BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty to Change Its Infrastructure System Replacement Surcharge	))))	**Case No. GT-2022-0118** Tariff No. YG-2022-0194

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and in response to the Commission's January 3, 2022, *Order and Notice,* ("Order") submits its *Staff Recommendation* to the Commission as set forth in detail in the attached appendices, and in support thereof states as follows:

1. On December 30, 2021, Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty ("Liberty") filed its *Verified Infrastructure System Replacement Surcharge Application* ("Application"). That same day, Liberty filed a Tariff Revision P.S.C. MO. No. 2 Twelfth Revised SHEET No. 19 CANCELLING P.S.C. MO. No. 2 Eleventh SHEET No. 19, bearing an effective date of April 1, 2022.

2. The ISRS surcharges reflected on Liberty's proposed Sheet 19 equate to incremental annual ISRS revenues for the Northeast and West districts' ("NEMO/WEMO") cumulative revenue of $361,523, and the Southeast district's ("SEMO") cumulative revenue of $589,786, and total annual cumulative revenues of $951,309.

3. On January 3, 2022, the Commission issued its Order and directed Staff to file its recommendation regarding the Application by March 30, 2022, and on March 2, 2022, Liberty submitted its transmittal letter in this case with tariff tracking number YG-2022-0194. Staff's recommendation is attached hereto as Appendix A, with

supporting worksheets labelled as Appendices B, and C, each of which are incorporated herein by reference.

4. As discussed in Staff's Memorandum, attached hereto as Appendix A, Auditing Staff and Engineering Analysis examined the Application and supporting direct testimony, work papers, work order authorizations, accounting entries for work orders, and all invoices supporting the work order authorizations for ISRS projects in which Liberty has requested recovery in this case. Staff also communicated with Liberty's personnel in meetings as well as through email and telephone for clarification of the Application.

5. Based on Staff's review, and as shown in Appendices B and C, Staff recommends an ISRS revenue requirement for NEMO/WEMO of $348,255 and SEMO of $542,031 and total annual cumulative ISRS revenues of $890,286. Staff's proposed ISRS rates are contained in Appendices B and C, attached hereto and incorporated by reference herein.

6. Staff also notes that Liberty filed its FY 2021 Annual Report and is not delinquent on its FY 2022 assessments.

WHEREFORE, for the reasons stated above and in Staff's attached Memorandum, incorporated herein as Appendix A, Staff recommends the Commission issue an order in this case that:

1. Rejects Liberty's proposed increase in ISRS rates, as filed on December 30, 2021 and assigned Tracking No. YG-2022-0194.

The page being rejected is as follows:

P.S.C. MO. No. 2

Twelfth Revised Sheet No. 19 / Replacing Eleventh Sheet No. 19

2. Approves Staff's proposed substitute ISRS rates as shown in Appendices B and C. These rates are based on $348,255 for NEMO/WEMO and $542,031 for SEMO being the appropriate cumulative revenue requirement for this proceeding plus Staff's use of the most current customer count in calculating appropriate ISRS rates. Staff's proposed ISRS rates will generate this level of revenue based upon customer levels from the Company's most recent general rate case.

3. Authorizes Liberty to file an ISRS rate for each customer class as reflected in Attachment B, which will generate $890,286 annually in cumulative ISRS charges.

4. Directs Liberty to update its notices to reflect a revenue requirement figure to reflect proper rates.

5. Directs Liberty to include a study indicating if the cost of replacing plastic adds incremental cost to ISRS eligible projects versus using existing infrastructure.

6. Directs Liberty to include a reconciliation of ISRS revenues with its next ISRS request.

7. Directs Liberty to have a study conducted by an external party with regard to its corporate and overhead allocation methods prior to its next general rate case. Liberty shall meet with stakeholder parties within 60 days of this order to determine the parameters of the external study.

Respectfully submitted,

/s/ Ron Irving
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been electronically mailed to all parties and/or counsel of record on this 30th day of March, 2022.

/s/ Ron Irving

M E M O R A N D U M

TO: Missouri Public Service Commission Official Case File
File No. GT-2022-0118 - Tariff No. YG-2022-0194
Liberty Utilities (Midstates Natural Gas) Corp.

