First.
- c. Please find the supporting documentation in the attached zip file labeled "Project Support.zip"
- d. These investments are reflected in the workpapers below as previously provided by the Company:
 - i. RB ADJ 1 – Plant Additions and Related Accum Dep_Rebuttal
 - ii. RB ADJ 3 – Allocation of Shared Services Plant and Related AD_Rebuttal

Please refer specifically to the "utility_account" column within the attachment labeled "DR BOL-41_Project Support.xlsx". The costs for the relevant projects are recorded in the respective utility account within the workpapers listed above. Further, these balances flow through the respective accounts in workpaper "WP 3.1 PIS" from the Company's Consolidated Revenue Requirement workpaper provided to support the Company's rebuttal position.

- e. For the reconciliation to Case No. WA-2020-0397, please refer to MPSC Data Request No. 0210.

- f. The term “relatively minor upgrades” refers to the type/nature of capital investment. At the time, the contemplated upgrades were minor in nature and did not involve any major system overhaul.