Exhibit No.:	______________
Issue:	Revenue Requirement
Witness:	James A. Leyko
Type of Exhibit:	Surrebuttal Testimony
Sponsoring Party:	City of Bolivar, Missouri
File Nos.:	WR-2024-0104 and SR-2024-0105
Date Testimony Prepared:	October 24, 2024

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

Surrebuttal Testimony of

James A. Leyko

On behalf of

City of Bolivar, Missouri

October 24, 2024

BRUBAKER & ASSOCIATES, INC.

Project 11676

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

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

<u>Affidavit of James A. Leyko</u>

James A. Leyko, being first duly sworn, on his oath states:

1. My name is James A. Leyko. 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 its behalf.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony which was prepared in written form for introduction into evidence in Missouri Public Service Commission File Nos. WR-2024-0104 and SR-2024-0105.

3. I hereby swear and affirm that the testimony is true and correct and that it shows the matters and things that it purports to show.

____
James A. Leyko

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

____
Notary Public

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Surrebuttal Testimony of James A. Leyko

I. INTRODUCTION AND SUMMARY

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A James A. Leyko. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

Q ARE YOU THE SAME JAMES A. LEYKO WHO FILED DIRECT TESTIMONY IN THIS PROCEEDING ON AUGUST 20, 2024?

A Yes, I am.

Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A I am testifying on behalf of the City of Bolivar ("Bolivar"), Missouri. Bolivar has a franchise agreement with Liberty Utilities (Missouri Water) LLC d/b/a Liberty ("Liberty"), and Liberty provides water and wastewater services to all residential, commercial and industrial customers within the city limits of Bolivar, as well as to Bolivar.

Q WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A I will respond to the rebuttal testimony of Liberty witness Cindy S. Wilson and the Company's proposed revenue requirement.

Q DID LIBERTY UPDATE ITS PROPOSED REVENUE INCREASE IN REBUTTAL?

A Yes. Liberty now proposes an overall revenue requirement of $17,671,032, or an $8,342,195 increase.[1] This is a slight increase compared to the revenue increase of $8,251,496 that I addressed in my direct testimony.

I continue to believe Liberty's claimed revenue deficiency is overstated by at least $796,916 for the reasons described in my direct testimony. To my knowledge, none of the updates Liberty made in rebuttal change the revenue requirement impact of adjustments I outlined in my direct testimony.

<u>II. ACQUISITION AMORTIZATION</u>

Q HOW DID LIBERTY RESPOND TO YOUR RECOMMENDATION TO USE A 13-YEAR AMORTIZATION AND A 19-YEAR AMORTIZATION FOR THE BOLIVAR WATER AND BOLIVAR SEWER REGULATORY ASSET?

A Ms. Wilson argues my proposed amortization period delays recovery of the regulatory assets.

> As depicted in Mr. Leyko's direct testimony, the Company chose to utilize a ten-year period to balance the interest of customers with the recovery of costs associated with the regulatory asset in a timely manner. The extended amortization periods significantly delay the recovery of the regulatory assets.[2]

[1]Wilson Rebuttal at 1.
[2]*Id.,* at 31.

Q DO YOU AGREE?

A No. The average remaining life of the Bolivar assets is the basis for my proposed amortization periods as I explained in my direct testimony. It is reasonable to tie recovery of the Bolivar regulatory assets to the actual Bolivar assets. I continue to believe the Commission should adopt my adjustment for a longer amortization period absent a stronger justification for Liberty's proposal of ten years.

III. ADMINISTRATIVE AND GENERAL ("A&G") EXPENSES

Q PLEASE DESCRIBE MS. WILSON'S RESPONSE TO YOUR A&G EXPENSES ADJUSTMENT.

A In my direct testimony, I recommended the Commission limit Liberty's test year A&G costs because the proposed increase in these costs appears to be not justified when comparing A&G costs per customer in the test year to prior years' annual reports. Ms. Wilson argues it is unreasonable to expect A&G costs to increase at a rate comparable to the increase in customers because there is no direct correlation between the increased costs and the Company's number of customers.[3]

Q ARE YOU CHANGING YOUR POSITION REGARDING LIBERTY'S A&G COSTS?

A No. In my direct testimony, I explained how Liberty's A&G costs per customer for water were decreasing between 2021 and 2023 but that the test year showed a significant increase in A&G expenses without a corresponding increase in customers. Rather, Liberty's forecast includes less water customers in the test year than it reported in its 2023 annual report to the Commission. I disagree that there is no correlation between

[3] *Id.,* at 27.

these costs and the number of customers. Comparing these costs to the number of customers can serve as a means to track and compare these costs over time. Liberty's test year A&G costs per customer represents a 24% increase over Liberty's actual 2023 results. My argument is not that the number of customers is the only driver of Liberty's A&G costs, but rather the number of customers serves as an useful metric. Comparing Liberty's A&G costs over time is important because the increase in A&G costs is one of the most significant drivers of this rate increase.

I continue to recommend the Commission consider a limit on Liberty's A&G costs in the test year given that the significant increase appears abnormal compared to the Company's 2023 results, and given that these costs were declining prior to the test year.

IV. LABOR EXPENSES

Q DID LIBERTY RESPOND TO YOUR LABOR EXPENSE ADJUSTMENTS?

A Yes. In my direct testimony, I adjusted Liberty's labor expenses to exclude the costs associated with unfilled positions and to remove unexplained increases in overtime expense. Ms. Wilson responded to both adjustments in her rebuttal testimony. Regarding open positions, Ms. Wilson claims these costs are part of Liberty's normal payroll expenses.

> Though positions were open at the end of the update period, Liberty included an adjustment to reflect positions it was seeking to fill. The inclusion of these positions reflects Liberty's normal payroll expenses.[4]

[4] *Id.,* at 20.