FROM: Jane C. Dhority, Utility Regulatory Auditor, Auditing Department
David M. Sommerer, Regulatory Compliance Manager, Procurement Analysis
Charles T. Poston, PE, Senior Professional Engineer, Engineering Analysis

/s/ *Kimberly K. Bolin* 03/30/22	/s/ *Ron Irving* 03/30/22
Financial and Business Analysis Director / Date	Staff Counsel's Office / Date

SUBJECT: Staff Report and Recommendation Regarding the "Verified Infrastructure System Replacement Surcharge Application" of Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty Utilities to Increase Its Infrastructure System Replacement Surcharge

DATE: March 30, 2022

PROCEDURAL BACKGROUND

On October 29, 2021, Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty ("Company" or "Liberty") had filed its "Notice of Intended Case Filing (ISRS)" to comply with Commission Rule 2- CSR 240-4.020(2) which requires a utility to file notice at least sixty (60) days prior to the filing of a case that may be contested.

On December 30, 2021, Liberty filed its "Verified Infrastructure System Replacement Surcharge Application" ("Application") with the Missouri Public Service Commission ("Commission") in order to increase its Infrastructure System Replacement Surcharge ("ISRS"). Liberty asserts its submission is made pursuant to Commission Rules 20 CSR 4240-2.060, 2.080, and 3.265 and Sections 393.1009 to 393.1015, RSMo. Also on December 30, 2021, Liberty filed a proposed ISRS tariff to be effective April 1, 2022.

On January 3, 2022, the Commission issued an Order and Notice suspending the ISRS tariff to June 28, 2022, and requiring a Staff report to be filed no later than March 30, 2022.

Liberty seeks to increase its ISRS rates that will generate a cumulative $951,309 on an annual basis. On a per-district basis, the Northeast and West district's cumulative revenue requirement being sought is $361,523 annually. The Southeast district's cumulative revenue requirement being sought is $589,786 annually.

Liberty indicates its Revenue Requirement request is intended to address ISRS eligible investments from November 1, 2020, through October 31, 2021.

Previously, Liberty required three separate ISRS rates for each of its districts. In the previous rate case (Case No. GR-2018-0013) the parties agreed to consolidate the rates for the Northeast Missouri "NEMO" and West Missouri "WEMO" districts. That results in there now being only two sets of ISRS rates.

In its initial filing, Liberty included a tariff sheet in the application. Liberty also filed a proposed tariff in the case file on the same day. However, no tariff sheet and transmittal letter were initially included in the tariff-tracking module of EFIS. The tariff that has been included within Liberty's application is typically viewed as an illustrative or example tariff. Example tariffs should not include an "issue date" or "effective date" and should indicate on the example tariff that it is an illustrative or example tariff. In addition, the proposed tariff should not only be separately filed in the case file, but also included in the tariff tracking system of EFIS with a transmittal letter.

As noted Liberty's initial submission also lacks a transmittal letter - (generically known as a "cover letter" - which is required by Commission rules (20 CSR 4240-40.085 (3) & (4) Filing Requirements for Gas Utility Rate Schedules).

The Rule requires:

> 20 CSR 4240-40.085 Filing Requirements for Gas Utility Rate Schedules
>
> *PURPOSE: This rule streamlines provisions formerly in Chapter 3.*
>
>> (3) All schedules filed with the commission **shall be** accompanied by a letter of transmittal which shall be prepared consistent with the format designated by the commission. [Emphasis added.]
>>
>> (4) All proposed changes in rates, charges, or rentals or in rules that affects rates, charges, or rentals filed with the commission **shall be** accompanied by a brief summary, approximately one hundred (100) words or less of the effect of the change on the company's customers. [Emphasis added.]

On March 2, 2022, Liberty filed a transmittal letter in Case No. GT-2022-0118 (Tariff Tracking No. YG-2022-0194).

This ISRS filing is Liberty's second ISRS application filed after "new legislation" (House Bill No. 2120 – effective August 28, 2020). This new legislation amended Sections 393.1009, 393.1012, 393.1015, RSMo and has a documented procedure for the establishment and continuation of contractors being able to bid on ISRS projects that a utility decides to "outsource" to third party entities – ("bidders"), as opposed to the utility's internal staff undertaking the project[1]. There are three filing requirements to be in compliance, which are set forth in the following:

[1] Internal ISRS projects are not factored into "external" ISRS projects subject to the bidding process.

REQUIREMENT 1

The filing (with the Commission) of a pre-qualification of parties seeking to be future bidders:

> 4. In order for a gas corporation to file a petition with the commission to establish or change an ISRS, such corporation shall, by July 1, 2021, develop and file with the commission a pre-qualification process for contractors seeking to participate in competitive bidding to install ISRS-eligible gas utility plant projects.

