

Exhibit No.:
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Case No.:

Rate Case Expense
Payne/Surrebuttal
Public Counsel
WR-2024-0104

SURREBUTTAL TESTIMONY

OF

MANZELL PAYNE

Submitted on Behalf of the Office of the Public Counsel

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

FILE NO. WR-2024-0104

October 24, 2024

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SURREBUTTAL TESTIMONY

OF

MANZELL M PAYNE

LIBERTY UTILITIES (Missouri Water) CORP. D/B/A LIBERTY

CASE NOS. WR-2024-0104

1 **Q. Please state your name, title, and business address.**

2 A. Manzell Payne, Utility Regulatory Auditor, Office of the Public Counsel (“OPC” or “Public
3 Counsel”), P.O. Box 2230, Jefferson City, Missouri 65102.

4 **Q. Are you the same Manzell Payne who filed direct testimony for the Office of the Public
5 Counsel in this case?**

6 A. Yes.

7 **Q. What is the purpose of your surrebuttal testimony?**

8 A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of Liberty
9 Utilities (Missouri Water) Corp. and Liberty Utilities (Sewer) Corp. d/b/a Liberty¹ witness,
10 Cindy S. Wilson, on rate case expense.

11 **RATE CASE EXPENSE**

12 **Q. What is Liberty Water and Liberty Sewer’s rebuttal position for rate case expense in
13 this case?**

14 A. Liberty Water and Liberty Sewer’s position on rate case expense is that the Company should
15 receive 100% of their rate case costs, with no 50/50 sharing mechanism, to be amortized over
16 a three-year period. This includes the depreciation study to be amortized over a three-year
17 period as well. Company witness, Cindy Wilson, is in partial agreement with Staff’s 3-year
18 period in which rate case expense should be normalized. However, the Company has proposed
19 an amortization of three years instead of a normalization of three years.

¹ Heretofore “Company”, “Liberty Water” or “Liberty Sewer.”

1 **Q. Do you disagree with Liberty Water and Liberty Sewer’s treatment of rate case expense**
2 **for this case?**

3 A. Yes. I disagree with Company receiving 100% of its rate case costs and only amortizing rate
4 case expense over three years. I do not agree with the Company’s position since they do not
5 employ the 50/50 sharing and the number of years used for their amortization period. The
6 Company should have used a normalized period and that period should have been four years.
7 Additionally, I disagree with the amount of rate case expense for consultants in this case,
8 which I explained in my direct testimony and will reiterate below.

9 **Q. What is the reason to normalize rate case expense instead of amortizing?**

10 A. Staff has historically explained the reason for normalizing rate case expense as opposed to
11 amortizing the expense by stating:

12 Staff divided rate case expense over the period of time it estimates will pass
13 before the utility’s next general rate case and included an annual amount in
14 its revenue requirement calculation. Typically, this cost is not “amortized”
15 for ratemaking purposes, and the utility’s recovery of this expense in rates
16 is not tracked against its actual rate case expense for consideration for over
17 or under recovery. Staff recommends this cost be “normalized” by including
18 an annual level in the cost of service.²

19 Normalizing an expense, rather than amortizing it, ensures that the cost is recovered
20 consistently over time, providing stable and predictable rates for customers. This is important
21 for recurring or fluctuating expenses, such as tax benefits or rate case expense, as it smooths
22 out the impact of year-to-year or rate case to rate case variations. Rate case expense is also
23 not tracked for any over or under recovery, whereas a one-time cost that is amortized would
24 be. Normalization promotes fairness by preventing short-term spikes and ensures that costs
25 reflected in rates are more in line with the period they were incurred, rather than being deferred
26 and spread out like one-time costs.

27 **Q. Should rate case expense be normalized rather than amortized?**

28 A. Yes, the reasonable and actual rate case expense in this case, with a 50/50 sharing mechanism,
29 should be normalized over the expected period for this case. In my direct testimony, I

² Case No. GR-2024-0106, Staff Witness, Jane Dhority, Direct Testimony, Page 14, Lines 19-23 and Page 15, Line 1.

