

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

In the Matter of the Verified Application and)		
Petition of Liberty Energy (Midstates) Corp.)		<u>Case No. GO-2013-0048</u>
d/b/a Liberty Utilities to Change its Infrastructure)		YG-2013-0071
Replacement Surcharge.)		

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and in response to the Commission's August 30, 2012 *Order Directing Filing of Staff Report*, states as follows:

1. On August 8, 2012, Liberty Energy (Midstates) Corp., d/b/a Liberty Utilities (Liberty) filed a *Verified Application and Petition of Liberty Utilities to Change its Infrastructure System Replacement Surcharge*.

2. By this filing, Liberty requests an adjustment to its ISRS rates for ISRS-eligible infrastructure system replacements made during the period of October 1, 2010 through May 31, 2012.

3. Liberty included in its filing a request for waiver of Commission Rule 4 CSR 240-4.020(2) seeking to waive the sixty day notice filing requirement for a case likely to become a contested case.

4. On August 9, 2012, the Commission suspended Liberty's proposed tariff to December 6, 2012 and set a deadline for intervention of August 29, 2012. No parties have sought to intervene.

5. On August 30, 2012, the Commission directed Staff to file a report on Liberty's application no later than October 8, 2012.

6. Commission Rule 4 CSR 240-3.265(11) states that the staff of the Commission may examine information of the gas corporation to confirm that the underlying costs are in accordance with the provisions of Sections 393.1009 to 393.1015, RSMo, and to confirm proper calculation of the proposed charge. The Staff “may submit a report regarding its examination to the Commission no later than sixty days” after the petition is filed. In accordance with this rule and with the Commission’s August 30, 2012 Order, Staff is submitting its *Memorandum*, attached as Appendix A and incorporated herein.

7. Based on its examination and calculations as detailed in its *Memorandum*, Staff recommends the Commission approve incremental ISRS surcharge revenues in the amount of annual pre-tax revenues of \$475,280, which includes \$58,221 for Liberty’s WEMO district, \$184,335 for Liberty’s SEMO district, and \$232,723 for Liberty’s NEMO district. Staff also recommends the Commission grant Liberty’s request for waiver of the sixty day notice requirement for contested cases.

8. Liberty’s ISRS rates are based on a total combined revenue requirement of \$752,361. Please see Staff’s attached Appendix B for the ISRS rate for each customer class.

WHEREFORE Staff recommends the Commission issue an order in this case that: 1) rejects the ISRS tariff sheet (YG-2013-0071) filed by Liberty on August 8, 2012; 2) approves Staff’s determination of the incremental ISRS surcharge revenues in the amount of annual pre-tax revenues of \$475,280, consisting of \$58,221 for the WEMO district, \$184,335 for the SEMO district, and \$232,723 for the NEMO district; 3) authorizes Liberty to file an ISRS rate for each customer class as reflected in

Appendix B; and 4) approves Liberty's request for waiver of the 60 day notice requirement for contested cases.

/s/ Amy E. Moore

Amy E. Moore
Legal Counsel
Missouri Bar No. 61759

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9285 (Fax)
amy.moore@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed with first-class postage, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 5th day of October, 2012.

/s/ Amy E. Moore

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. GO-2013-0048 / File No. YG-2013-0071– Liberty Utilities

FROM: Roberta Grissum, Auditing Department
Kory Boustead, Tariffs/Rate Design - Energy

/s/ Lisa Hanneken 10/4/2012
/s/ Tom Imhoff 10/4/2012 /s/ Amy Moore 10/4/2012
Project Coordinator / Date General Counsel's Office / Date

SUBJECT: Staff Report and Recommendation Regarding the Verified Application of Liberty Utilities to Increase its Infrastructure System Replacement Surcharges

DATE: 10/4/2012

BACKGROUND

On August 1, 2011, Atmos Energy Corporation (Atmos) and Liberty Energy (Midstates) Corporation (Liberty or Company) filed in Case No. GM-2012-0037 a Joint Application of Atmos Energy Corporation (Atmos) and Liberty Energy (Midstates) Corp. for Authority to Sell Certain Missouri Assets to Liberty Energy (Midstates) Corporation and, in Connection Therewith, Certain Other Related Transactions (Sale) with Liberty Energy (Midstates) Corporation as the surviving entity. On February 17, 2012, a Unanimous Stipulation and Agreement (S&A) was filed in the case, and on March 14, 2012, the Missouri Public Service Commission (Commission) issued its Order Approving Unanimous Stipulation and Agreement.