On February 4, 2021, the Company provided, in response to a data request (DR), the Company's pre-qualification process (DR No. 0006 in Case No. GT-2021-0073). In Staff's opinion, this should have been filed with the Commission as described above.

REQUIREMENT 2

The filing of a verified statement:

> The gas corporation shall file, by January 1, 2022, a verified statement with the commission confirming that it has in place a pre-qualification process for the competitive bidding of ISRS-eligible gas utility plant projects, and that such process conforms to the requirements of this section. The commission shall have the authority to verify the statement to ensure compliance with this section.[2]

On December 30, 2021, Liberty filed the verified statement referenced above in Case No. GO-2022-0175.

REQUIREMENT 3

The filing of a confirmation statement:

> After January 1, 2022, the gas corporation shall submit with each petition filing to establish or change an ISRS a verified statement confirming that it is using a competitive bidding process for no less than twenty five percent of the combined external installation expenditures made by the gas corporation's operating units in Missouri for installing ISRS-eligible gas utility plant projects, and that such process conforms with the requirements set forth in this section. The commission shall have the authority to verify the statement to ensure compliance with this section.[3]

[2] Section 393.1012 (4) RSMo.
[3] Section 393.1012 (4) RSMo.

Liberty filed this ISRS application on December 30, 2021. Although the new legislation was in effect prior to Liberty's filing date, this particular clause did not apply until a utility files an ISRS petition on or after January 1, 2022. By filing prior to January 1, 2022, Liberty avoided the aforementioned "verified statement' requirement for Requirement 3, but Liberty will need to provide such a statement with all future ISRS filings.

STAFF REVIEW AND PROPOSED REVENUE REQUIREMENT CALCULATION

Based on Staff's review of the Application, Staff proposes a smaller revenue requirement than what Liberty originally requested. Staff's proposed lower revenue requirement ensures that customers pay appropriate ISRS rates that are consistent with Staff's proposed revenue requirement. Based on the support Liberty provided to Staff, and Liberty's customer counts in its workpapers that accompanied its petition, Staff's calculated "replacement" rates match Staff's proposed cumulative revenue requirement.

As a result of its adjustments, Staff recommends that Liberty receive incremental ISRS revenues of $373,979 for this case. Staff's revenue requirement is broken down by district as follows: Southeast (formerly SEMO) $335,807 and Northeast & West (formerly NEMO & WEMO) $38,172. Staff's proposed revenue requirement will increase the cumulative revenue requirement for Liberty to $890,286; $348,255 for NEMO & WEMO and $542,031 for SEMO.

The table below shows the Staff's proposed revenue requirement, both incremental & cumulative amounts that result from adoption of Staff' proposal:

	Current ISRS GT-2022-0118	**Previous ISRS GT-2021-0073**	**Cumulative ISRS Total**
ISRS Revenues (Cumulative)	**$373,979**	**$516,307**	**$ 890,286**
Northeast / West Districts (NEMO/WEMO)	$38,172	$310,083	$ 348,255
Southeast District (SEMO)	$335,807	$206,224	$ 542,031

STAFF REVIEW OF LIBERTY'S ISRS APPLICATION

In its Application, Liberty filed to recover ISRS qualifying infrastructure replacement costs for the period of November 1, 2020 through October 31, 2021. As part of its examination of Liberty's Application, Auditing Staff reviewed supporting workpapers, all invoices, work order authorizations, responses to data requests and other applicable documents. Staff reviewed all of the invoices for the projects included in Liberty's Application along with all of the work orders, with one exception. Additionally, Staff met with Liberty personnel and other Commission Staff regarding the Application as necessary.

Commission Rule 20 CSR 4240-3.265(18), Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges, states:

> The Commission shall reject an ISRS petition after a Commission order in a general rate proceeding unless the ISRS revenues, requested in the petition, on an annualized basis, will produce ISRS revenues of at least the lesser of 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 or one (1) million dollars, but not in excess of ten percent (10%) of the subject utility's base revenue level approved by the Commission in the utility's most recent general rate proceeding.

Liberty's requested ISRS revenues for this filing exceeds one-half of one percent of the natural gas utility's total company base revenue level as approved by the Commission in Liberty Utility's most recent general rate case (Case No. GR-2018-0013), when the Company's ISRS rates were reset to zero. Additionally, the ISRS revenues requested in this case do not exceed ten percent of the base revenue levels approved by the Commission in the aforementioned rate case.

Commission Rule 20 CSR 4240-3.265 for Natural Gas Infrastructure System Replacement Surcharges set the definitions of natural gas utility plant projects that are eligible for ISRS treatment.

