

**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)	Case No. GO-2014-0006
Infrastructure System Replacement)	
Surcharge)	

**POSITION STATEMENT OF
THE OFFICE OF THE PUBLIC COUNSEL**

COMES NOW the Missouri Office of the Public Counsel (“Public Counsel” or “OPC”) and for its Position Statement states:

1. The parties bring two issues to the Commission for resolution. The first issue asks, *“Should the Commission approve an incremental ISRS (infrastructure system replacement surcharge) revenue requirement for Liberty Utilities in this case?”*

The second issue, which needs to be addressed only if the answer to the first issue is “yes,” asks what amounts should be included in the ISRS.

2. On behalf of the rate-paying residential and business consumers of natural gas sold to Missouri citizens by Liberty Utilities, Public Counsel takes the position that the Commission should **not** approve Liberty’s ISRS Petition for the reasons summarized below. A more in depth explanation of Public Counsel’s position will be addressed in Public Counsel’s post-hearing brief. Because Public Counsel takes this position on Issue 1, Issue 2 becomes moot and will not be addressed.

3. First, it is Public Counsel’s position that the Petition should be rejected for not complying with the Commission’s ISRS rule. Rule 4 CSR 240-3.265(20) requires Liberty to submit with its application certain documentation that identifies the category

for each expense claimed by Liberty (i.e. main replacement under § 393.1009(5)(a) RSMo, main relining project under § 393.1009(5)(b) RSMo, etc). In addition, the rule requires Liberty to identify the government-mandated requirement that Liberty was complying with that made the expenditure eligible for ISRS recovery (i.e. Commission-ordered main replacement program, etc.). Liberty did not file this information with its case as required, and Liberty did not provide this information until September 20, 2013 when it filed its testimony. By not filing the required information with the Petition, Liberty essentially eliminated Public Counsel's ability to adequately respond to Liberty's explanation in the manner contemplated by the Commission when it adopted its rules and required this information to be filed with the petition. It is the Public Counsel's position that the Commission should protect consumers by enforcing its rules and rejecting the Petition without prejudice, and allow Liberty to re-file the Petition with the required documents.

4. Second, it is Public Counsel's position that the Commission does not have the statutory authority to approve an ISRS petition more than three (3) years since rates were reset in the gas company's last general rate case.¹ In this case, a Commission order approving the ISRS petition would be beyond the three (3) year window since the rate change following Liberty's last rate case was effective on September 1, 2010. For this reason, Public Counsel takes the position that the petition should be rejected.

5. Lastly, it is Public Counsel's position that Liberty has not met its burden of proving that the expenditures for which it seeks to recover through the ISRS are

¹ Public Counsel challenged a recent ISRS Petition filed by Missouri Gas Energy for the same reason. In that case the Commission approved the ISRS petition beyond the three (3) year window. Public Counsel appealed the decision, and the appeal is currently pending in the Court of Appeals – Western District, in Office of the Public Counsel v. P.S.C., Case No. WD76509.

lawfully eligible for inclusion in the ISRS. Instead, the evidence in this case will show that many of the expenses Liberty seeks to include in the ISRS are ineligible under Section 393.1009 RSMo, and for this reason, the Petition should be denied.

WHEREFORE, the Office of the Public Counsel respectfully offers this Position Statement.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 24th day of September 2013:

/s/ Marc Poston