In that S&A, Liberty agreed to maintain Atmos' current tariffs and to formally adopt Atmos' tariffs upon Commission approval of the sale.

On July 2, 2012, Liberty filed two tariff sheets requesting approval of its formal adoption notice and title sheet, in compliance with the Commission's Order in GM-2012-0037.

On July 23, 2012, the Commission issued its Order Recognizing Name Change and Approving Tariff Sheets to go into effect August 1, 2012, and the case closed August 2, 2012. Liberty Energy (Midstates) Corp. now does business as Liberty Utilities.

THE APPLICATION

On August 8, 2012, Liberty filed an Application and Petition (Application) with the Commission to re-establish its Infrastructure System Replacement Surcharge (ISRS). The filing has a proposed effective date of September 7, 2012.

Liberty also applied for a waiver of the 60 day notice requirement of a "contested" case under 4 CSR 240-4.020, stating it is "...not certain if this matter would be considered a 'contested case'..." 60 days prior to the filing of its Application.

On August 9, 2012, the Commission issued its ORDER DIRECTING NOTICE AND SETTING INTERVENTION DATE with a due date of August 29, 2012 and ORDER SUSPENDING TARIFF until December 6, 2012.

On August 30, 2012, the Commission issued its ORDER DIRECTING FILING OF STAFF REPORT no later than October 8, 2012.

The Commission's Rule Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges at 4 CSR 240-3.265 allows Gas corporations to recover certain infrastructure system replacement costs outside of a formal rate case filing through a surcharge on customers' bills. Liberty initially filed a tariff sheet that would generate a total annual revenue requirement of \$752,361.

Liberty is unique among Missouri natural gas local distribution companies in that it has specific ISRS rates for each of its three districts. Therefore, Liberty needs district-specific revenue requirements in order to calculate those district-specific ISRS rates.

Liberty proposes that its ISRS rates be based upon the customer-count from its last rate case (GR-2010-0192). This means the ISRS rates would be based on "average customers for period ending September 30, 2011." In its Application, Liberty justifies use of this customer-count by referencing Section 393.1015.5(1), which provides:

Provided, however, that the monthly ISRS **may** vary according to customer class and may be calculated based on customer numbers as determined during the most recent general rate proceeding of the gas corporation so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class.
(Emphasis added)

Liberty has applied to recover costs of ISRS-qualifying plant placed in service from October 1, 2010, through May 31, 2012. Liberty filed to recover ISRS qualifying infrastructure replacement costs incurred during the period October 1, 2010 through May 31, 2012. This request is consistent with the method used to calculate the ISRS rate approved in Atmos' previous ISRS filings and conforms with Staff's view that the calculation of the ISRS surcharge should closely reflect the revenue requirement that will exist on the effective date of the ISRS rates.

STAFF'S INVESTIGATION

Staff from the Auditing and Energy Units participated in the investigation of Liberty's Application. The investigation included a review of: the Application, all supporting documentation, Missouri statutory sections 393.1009, 393.1012 and 393.1015 RSMo and all additional data provided by Liberty.

While this filing fails to meet the \$1,000,000 threshold requirement set forth in Rule 4 CSR 240-3.265 (2), it does qualify as a valid filing by meeting the alternative requirement of the requested increase exceeding *“one-half of one percent (1/2%) of the natural gas utility’s base revenue level approved by the commission in the natural gas utility’s most recent general rate case proceeding”*.

STAFF REVIEW AND EXPLANATION OF ADJUSTMENTS

The Auditing Unit Staff has reviewed Liberty’s ISRS Application including all supporting workpapers and calculations, an audit sample of work orders, and has communicated with Liberty personnel to gain clarification of Liberty’s Application when necessary.

The methodology used by the Auditing Unit allows Staff to consider all accumulated depreciation and deferred income taxes on ISRS qualifying infrastructure replacements costs through December 31, 2012. This methodology is consistent with past reviews conducted by the Auditing Unit and is consistent with Staff’s view that the calculation of the ISRS revenue requirement should closely reflect the revenue requirement at the 120-day effective date of the ISRS rates, which, in this case, is December 6, 2012.

During its review, however, Staff identified the use of incorrect depreciation rates by the Company for certain cities in its NEMO operating district. Correcting these rates resulted in an increase to accumulated depreciation expense of \$3,741. This error also impacted deferred income tax for the NEMO operating district and correcting the error resulted in a decrease in deferred income tax of \$91. The Company also used an incorrect depreciation rate in the SEMO district for meter and house regulator replacements. This error impacted deferred income tax for the SEMO operating district and correcting the error resulted in a decrease in deferred income tax of \$1,530. In addition, correcting Liberty’s use of incorrect depreciation rates has caused an increase in its annualized depreciation expense of \$1,970.