In this Application, Liberty seeks recovery for $3,501,867 of ISRS investment. During its review Staff discovered $382,154 of costs included in Liberty's Application that were not eligible for recovery. The following charts detail the results of Staff's findings.

Liberty Requested Amount	$ 3,501,867
Staff Adjustments	$ 382,154
Staff ISRS Amount	$ 3,119,713

Type of Adjustment	**Amount of Adjustment**
A) Growth Projects	$ 378,893
B) No Support	$ 2,330
C) Non-Project Costs	$ 931
Total	$ 382,154

Various Non-ISRS Investment

During its review, Staff discovered that Liberty had included costs for new mains, new services, and a new regulator station in its Application. Staff did not include costs for growth projects in its ISRS revenue requirement.

No Support

Liberty was unable to provide Staff with supporting documents[4] for one of the projects included in the ISRS filing. As Staff was unable to verify if the project was ISRS eligible, it was not included in Staff's calculation of the ISRS revenue requirement.

Non-Project Costs

During its review of the supporting documentation for the costs included in this Application, Staff discovered various costs that were included but were not project related. Staff removed ineligible costs including costs for installing fencing, past due balances, and expense report items.

Plastic Replacement

In Liberty's previous ISRS case (Case No. GT-2021-0073), Staff found two projects that had plastic replaced along with steel mains. As part of its Application in that case, Liberty did not provide a study indicating if the cost of replacing the plastic added incremental cost to the project versus using the existing infrastructure. Staff determined the percentage of the project that was plastic and multiplied that percentage by the total cost of the project to determine the amount of plastic costs to exclude. Staff also recommended that Liberty include in future ISRS filings any studies or analysis performed to determine that replacing any connected or associated plastic is done in a manner that adds no incremental cost to a project, as compared to tying into or reusing the existing plastic[5]. Liberty agreed to all adjustments and recommendations proposed by Staff in Case No. GT-2021-0073[6] and that ISRS rate was effective June 1, 2021.

During its review in this case, Staff found two large plastic replacement projects. Liberty did not include a study of the incremental costs for these projects, however the Company did provide a confidential study that justified the need of replacement of the piping in the two aforementioned projects. Therefore, Staff did not remove any project costs relating to plastic replacement from this ISRS filing. Please see the section regarding *Eligibility of Costs Related to PVC Pipe Replacements* in this document for further discussion on PVC plastic replacements.

Revenue Requirement

In Liberty's Application, amounts were included for accumulated depreciation and deferred income taxes on ISRS investment through December 31, 2021, and September 30, 2021, respectively. The methodology utilized by Auditing Staff allows for the consideration of all accumulated depreciation and deferred income taxes on the qualifying ISRS investment through March 31, 2021. This is consistent with Staff's approach in previous ISRS cases. It is Staff's view that the calculation of the ISRS revenue requirement should closely match the effective date of the ISRS rates to the extent possible.

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[4] Staff was not provided any support including work orders, job request summaries, or invoices for project number 8852-0401-20J12.

[5] Staff Memorandum, Case No. GT-2021-0073, page 5.

[6] Case No. GT-2021-0073 Response to Staff Recommendation, page 2, item 5.

Additionally in its calculation of the revenue requirement Liberty did not remove the property tax expense or depreciation expense associated with the plant retirements included in its filing request. Staff has proposed an adjustment to remove the calculated property tax expense and annual depreciation expense on the retired assets.

STAFF RECONCILIATION

Commission Rule 20 CSR 4240-3.265(17) states

> At the end of each twelve (12)-month period that an ISRS is in effect, the natural gas utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

Staff performed a reconciliation of ISRS revenue as part of Liberty's last ISRS filing, Case No. GT-2021-0073. That was the first ISRS case following Liberty's last general rate case and Liberty had not included a reconciliation as part of its filing in that case. Liberty accepted Staff's recommended undercollection amount of $84,447. Staff did not perform a final reconciliation for this current filing as the ISRS rate established in Case No. GT-2021-0073 has only been in effect since June 1, 2021. Since the current ISRS rate has not been in effect for a 12-month period, any over or under collection of ISRS revenues from both the last ISRS filing and this current ISRS filing must be included in Liberty's next ISRS filing.

