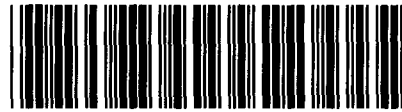




Control Number: 47976



Item Number: 1031

Addendum StartPage: 0

**SOAH DOCKET NO. 473-18-3006.WS
PUC DOCKET NO. 47976**

**APPLICATION OF LIBERTY
UTILITIES (SILVERLEAF WATER)
LLC FOR AUTHORITY TO CHANGE
WATER AND SEWER RATES**

§
§
§
§
§

BEFORE THE STATE OFFICE

2018 OCT 11 PM 1:22
PUBLIC UTILITY COMMISSION
OF
FILING CLERK

ADMINISTRATIVE HEARINGS

**LIBERTY UTILITIES (SILVERLEAF WATER) LLC'S
FIRST REQUEST FOR INFORMATION
TO OFFICE OF PUBLIC OF PUBLIC UTILITY COUNSEL**

Liberty Utilities (Silverleaf Water) LLC ("Company") hereby serves its First Request for Information on Office of Public Utility Counsel pursuant to Commission Procedural Rules 22.141-.145, 16 Tex. Admin. Code Ch. 22.

Respectfully submitted,

LAW OFFICES OF MARK H. ZEPPA, P.C.

By: 

Mark H. Zeppa (State Bar No. 22260100)
4833 Spicewood Springs Road, Suite 202
Austin, TX 78759
markzeppa@austin.twcbc.com

and

SHAPIRO LAW FIRM, P.C.

Jay L. Shapiro (State Bar No. 24105397)
1819 E. Morten Avenue, Suite 280
Phoenix, AZ 85020
jay@shaplawaz.com

Attorneys for Liberty Utilities
(Silverleaf Water) LLC

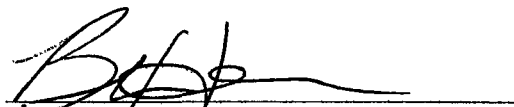
*Liberty Utilities (Silverleaf Water) LLC's
First Request for Information to Office of Public Utility Counsel
SOAH Docket No. 473-18-3006.WS; PUC Docket No. 47976*

1 of 5

1031

Certificate of Service

I, Blake Harmon, Paralegal to Mark H. Zeppa, certify that a copy of this document was served on October 11, 2018 by hand-delivery, facsimile, electronic mail and/or First Class Mail.


Blake Harmon

Definitions

1. “Company” or “Liberty Silverleaf” means Liberty Utilities (Silverleaf Water) LLC.
2. “Document” includes all written matter of every kind and description, whether draft or final, original or reproduction, including but not limited to, correspondence, memoranda, notes, transcripts, contracts, agreements, memoranda of telephone conversations or personal conversations, notices, reports, rules, regulations, facsimile messages, minutes of meetings, interoffice communications, tapes for visual or audio reproduction, drawings, graphs, charts, electronic mail message, and other compilations from which information can be obtained. The term “document” includes all copies of the document which contain any additional writing, underlining, notes, deletions, or any other markings or notations, or otherwise not identical copies of the original.
3. GBRA” means Guadalupe-Blanco River Authority.
4. “Identify” when used in referring to a person, shall mean to state the following with regard to the person: (a) name; (b) last known address; (c) residence and business telephone numbers; (d) relationship to you; and (e) occupation at the date of this RFI.
5. “Identify” and “identity” with respect to a document mean to state the name or title of the document, the type of document (e.g., letter, memorandum, telegram, computer input or output, chart, etc.), its date, the person(s) who authored it, the person(s) who signed it, the person(s) to whom it was addressed, the person(s) to whom it was sent, its general subject matter, its present location, and its present custodian. If any such document was in your or your witnesses’ possession or subject to your control, but is no longer, state what disposition was made of it and explain the circumstances surrounding, and the authorization for, such disposition, and state the date or approximate date of such disposition.
6. “List,” “describe,” “explain,” “specify” or “state” shall mean to set forth fully, in detail, and unambiguously each and every fact of which you have knowledge which is relevant to the answer called for by the RFI.

7. “OPUC” means Office of Public Utility Counsel and any person purporting to act on its behalf including, without limitation, attorneys, agents, advisors, representatives, employees or other persons.
8. “RFI” means Request for Information.
9. “You” and “Your” refers to Office of Public Utility Counsel as defined above.

Instructions

1. These instructions and definitions apply to this RFI. Unless otherwise clearly indicated within the context of a specific RFI herein, the definition of each term provided below applies whether the term is used or defined in the singular or plural.
2. Please start each response on a separate page and copy the request immediately above.
3. State the name of the witness in this proceeding who will sponsor the answer and who can vouch for the truth of the answer.
4. Please answer the following written questions fully and in writing, based on all information reasonably available to you at the time your response is made.
5. Please answer each question based upon your knowledge, information, or belief, and any answer that is based upon information or belief should be stated as such.
6. In instances where you choose to answer an RFI by referring to a specific document or record, please specify the same in sufficient detail so that Liberty Silverleaf may locate and identify the record or document.
7. If the response to any question is voluminous, please provide an index to the materials contained in the response.
8. If any document is withheld under any claim of privilege, please furnish a list identifying each document for which a privilege is claimed, together with the following information: date, sender, recipients, recipients or copies, subject matter of the document, and the basis upon which such privilege is claimed.