The Company also failed to utilize the marginal income tax rate and corresponding income tax conversion factor when determining its total revenue requirement on capital. Taking into consideration all corrections identified previously, this error in marginal tax rate and corresponding income tax conversion factor, once corrected, resulted in a decrease to total revenue requirement on capital of \$2,645. This decrease on a district specific basis is as follows: WEMO - \$194, SEMO - \$1,325 and NEMO - \$1,127.

The final correction made by Staff was for an incorrect property tax rate utilized by the Company to determine property tax on eligible additions/replacements. Correcting this error resulted in a decrease to property tax expense of \$1,723. This decrease on a district specific basis is as follows: WEMO – (\$209), SEMO - \$436 and NEMO - \$1,496.

As a part of Staff's review of the Application for compliance with Commission rules, Staff routinely updates surcharges in ISRS filings to reflect a cumulative revenue requirement consistent with Staff's calculation of all ISRS surcharges, accumulated deferred income taxes, and depreciation on ISRS plant from previous ISRS filings. In this case, Staff has included previous ISRS filings made by Atmos for the properties currently owned by Liberty. As a result of this update, Staff presents the table below:

Cumulative ISRS Revenue Requirement	
ISRS Revenue Requirement #1	
(GO-2011-0149, Atmos Energy Corporation)	
WEMO	\$ 11,116
SEMO	\$100,568
NEMO	\$165,397
Subtotal of ISRS Revenue	\$277,081
ISRS Revenue Requirement #2	
(GO-2013-0048, Liberty Utilities)	
WEMO	\$ 58,221
SEMO	\$184,335
NEMO	\$232,723
Subtotal of ISRS Revenue	\$475,280
Total ISRS Revenue	\$752,361

STAFF RECONCILIATION

Commission Rule 4 CSR 240-3.265 (17) requires that Staff reconcile the ISRS revenue Liberty collected from customers in the prior period to account for over- or under-collection of ISRS revenue. Based on this reconciliation, the Staff verified that the Company has over-collected ISRS related revenues from its customers by \$5,367 during the period February 14, 2012 through July 31, 2012. This over-collection on a district specific basis is as follows: WEMO - \$217, SEMO - \$1,960 and NEMO - \$3,190.

The Company did perform a reconciliation of the previous ISRS surcharge authorized in Case No. GO-2011-0149. However, the Company failed to reflect its calculated amount of under-collection in its total ISRS revenue requirement. Upon further review of the Company's calculation, Staff identified a formula error in the Company's workpaper. The overall impact of this error resulted in an actual over-collection of \$5,367 as stated above and a decrease in ISRS revenue requirement of \$36,907. This decrease on a district specific basis is as follows: WEMO - \$1,491, SEMO - \$13,480 and NEMO - \$21,936. The Staff reduced each respective operating district's ISRS revenue requirement in the current case to reflect each district's specific over-collection amount. Therefore, these amounts of over-collection are included in Liberty's overall ISRS revenue requirement calculation in this proceeding. Based on its review and all of its calculations, Staff recommends that Liberty receive incremental ISRS revenues of \$475,280.

THE ISRS RATE SCHEDULES

Staff's proposed rates are consistent with the methodology used to establish Liberty's past ISRS rates and consistent with the overall methodology used to establish ISRS rates for other utilities.

Staff's proposed ISRS rates are contained in Attachment B, attached hereto and incorporated by reference herein. Staff's customer count is based off Liberty's current annual report on file with the Commission.

Staff has verified that the Company has filed its 2011 annual report and is not delinquent on any assessment. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

P.S.C. MO. No. 2
5th Revised SHEET NO. 19 Cancelling 4th SHEET NO. 19

REQUESTED WAIVER

Staff does not object to Liberty's request for waiver pursuant to Commission Rule 4 CSR 240-4.020(2).

RECOMMENDATION

Based upon the above, Staff recommends the Commission issue an order in this case that:

1. Rejects the ISRS tariff sheet (YG-2013-0071) filed by Liberty on August 8, 2012;
2. Approves Staff's determination of the incremental ISRS surcharge revenues in the amount of annual pre-tax revenues of \$475,280, consisting of \$58,221 for the WEMO district, \$184,335 for the SEMO district, and \$232,723 for the NEMO district;
3. Authorizes Liberty to file an ISRS rate for each customer class as reflected in Appendix B.
4. Approves Liberty's request for waiver of the 60 day notice requirement for contested cases.