OVERHEAD ALLOCATIONS

Liberty Midstates receives allocated amounts as it is a subsidiary of Liberty Utilities (America) and overhead costs consisting of intercompany direct labor, intercompany indirect allocations, communication equipment, capitalized depreciation on the shared services portion of heavy equipment, intercompany rent, intercompany insurance, intercompany transportation, uniforms, and payroll. Liberty Midstates is provided a monthly allocated amount and then determines what portion of the total above costs are allocated on a monthly basis to capital projects by calculating a ratio of the individual projects capital spend to the total capital spend of the region and uses that ratio to spread the costs to the five divisions within Liberty Midstates. The region consists of the following divisions: SEMO, NEMO, WEMO, Iowa, and Illinois.

Staff has concerns regarding the method Liberty is utilizing to assign intercompany allocations and overhead costs to capital projects as it can cause an inequitable cost allocation during any given month or year, depending on what region is incurring capital costs at that time. For example, if a certain division is incurring the majority of the total capital costs for the region during a given time period; the current method of cost allocation would allocate the majority of the allocations and overhead amounts to that division rather than equitably spreading those costs across all divisions in the region. Depending on the total cost of the capital project, this results in the corporate allocations and overhead costs sometimes far surpassing the total direct cost of the capital project itself. Staff recommends that the Commission order Liberty Midstates to have an external audit performed, prior to its next general rate case, of its corporate allocations and overhead processes and provide the results of the audit to Staff and the Office of the Public Counsel ("OPC"). Staff suggests such an audit would include how total corporate allocations and overhead amounts are determined in total, how that total amount is apportioned into expense and capital for Liberty Midstates as well as the proper method for that expense and capital portion to be spread across the divisions in the Liberty Midstates region. Staff recommends that Liberty Midstates and other stakeholder parties meet to determine the specific parameters prior to execution of the audit.

ANNUAL REPORTS AND ASSESSMENTS

Liberty has filed its 2021 annual report with the Commission and at the time of drafting this memo, it has not yet filed its 2022 annual report due April 15th. Liberty is not delinquent on any of its assessments, including FY 2022.

SUMMARY OF AUDIT RESULTS

Based upon Staff's review and its calculations, Staff recommends an overall ISRS revenue requirement of $890,286, as shown in Appendix C, broken down by district $348,255 for the NEMO/WEMO district and $542,031 for the SEMO district.

In its Application Liberty had proposed an incremental ISRS revenue requirement of $435,002[7].

ELIGIBILITY OF COSTS RELATED TO PVC PIPE REPLACEMENTS

In order for the costs related to PVC pipe replacements to be considered eligible for recovery through the Liberty ISRS mechanism, the language of Section 393.1009 RSMo must be considered. Eligible "gas utility plant projects" include the following requirement:

> (5) "Gas utility plant projects" shall consist only of the following:
>
> (a) Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition or that can no longer be installed under currently applicable safety requirements or any cast iron or steel facilities including any connected or associated facilities that, regardless of their material, age, or condition, are replaced as part of a qualifying replacement project in a manner that adds no incremental cost to a project compared to tying into or reusing existing facilities[8]

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[7] As Liberty did not include a reconciliation in their application, their proposed ISRS revenue requirement did not include any amounts for any over- or under-recovery of ISRS revenues from the prior ISRS, nor did it include the amount already being recovered from its prior approved ISRS.

[8] Section 393.1009(5)(a), RSMo.

"State or Federal Safety Requirements"

Within its ISRS application, Liberty must prove that its requests consist of "gas utility plant projects…installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition[.]"[9] What constitutes "state or federal safety requirements" has been addressed by the Commission in prior ISRS cases.

In its Report and Order in Case Nos. GO-2019-0356 and GO-2019-0357, the Commission found that Spire Missouri had replaced cathodically protected steel mains to comply with state or federal safety requirements. The statutes and regulations cited by the Commission for its determination in those cases were Section 393.130, RSMo (requiring Spire Missouri to provide safe and adequate service), 20 CSR 4240-40.030(17) (requiring Spire Missouri to identify and implement measures to address risks through its Distribution Integrity Management Plan or "DIMP"), and 20 CSR 4240-40.030(13)(B) (requiring Spire Missouri to repair, replace, or remove unsafe segments of pipeline from service).[10]

This finding was upheld by the Western District Court of Appeals when it found that in the context of the Spire Missouri ISRS cases that, "Substantial and competent evidence supports the conclusion that replacement of Spire's cathodically protected steel mains was required by section 393.130, 20 CSR 4240-40.030(13)(B) and 20 CSR 4240-40.030(17)."[11] The Court also stated that, regarding the arguments that a utility's DIMP analysis could serve as a state mandate for replacement, "the obligation to evaluate and rank risks to infrastructure found in 20 CSR 4240-40.030(17) must be read in conjunction with the statutory mandate found in section 393.130 for gas utilities to ensure that their natural gas distribution systems are safe and adequate, and the regulatory mandate found in 20 CSR 4240-40.030(13)(B) to replace pipeline that has become unsafe."[12]