Ms. Wilson acknowledges the positions were not filled by the end of Liberty's update period but still proposes to include open position costs in Liberty's test year cost of service.

Ms. Wilson also rejects my adjustment to Liberty's overtime expense. I recommend removing the 2024 overtime costs when calculating an annualized overtime based on a historical average because the increase in overtime costs during the update period was not explained.

Q DID LIBERTY JUSTIFY THE LABOR EXPENSES YOU ADDRESSED IN YOUR DIRECT TESTIMONY?

A No. The Commission should disallow the costs I identified. The cost for open positions is not known and measurable because Liberty will not incur costs associated with the additional positions unless those positions are actually filled. Liberty's proposal to recover costs associated with open positions rather than recovering its actual payroll expenses should be rejected as not known and measurable. Liberty argues it intends to fill these positions even though they were not filled by the end of the update period. However, Liberty ignores that even as it fills open positions it will also lose employees due to retirements, transfers, or other factors. These reductions in payroll can offset the increase in payroll from hiring new employees. Again, the cost associated with open positions is not known and measurable because it is not known when or if Liberty will incur these costs, or if these costs will be offset. Therefore, I recommend the Commission disallow any costs associated with open positions that were not filled by the end of the update period.

In addition, the Commission should adopt my proposed adjustment to overtime expenses. Rather than explain why overtime costs increased during the update period (despite Liberty proposing to increase its workforce, which could lower the overtime needs from existing employees), Ms. Wilson relies on the Company's proposal to annualized overtime using a historical average to dismiss unexplained increases in overtime. My adjustment still relies on the historical average but it excludes costs from the update period as an outlier. As Ms. Wilson did not explain why overtime increased during the update period, I continue to recommend the Commission adopt my adjustment.

V. INCENTIVE COMPENSATION

Q DID LIBERTY RESPOND TO YOUR PROPOSED INCENTIVE COMPENSATION ADJUSTMENT?

A Yes. Ms. Wilson argues it is appropriate to recover from customers incentive compensation costs tied to a utility's financial performance because these costs are a "routine and widely accepted" form of compensation and because, Ms. Wilson argues, incentive compensation based on financial goals benefits customers.[5]

Q DO YOU AGREE WITH MS. WILSON?

A No. Ms. Wilson is correct that incentive compensation tied to financial goals is a common part of compensation packages. However, Ms. Wilson is conflating how it designs its overall compensation with how those costs should be treated for ratemaking purposes. I am not recommending that Liberty not offer this compensation to its employees. Rather, I recommend the costs for these plans be charged to the party who benefits. The issue before the Commission is not whether Liberty should offer its

[5] *Id.,* at 23-25.

employees incentive compensation tied to financial goals. The issue before the Commission is whether these costs benefit customers and, therefore, should be recovered from customers. Because a utility's shareholders are the party who benefits when employees enhance the financial performance of a utility, then shareholders (and not customers) should be the party who pays for these incentives.

Furthermore, Ms. Wilson asserts in her rebuttal testimony that incentive compensation tied to financial goals benefits customers.

> However, customers can also benefit when employees respond positively to financially-based incentives. Whether that response results in increased revenues or decreased costs, producing better earnings in the short-term, customers ultimately reap the benefits through lower rates when such increased revenues or reduced costs are captured in the cost of service.[6]

Importantly, these benefits do not appear to have reduced Liberty's request in this proceeding. Ms. Wilson argues that these incentives can lower rates but has not proven the rates Liberty proposed in this proceeding are lower than would otherwise be expected as a result of employees achieving these goals. Given Liberty has not proven a customer benefit for these costs, Liberty has not shown why customers should pay these costs.

Q WHAT DO YOU RECOMMEND?

A I continue to recommend the Commission exclude incentive compensation costs tied to financial goals from Liberty's revenue requirement.

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[6] *Id.,* at 25.

VI. PROPERTY TAX AND RATE CASE EXPENSE

Q WHAT AMORTIZATION PERIOD DOES LIBERTY RECOMMEND FOR ITS PROPERTY TAXES AND RATE CASE EXPENSE?

A Liberty proposes to amortize the balance of its Property Tax Regulatory Asset and its total rate case expense over three years. Ms. Wilson responded to my recommendation to use five years for both in her rebuttal testimony.

> While it is entirely accurate that the time period between the current rate case and the preceding rate case is approximately five years, the Company knowingly expects to file a rate case within a three-year time period. Additionally, the acquisition of the Bolivar Water and Wastewater systems prohibited the Company from requesting a rate increase for a period of three years post-acquisition. Both of these factors contribute to the Company's decision to utilize a three-year amortization period.[7]

Q DO YOU AND LIBERTY APPLY THE SAME STANDARD FOR THE RECOVERY OF THESE EXPENSES?

A Yes. I believe Liberty and I both propose that these expenses be recovered over the time rates approved in this proceeding are in effect. We simply disagree on how long that period will likely be. If the recovery of these expenses is set for three years, as Liberty proposes, that means if rates stay in effect longer than three years then Liberty will over-recover these expenses (although my understanding is any over recovery of the Property Tax Regulatory Asset would eventually be addressed in a rate case).

[7] *Id.,* at 30.

Q WHAT DO YOU RECOMMEND?

A Liberty acknowledges that the historical time between rate cases is closer to five years. Ms. Wilson's response also ignores that the Commission approved a five-year recovery period for rate case expense in the Company's last rate case. Both the balance of the Property Tax Regulatory Asset and rate case expense should be recovered over the time period rates approved in this proceeding are likely to be in effect. Therefore, I recommend the Commission continue using five years as it did in last case because that is what Liberty's rate case history suggests.

Q DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A Yes, it does.

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