1 recommended that period be 4 years, as the Company is expected to file their next general
2 rate case within the next three years and new rates will go in effect presumably a year after.
3 The Liberty Water and Liberty Sewer's last general rates cases were Case Nos. WR-2018-
4 0170 and SR-2018-0171. These cases concluded and rates went into effect 6 years ago. Twice
5 the amount of time for the period that Liberty Water and Liberty Sewer is recommending for
6 rate case expense for this case.

7 **Q. Company witness, Cindy Wilson, believes that the Company should recoup 100% of**
8 **their rate case costs. Do you agree?**

9 A. No. I do not agree with the Company's position to recoup 100% of their rate case expenses in
10 this case. The Company should only be allowed at most 50% of discretionary rate case
11 expense, which is Commission precedent. The 50/50 sharing mechanism does not apply to
12 customer notices or depreciation study costs. The Commission has found that it is just and
13 reasonable for both the rate payer and the shareholder who both benefit from a rate case to
14 share in the costs. As stated in my direct testimony, the Commission's most recent relevant
15 decision on rate case expenses was in the Spire Missouri Rate Case Nos. GR-2017-0215 and
16 GR-2017-0216, where the Commission held Spire Missouri to a 50/50 sharing mechanism
17 with customers. In its Amended Report and Order, the Commission found:

18 Therefore, it is just and reasonable that the shareholders and the ratepayers
19 who both benefited from the rate case, share in the rate case expense. The
20 Commission finds that in order to set just and reasonable rates under the
21 specific facts in this case, the Commission will require Spire Missouri
22 shareholders to cover half of the rate case expense and the ratepayers to
23 cover half with the exception of the cost of customer notices and the
24 depreciation study.

25 On February 9, 2021, the Missouri Supreme Court affirmed the Commission's decision.³

26 **Q. What was Liberty's response to not issuing Requests for Proposals (RFPs)?**

27 A. Ms. Wilson's justification for not issuing any RFPs is because the Company used consultants
28 who were familiar with the Company, which helps streamline processes and minimize
29 wasteful expense.

³ Spire Missouri, Inc. v. Pub. Serv. Comm'n, 618 S.W.3d 225, 233 (Mo. banc 2021).

1 **Q. Do you disagree with Ms. Wilson's reasoning?**

2 A. Yes. As I stated in my direct testimony that while it may be reasonable for a utility to retain
3 additional attorneys and witness when filing a general rate case, there can be a point where
4 the costs of such service exceed what a reasonable person would spend. However, when the utility
5 is able to recover at least half these costs from ratepayers, the downside to shareholders for
6 pursuing these excessive costs becomes minimized. The upside to shareholders of having a high-
7 priced, well-recognized name as a consultant, meanwhile, remains the same. Therefore, the cost
8 benefit analysis changes for the utility, encouraging it to hire outside consultants and expensive
9 law firms even when those consultants and firms are not necessary to present the Company's case.
10 Additionally, when the Company determines that a Request for Proposal is not necessary based
11 on prior familiarity with the consultant or law firm, then there can be little to no cost control for
12 the Company. Meaning that the customer is left paying more for a service that that may not be at
13 the best price. The Company's failure to conduct a RFP is a problem, which leaves customers
14 vulnerable to paying for more wasteful spending if the competitive bidding process was never
15 performed to know for certain that the Company is getting the best price for the services they are
16 seeking.

17 **Q. Has your recommendation changed since your direct testimony?**

18 A. No. My four recommendations to the Commission regarding Liberty Water and Liberty
19 Sewer's rate case expense in this case are as follows:
20 1. Liberty Water and Liberty Sewer's rate case expense should follow Commission precedent
21 and the Company follow the 50/50 rate case sharing.
22 2. The Commission should disallow any rate case expense that has carried through from Case
23 Nos. WR-2018-0170 and SR-2018-0171, as the case was 6 years ago, and those expenses
24 have already been reimbursed.
25 3. Rate case expense should be normalized over 4 years.
26 4. The Commission should disallow at least a portion of outside consultant fees due to the
27 Company having an excessive number of consultants and cost of their work. Specifically, I
28 recommend the disallowance of fees associated with James Fallert Consulting and FTI
29 Consulting.

1 **Q. Does this conclude your surrebuttal testimony?**

2 A. Yes, it does.