In this case, Liberty provided for review a copy of its latest DIMP that it is required to have under 20 CSR 4240-40.030(17).[13] Since August 2, 2011, each natural gas distribution operator has been required to implement a DIMP. 20 CSR 4240-40.030(17) requires, among other things, that an operator identify the characteristics of its pipeline, consider past design, operation and maintenance information, identify threats (existing and potential), evaluate and rank risks, identify and implement measures to address risk, measure performance, monitor results and effectiveness, and perform periodic evaluations and improvements. 20 CSR 4240-40.030(17)(D)2 specifically

[9] In the response to OPC DR 8507, Liberty asserted that all of its ISRS eligible projects consisted of "existing facilities that have worn out or are in deteriorated condition." No claims were made concerning the other statutory language in Section 393.1009(5)(a) RSMo that discussed existing facilities that "can no longer be installed under currently applicable safety requirements" or about projects and their "incremental cost."

[10] Case Nos. GO-2019-0356 and GO-2019-0356, Report and Order, page 36.

[11] 613 S.W.3d 806 (Mo. Ct. App. 2020) at 818.

[12] Id. at 817.

[13] Case No. GT-2022-0118, Liberty Response to OPC DR 8506, "Distribution Integrity Management Plan_Mid-States_CONFIDENTIAL.pdf" and Staff DR No. 0015, "dimplate excerpt confidential.xlsx."

requires that the threats (existing and potential) of natural forces, excavation damage and material and joint failures be considered. ** [redacted][14] **

The combination of the risk analysis contained in Liberty's DIMP, and the statutory requirements to provide safe and adequate service, and to replace unsafe pipelines are sufficient to establish that Liberty has a "state or federal safety requirement" to replace the PVC pipe in its distribution systems. As a result, the secondary criteria related to existing facilities being "worn out or in a deteriorated condition" must also be evaluated.

"Worn Out or Deteriorated Condition"

Within its ISRS application, Liberty must prove that its requests consist of "gas utility plant projects…installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition[.]"[15, 16] The type of information that can be used to determine what constitutes existing facilities that are "worn out or in deteriorated condition" has been addressed by the Commission in prior ISRS cases.

In its Report and Order in Case Nos. GO-2019-0356 and GO-2019-0357, the Commission found that Spire Missouri had provided evidence that cathodically protected steel pipes were worn out or in a deteriorated condition. The evidence that Spire Missouri provided consisted of expert witness testimony that described how those pipes had become unsafe and therefore required replacement.[17] The Commission noted that while no physical samples had been taken from the cathodically protected steel pipe for analysis, Spire Missouri provided other evidence to support its claim that it was worn out or in deteriorated condition. That evidence consisted of documented industry

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[14] Case No. GT-2022-0118, Liberty's confidential supplemental response to Staff DR No. 0015.

[15] Section 393.1009(5)(a), RSMo.

[16] In the response to OPC DR 8507, Liberty asserted that all of its ISRS eligible projects consisted of "existing facilities that have worn out or are in deteriorated condition." No claims were made concerning the other statutory language in Section 393.1009(5)(a) RSMo that discussed existing facilities that "can no longer be installed under currently applicable safety requirements" or about projects and their "incremental cost."

[17] Case Nos. GO-2019-0356 and GO-2019-0356, Report and Order, pages 36-38.

experience that showed the need for accelerated replacement and the risk rankings for cathodically protected steel pipes in Spire Missouri's DIMP.

In this case, Liberty provided a copy of a confidential report in which an expert examined the physical condition of PVC pipe samples collected from parts of Liberty's system as justification for the classification of the PVC pipe in its distribution systems as being "worn out or in deteriorated condition."[18] The report concluded that, in the instance of a pipe sample taken from the location of a failure, that, ** [redacted] ** For the samples taken from non-failed pipes the report concluded that, ** [redacted] **

Staff found that the results of the PVC pipe testing that were examined by an expert in plastic pipes are adequate to demonstrate that the PVC pipe that was tested should be considered to be worn out or in a deteriorated condition. Liberty established that all of the PVC in its distribution system is of the same vintage as the PVC pipe samples that were tested by the third-party expert.[19] Staff therefore concludes that Liberty established that the PVC pipe replacements at issue in this case should be considered worn out or in deteriorated condition.

