

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

In the Matter of Liberty Utilities (Midstates)
Natural Gas) Corp.'s d/b/a Liberty (MNG))
Application for Authority to Issue Long Term)
Unsecured Debt)

File No. GF-2023-0280

STAFF PLEADING ADDRESSING LIBERTY’S REQUEST FOR WAIVER

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and in response to the Commission’s July 17, 2023 *Order Directing Staff to File a Pleading*, states as follows:

1. On March 7, 2023, Liberty Utilities (Midstates Natural Gas) Corp.’s d/b/a Liberty (hereafter, “Liberty Midstates” or the “Company”) filed a *Financing Application and Request for Waiver* (“*Application*”) with the Commission pursuant to § 393.200, RSMo, and 20 CSR 4240-2.060, 2.080, and 10.125.

2. On May 19, 2023, Liberty Midstates filed an *Amended Financing Application* (“*Amended Application*”) which “replaces the original Financing Application and Request for Waiver in total.”

3. In both Applications, Liberty Midstates requested “the Commission waive the requirement to file a five-year capitalization expenditures schedule as contemplated by 20 CSR 4240-10.125(1)(G).”¹

4. Commission Rule 20 CSR 4240-10.125(1)(G) requires that

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to issue stock, bonds, notes, and other evidences of indebtedness shall contain the following:

* * *

¹ See paragraph 16 of Liberty Midstate’s *Financing Application and Request for Waiver*, filed March 7, 2023, and paragraph 21 of Liberty Midstate’s *Amended Financing Application*, filed May 19, 2023.

(G) A five- (5-) year capitalization expenditure schedule as required by section 393.200, RSMo.

5. On June 16, 2023, Staff filed its *Staff Recommendation* and recommended the Commission approve Liberty Midstates' Amended Application, including the request for waiver of 20 CSR 4240-10.125(1)(G), "as not being detrimental to the public interest," subject to several conditions outlined in that filing, one of which was requiring Liberty Midstates file a five-year capitalization expenditure schedule in future finance cases.

6. Because agencies, including this Commission, can only waive requirements set by administrative rules, and not those of statutes, Staff's Recommendation, filed on June 16, 2023, should not have included an approval of Liberty Midstate's request for a waiver of the statutory requirement to file the schedule required by § 393.200, RSMo, which is referenced in 20 CSR 4240-10.125(1)(G).

7. In this case, however, Liberty Midstates did provide its 2023-2027 five-year projected capital expenditure plan to the Staff in response to Data Request #0004 prior to Staff filing its Recommendation, further making the request for waiver moot.²

WHEREFORE, for the foregoing reasons, Staff recommends that the Commission issue an Order approving Liberty Midstates *Amended Financing Application* as not being detrimental to the public interest, subject to the conditions listed in paragraph 9.a. through e., g. and h., as outlined in Staff's June 16, 2023 *Staff Recommendation*, with the exception of Liberty Midstate's request for a waiver of 20 CSR 4240 CSR 10.125(1)(G)'s

² It is Staff's understanding that Liberty Midstates has or plans to also make a filing formally withdrawing its request for waiver of the requirement to file the five-year capitalization expenditures schedule required by 20 CSR 4240-10.125(1)(G) and § 393.200, RSMo.

requirement to file a five-year capitalization expenditure schedule pursuant to § 393.200, RSMo, and to grant such other and further relief as the Commission considers just and reasonable under the circumstances.

Respectfully submitted,

/s/ Carolyn H. Kerr

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and/or counsel of record on this 24th day of July, 2023.

/s/ Carolyn H. Kerr