Liberty Utilities
Missouri Jurisdiction
ISRS Rate Design (GO-2013-0048)

Total ISRS Revenues	\$752,361
<i>Northeast District (NEMO)</i>	\$398,120
<i>Southeast District (SEMO)</i>	\$284,902
<i>West District (WEMO)</i>	\$69,337

October 2012 ISRS Rate Design							
Rate District & Class	Number of Customers*	Customer Charge	Ratio to	Weighted	Customer Percentage	ISRS Charge	ISRS Revenues
			Residential Customer Charge	Customer Numbers			
Northeast District							
Firm Residential	16,455	22.68	1.0000	16,455	81.8754%	1.65	\$325,962
Small Firm GS	2,066	22.68	1.0000	2,066	10.2797%	1.65	40,926
Medium Firm GS	285	100.00	4.4092	1,257	6.2543%	7.28	24,900
Large Firm GS	11	500.00	22.0459	243	1.2066%	36.39	4,804
Interruptible Large Volume	4	500.00	22.0459	77	0.3839%	36.39	1,529
Total NEMO	18,821			20,098	100.0000%		\$398,120
Southeast District							
Firm Residential	29,023	13.75	1.0000	29,023	79.5108%	0.65	\$226,528
Small Firm GS	3,402	13.75	1.0000	3,402	9.3195%	0.65	26,552
Medium Firm GS	468	100.00	7.2727	3,404	9.3267%	4.73	26,572
Large Firm GS	15	500.00	36.3636	545	1.4943%	23.65	4,257
Interruptible Large Volume	4	500.00	36.3636	127	0.3487%	23.65	993
Total SEMO	32,911			36,502	100.0000%		\$284,902
West District							
Firm Residential	3,422	20.17	1.0000	3,422	80.7179%	1.36	\$55,967
Small Firm GS	501	20.17	1.0000	501	11.8221%	1.36	8,197
Medium Firm GS	39	100.00	4.9579	192	4.5363%	6.76	3,145
Large Firm GS	5	500.00	24.7893	124	2.9237%	33.79	2,027
Interruptible Large Volume	-	500.00	24.7893	0	0.0000%	0.00	0
Total WEMO	3,967			4,239	100.0000%		\$69,337
Total Missouri	55,699			60,839	100.0000%		\$752,359

*Average Annual Customers per Liberty Utilities Annual Report.

Firm Residential	48,900
Small Firm GS	5,969
Medium Firm GS	792
Large Firm GS	31
Interruptible Large Volume	7
	55,699

* Due to rounding to the nearest penny, the designed ISRS rates will under collect by \$200.
However, it should be noted that the total amount collected will be true-up at a later date.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

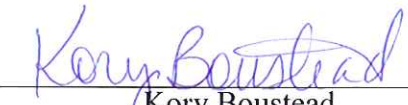
In the Matter of the Verified)
Application and Petition of Liberty)
Energy (Midstates) Corp. d/b/a)
Liberty Utilities to Change Its)
Infrastructure System Replacement)
Surcharge)

File No. GO-2013-0048

AFFIDAVIT OF KORY BOUSTEAD

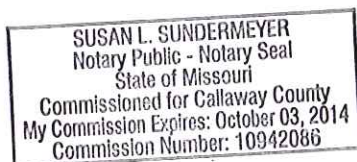
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Kory Boustead, of lawful age, on oath states: that she participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was provided to her; that she has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of her knowledge and belief.



Kory Boustead

Subscribed and sworn to before me this 3rd day of October, 2012.





Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

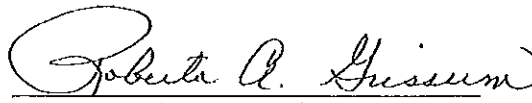
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Case No. GO-2013-0048

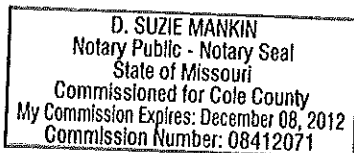
AFFIDAVIT OF ROBERTA. GRISSUM


STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Roberta A. Grissum, of lawful age, on her oath states: that she has participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was developed by her; that she has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true and correct to the best of her knowledge and belief.


Roberta A. Grissum

Subscribed and sworn to before me this 5th day of October, 2012.




Notary Public