Engineering Conclusions

The testing of physical samples from representative PVC pipe taken from the Liberty distribution system combined with the results of the DIMP analysis of the risks associated with PVC pipe contain adequate supporting information to show that the PVC pipe that was replaced met the statutory requirements for being both "installed to comply with state or federal safety requirements" and "existing facilities that have worn out or are in deteriorated condition." As such, Staff recommends that costs associated with the replacement of PVC pipe to be treated as eligible for recovery through Liberty's ISRS mechanism. However, this recommendation is subject to any claimed projects and their associated costs also meeting all of the remaining

[18] Case No. GT-2022-0118, Liberty response to OPC DR 8506, "Palermo Expert Report – Liberty Utilities CONFIDENTIAL.pdf"
[19] Case No. GT-2022-0118, Liberty response to Staff DR No. 0015.

statutory requirements for ISRS eligibility. Staff does have some recommended disallowances based on other criteria.

ISRS RATE DESIGN

The Rules describe the acceptable method of rate design calculations (most common practice) as follows:

> **20 CSR 4240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges**
>
> (14) The monthly ISRS shall vary according to customer class and **shall be calculated based on the customer numbers reported in the most recent annual report of the natural gas utility** 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.]

The rules clearly demonstrate a preference for using annual report "counts"[20.] The term "counts" refers to "the customer numbers reported in the most recent annual report". It is the only methodology referenced in the Rules for calculating ISRS rates[21].

The initial Liberty submission suggested its calculations used a customer count from the most recent Liberty rate case (Case No. GR-2018-0013). It appears that the actual customer count used by Liberty was from its 2020 annual report (most current) which lists a total customer count as 52,780.

The calculation of tariffed rates lacked a uniform category for "Transportation Service" and, therefore, it lacked a single, specific charge for the transport customers. Staff investigated, and found the transportation customers were distributed between: #1) Small Firm General Service, #2) Medium Firm General Service, and #3) Small Firm General Service.

THE ISRS RATE SCHEDULES

Staff's proposed rates were calculated 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 Appendix B, attached hereto and incorporated by reference herein.

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[20] A more formal name for "counts" is "frequency of occurrence" for billing.

[21] The Rules only reference the "annual report" method. However, Statue does allow an exception if there exists a more current "Count" in a rate case. This limited exception is not applicable in this situation because that data is more than 3 years out of date.

The Staff customer count reflects the Company's 2020 annual report (most current) and verified that the Company is not delinquent on any assessment. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

STAFF RECOMMENDATION

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

1. Rejects the ISRS tariff sheet filed on December 30, 2021;

2. Approves the Staff's recommendation that ISRS rates are re-established so that ISRS surcharge revenues generate annual pre-tax revenues of \$890,286, consisting of \$542,031 for the Southeast District, and \$348,255 for the Northeast/West District;

3. Authorizes Liberty to file an ISRS rate for each customer class as reflected in Appendix B, which will generate \$890,286 annually in cumulative ISRS charges;

4. Directs Liberty to update its notices to reflect a revenue requirement figure to reflect proper rates;

5. Directs Liberty to include a study indicating if the cost of replacing plastic adds incremental cost to ISRS eligible projects versus using existing infrastructure;

6. Directs Liberty to include a reconciliation of ISRS revenues with its next ISRS request; and

7. Directs Liberty to have a study conducted by an external party with regard to its corporate and overhead allocation methods prior to its next general rate case. Liberty shall meet with stakeholder parties within 60 days of this order to determine the parameters of the external study.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty to Change its Infrastructure System Replacement Surcharge	))))	File No. GT-2022-0118

AFFIDAVIT OF JANE C. DHORITY

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

COMES NOW JANE C. DHORITY and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation* in memorandum form and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.

JANE C. DHORITY

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the City of St. Louis, State of Missouri, at my office in St. Louis, on this 30th day of March 2022.