9. Included within this set of RFIs may be Requests for Admission. A request will be deemed admitted unless you provide a specific denial thereof or a written objection and the reasons therefore, or a statement explaining why you can neither admit nor deny. If you deny or fail to admit any of the attached Requests for Admission or any portion thereof, for each denial or failure to admit you must: (a) state each and every fact that supports or tends to support the denial of the specific Request for Admission; (b) state the name, address, and telephone number of each and every person who has personal knowledge of the facts alleged in your answer to (a); (c) identify with sufficient particularity each and every document, memorandum, or writing of any kind that substantiates or tends to substantiate the facts alleged in subpart (a); (d) if you answer any Request for Admission by stating that it lacks information or knowledge as to a reason for the failure to admit or deny, state specifically what “reasonable” inquiry was made to obtain sufficient information to enable you to admit or deny such request for admission; (e) if you can admit a portion of said request for admission, please indicate the portion which you admit; and (f) state the legal authority which supports said denial.
10. These questions are continuing in nature. You are under a continuing duty to supplement your answers to these RFIs if there is a change in circumstances or facts, or if you discover that they are no longer complete and correct. In such an instance, please supplement your response promptly after you discover the need for supplementation.

**SOAH DOCKET NO. 473-18-3006.WS
PUC DOCKET NO. 47976**

**LIBERTY UTILITIES (SILVERLEAF WATER) LLC'S
FIRST REQUEST FOR INFORMATION
TO OFFICE OF PUBLIC UTILITY COUNSEL**

- LS 1.1** Under what conditions should non rate case expense legal fees be included in operating expenses as a recoverable expense? Please explain your answer.
- LS 1.2** Under what conditions should legal fees for defending customer complaints be included in operating expenses as a recoverable expense? Please explain your answer.
- LS 1.3** Admit that the Company has access to capital for plant investment through its ultimate parent, APUC. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.4** Admit that customers benefit because the Company has funding available to make necessary improvements to its utility plant and system. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.5** Admit that investor relations expenses are a necessary cost for a public company traded on the New York and Toronto Stock exchanges. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.6** Admit that it is one of the goals of ratemaking to set rates at a level that allows the utility to recover its reasonable operating expenses during the period of time the rates will be in effect. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.7** Admit that incentive compensation is part of market based compensation necessary to attract qualified personnel. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.8** Is it OPUC's position that the Company did something unlawful or imprudent, or for some other reason should not have incurred the cost to acquire emergency water

supplies for provision to customers in Piney Shores? Please explain your answer and provide any supporting materials.

LS 1.9 If utilities are required to incur unrecoverable costs in emergency situations, wouldn't that impact the amount of risk utilities face? Please explain your answer.

LS 1.10 Admit that the purchased water expenses referenced in Mr. Ekrut's direct testimony at 24:13-20 were incurred before the well was complete and placed into service. If you deny this request for admission, please state the basis for the denial with specificity.

LS 1.11 Admit that the alleged developer supplied capital discussed in Mr. Ekrut's direct testimony at 27-37 was paid for by the Company's prior shareholder. If you deny this request for admission, please state the basis for the denial with specificity.

LS 1.12 Is OPUC aware of any Commission decisions or other Texas legal authority addressing the question of whether all amounts invested in utility plant by a utility owner that is also a developer and/or customer should be treated as contributed capital? If so, please provide citations or copies of the responsive documents.

LS 1.13 Admit that the prior owner was in a better position than the current owner to determine whether capital invested in utility plant to serve customers was equity capital or contributed capital. If you deny this request for admission, please state the basis for the denial with specificity.

LS 1.14 Admit that the Company is not responsible for anything stated in a real estate sales disclosure concerning any of the developments located within its certificate of service areas in Texas. If you deny this request for admission, please state the basis for the denial with specificity.

LS 1.15 Admit that real estate sales disclosures do not provide evidence of the party who actually paid the costs of utility infrastructure. If you deny this request for admission, please state the basis for the denial with specificity.

- LS 1.16** Admit that the Resort failed to record contributed capital during the time the Company was owned by the Resort. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.17** Admit that the question of whether there was contributed capital from prior to Liberty's ownership of the Company should have been raised and addressed in the first rate case after the acquisition. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.18** Why didn't OPUC raise the issue of whether there was contributed capital pre-dating the Company's ownership that was not reflected on the Company's books in the Company's prior rate case, which was the first rate case after the acquisition? Please explain your answer.
- LS 1.19** On what basis does Mr. Ekrut testify at 35:6-7 of his direct testimony that the Resort's investment in the Company is utility plant "was made via contributed capital in the utility"? Please explain your answer and provide any supporting documents.
- LS 1.20** Admit that third party contributed capital is not intended to be reimbursed by the utility. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.21** Admit that the Resort is and was a sophisticated party at all times relevant to the issues in this rate case. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.22** Admit that the Resort was or was able to be represented by its own independent legal counsel during all transactions with the GBRA, the Company, and its affiliate, related to the GBRA capacity.
- LS 1.23** Does OPUC believe the transactions between the Company and its affiliate entered into with the Resort concerning the GBRA capacity required approval of the Commission and or TCEQ? If so, please provide citation to legal or other support for this position.

- LS 1.24** If the Company pays for the cost of the GBRA capacity, would the cost be subject to rate base treatment in a future rate proceeding? Please explain your answer.
- LS 1.25** Admit that the price paid for the GBRA capacity was reasonable. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.26** Admit that the GBRA cost should be amortized over the life of the contract (20 years). If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.27** Admit that the new well in the Holly Lake Ranch system was completed, approved and in service by July 13, 2018.). If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.28** Admit that the Company's proposed rate design for the Holly Lake Ranch quad customers is consistent with the Company's current rate design. If you deny this request for admission, please state the basis for the denial with specificity.
- LS 1.29** Is it OPUC's position that the Company's current tariff violates the Texas water code? Please explain your answer.