LISA M. FERGUSON
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
My Commission Expires: June 23, 2024
Commission Number: 16631502

Lisa M. Ferguson
Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty to Change its Infrastructure System Replacement Surcharge	))))	File No. GT-2022-0118

AFFIDAVIT OF CHARLES T. POSTON, PE

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW CHARLES T. POSTON, PE and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation* in memorandum form and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

CHARLES T. POSTON, PE

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 30th day of March 2022.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070

D. Suzie Mankin
Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty to Change its Infrastructure System Replacement Surcharge	))))	File No. GT-2022-0118

AFFIDAVIT OF DAVID M. SOMMERER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW DAVID M. SOMMERER and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation* in memorandum form and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

David M. Sommerer
DAVID M. SOMMERER

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 30th day of March 2022.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070

D Suzie Mankin
Notary Public

Liberty Utilities
Missouri Jurisdiction
ISRS Current Period Rate Design

Case No. GT-2022-0118

Total ISRS Revenues	**$890,286**	890,286
Northeast and West Districts (NEMO / WEMO)	348,255	
Southeast District (SEMO)	542,031	

Rate District & Class	Number of Customers	Customer Charge	Ratio to Residential Customer Charge	Weighted Customer Numbers	Customer Percentage	ISRS Charge	ISRS Revenues
Northeast and West Districts							
Firm Residential	18,982	22.00	1.0000	18982	72.8026%	1.11	$ 253,539
Small Firm GS	2,646	33.79	1.5359	4064	15.5869%	1.71	$ 54,282
Medium Firm GS	375	136.13	6.1877	2320	8.8995%	6.89	$ 30,993
Large Firm GS	19	750.00	34.0909	648	2.4843%	37.95	$ 8,652
Interruptible Large Volume	2	650.00	29.5455	59	0.2266%	32.89	$ 789
Total NEMO / WEMO	*22,024*			*26,073*	*100.0000%*		*$ 348,255*
Southeast District							
Firm Residential	26,919	15.00	1.0000	26919	70.0626%	1.18	$ 379,761
Small Firm GS	3,301	25.10	1.6733	5524	14.3766%	1.97	$ 77,926
Medium Firm GS	512	140.00	9.3333	4779	12.4375%	10.97	$ 67,415
Large Firm GS	22	750.00	50.0000	1100	2.8630%	58.78	$ 15,518
Interruptible Large Volume	2	750.00	50.0000	100	0.2603%	58.78	$ 1,411
Total SEMO	*30,756*			*38,421*	*100.0000%*		*$ 542,031*
Total Missouri	**52,780**			64,495	100.0000%		$ 890,286

* Due to rounding to the nearest penny, the designed ISRS rates will over collect by $834. However, it should be noted that the total amount collected will be trued-up at a later date.

APPENDIX B

Liberty Utilities
Missouri Jurisdiction
ISRS Revenue Requirement Calculation

ISRS Activity:	Total Missouri	WEMO/ NEMO	SEMO
Gas Utility Plant Projects - Main Replacements and Other Projects Extending Useful Life of Mains:			
Work Orders Placed in Service			
Gross Additions	$ 3,103,864	$ 337,202	$ 2,766,662
Accumulated Depreciation	(67,360)	(6,346)	(61,014)
Total Net	3,036,504	330,856	2,705,648
Gas Utility Plant Projects - Service Line Replacements and Insertion Projects:			
Work Orders Placed in Service			
Gross Additions	0	0	0
Accumulated Depreciation	0	0	0
Total Net	0	0	0
Gas Utility Plant Projects - Measurement & Regulator Station Equipment Replacements:			
Work Orders Placed in Service			
Gross Additions	15,849	0	15,849
Accumulated Depreciation	(527)	0	(527)
Total Net	15,322	0	15,322
Deferred Taxes	(43,385)	(4,293)	(39,092)
Total ISRS Rate Base	3,008,441	326,563	2,681,878
Overall Rate of Return per GR-2018-0013	7.40%	7.40%	7.40%
UOI Required	222,715	24,175	198,539
Income Tax Conversion Factor	1.3130	1.3130	1.3130
Revenue Requirement Before Interest Deductibility	292,431	31,743	260,688
Total ISRS Rate Base	3,008,441	326,563	2,681,878
Weighted Cost of Debt per GR-2018-0013	2.21%	2.21%	2.21%
Interest Deduction	66,456	7,214	59,243
Marginal Income Tax Rate	23.84%	23.84%	23.84%
Income Tax Reduction due to Interest	15,843	1,720	14,124
Income Tax Conversion Factor	1.3130	1.3130	1.3130
Revenue Requirement Impact of Interest Deductibility	20,803	2,258	18,545
Total Revenue Requirement on Capital	271,628	29,485	242,143
Depreciation Expense	55,003	3,816	51,187
Property Taxes	47,348	4,871	42,478
Total Company ISRS Revenues	**$ 373,979**	**$ 38,172**	**$ 335,807**