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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Discovery Conference

May 15, 2014

Jefferson City, Missouri

Volume 3

In the Matter of Liberty Utilities)
(Midstates Natural Gas) Corp.)
d/b/a Liberty Utilities' Tariff) Case No. GR-2014-00152
Revisions Designed to Implement a)
General Rate Increase for Natural)
Gas Service in the Missouri Service)
Areas of the Company)

RONALD PRIDGIN, Presiding
SENIOR REGULATORY LAW JUDGE

REPORTED BY: Monnie S. Mealy, CCR, CSR, RPR
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A P P E A R A N C E S

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1 P R O C E E D I N G S

2 JUDGE PRIDGIN: Good morning. We are on
3 the record. This is a discovery conference in
4 Case No. GR-2014-0152. I'm Ron Pridgin. I'm the
5 Regulatory Law Judge assigned to preside over this
6 conference that's being held on May 15th, 2014, in
7 Jefferson City, Missouri, at the Governor Office
8 Building. The time is 10 a.m.

9 I'd like to get oral entries of appearance
10 from Counsel, please, beginning with the Staff of
11 the Commission.

12 MR. KEEVIL: Yes. Judge, representing the
13 PSC Staff, Jeff Keevil. I've handed the reporter a
14 written entry. My address is on there. And 200
15 Madison, Post Office Box 360, Jefferson City,
16 Missouri.

17 JUDGE PRIDGIN: Mr. Keevil, thank you. On
18 behalf of Liberty Utilities, please.

19 MR. DORITY: Thank you, Judge. Larry
20 Dority and James Fischer with Fischer & Dority, PC.
21 Our address is 101 Madison, Suite 400, Jefferson
22 City Missouri, 65101, appearing on behalf of
23 Liberty Utilities (Midstates Natural Gas) Corp.
24 doing business as Liberty Utilities.

25 JUDGE PRIDGIN: Mr. Dority, and,

1 Mr. Fischer, thank you. On behalf of the Office
2 Public Counsel, please.

3 MR. POSTON: Mark Poston appearing for the
4 Office of the Public Counsel, P.O. Box 2230,
5 Jefferson City, Missouri, 65102.

6 JUDGE PRIDGIN: Mr. Poston, thank you.
7 Anyone else wishing to enter an appearance?

8 MR. DORITY: I would note, your Honor,
9 that we have the Director of Regulatory for the
10 company on the line with us this morning,
11 Christopher Krygier, and he's located in Jackson,
12 Missouri.

13 JUDGE PRIDGIN: All right. Mr. Dority,
14 thank you. Anything else from Counsel before, I
15 guess, we proceed with letting Mr. Keevil, I guess,
16 proceed with his motion? Is there anything else
17 Counsel wants or needs to do before we do that?

18 All right. And, Mr. Keevil -- and I've
19 read the motion, obviously. Mr. Keevil, I just
20 want to give you a chance if there's anything else
21 you'd like to say.

22 MR. KEEVIL: Judge, I don't really have
23 anything really additional. Just by way of
24 background, what we're here regarding this morning
25 -- well, as you know, the procedural schedule

1 provided for certain discovery conferences. And I
2 believe there was also a delegation order that
3 delegated you the authority to rule on discovery
4 motions and matters regarding discovery.

5 And what -- what we are here for this
6 morning concerns some data that Staff requested
7 from Liberty Utilities, and I've got the specific
8 DR numbers in the motion.

9 And -- and what that -- those DRs were
10 originally provided or submitted, I should say, to
11 -- to Liberty in early March and were among the DRs
12 that Liberty indicated back in April that they
13 would be responding to, but would be responding to
14 beyond the 20 -- the initial 20-day response time.

15 We did then receive the -- the initial
16 responses. I believe we received one on April 11th
17 and the other three on the April 14th.

18 And at that time, it became -- part of the
19 response itself said that Liberty -- due to the
20 transition from the previous owner to Liberty and
21 the fact that the previous owner had been providing
22 certain services through the -- through what's
23 called a Continuing Services Agreement up to a
24 certain date, Liberty didn't have information --
25 part of the test year information that we were

1 looking for because of this -- the fact that the
2 previous owner was doing the services through, I
3 believe it was, February of 2013. February or
4 March. It's in the motion.

5 And then we say, well, okay, that's fine.
6 But we -- it's -- we're talking about test year
7 months here. So have you requested it from the
8 previous owner?

9 And apparently, they -- they did. Then --
10 they -- Liberty did request it from the previous
11 owner but waited until we asked them had they
12 requested it to -- to turn around and ask for it,
13 which, you know, my understanding currently is that
14 -- in fact, we have -- to Liberty's benefit, they
15 have gotten us some of the information since I
16 filed this thing last week.

17 And I'm glad to see -- I know some of the
18 information even came in as early as -- not as
19 early, but as recently as this morning. So they're
20 -- they're trying to get us the stuff.

21 The problem is I don't know whether or not
22 what we've received is everything. And -- because
23 like I said, some of it, we got as recently as this
24 morning.

25 And because of the time delay here, what

1 this has caused is we don't want to bump the entire
2 procedural schedule because you'll recall we had a
3 problem even coming up with the procedural schedule
4 because of some of the cases going on at the same
5 time as this case.

6 So what we kind of came up with as an
7 alternative was if Liberty is able to get us the
8 information from the previous owner by the -- next
9 week, May 20th, Staff would then be able -- not to
10 use that necessarily -- we may. We may not.

11 I mean, it's going to depend on how complicated
12 things get and everything.

13 But we probably will need additional time
14 to use that information that we get next week. So
15 what we're proposing, we, Staff, are proposing is
16 go ahead and file a regular direct case with some
17 substitute information that we receive from
18 Liberty. And I'll explain that further if you want
19 me to.

20 But what we'd really like -- we'll file
21 that as our initial direct filing June 6th when
22 it's currently scheduled, but then use the -- the
23 data that the company is getting us from the prior
24 owner and file supplemental direct testimony by
25 June 18th, assuming we get the stuff by May 20th,

1 which would then put us back to where we should
2 have been on June 6th.

3 And -- and the reason that I say the
4 substitute date, the substitute data that we'll be
5 using for the June 6th filing won't be test year
6 data. So the stuff that -- the information they're
7 getting is from the previous owner is the test year
8 data that we actually need to do the test year
9 itself.

10 So that's why -- I mean, we will -- June
11 6th, we'll have a decent temporary fix, but we need
12 eventually to file the supplemental with the --
13 with the Atmos data.

14 And in order to file supplemental, I was
15 looking through the rules, and I was hoping I could
16 do this without an actual motion or an order or
17 anything of that nature.

18 But I looked at the supplemental testimony
19 rule, and it says, No party shall file supplemental
20 without an order of the Judge or the Commission
21 unless it merely replaces projected financial data.
22 And I don't think this would fall under the
23 replacing projected financial data exception.

24 So that's kind of what got us here today.
25 The company's working with us. I mean, grant them

1 that. But because of the timing and the rule
2 requirement to get an order to file supplemental,
3 you know, we -- that's what kind of brought us here
4 today. We -- it's the -- it's the best option of
5 the list of poor options.

6 JUDGE PRIDGIN: Okay.

7 MR. KEEVIL: And that's the best we could
8 come up with at this point. We didn't want to wait
9 until we're on top of the filing date and come
10 running to you and say, Judge, Judge, because
11 that's kind of what's gotten the Staff and parties
12 into hot positions in the past, so we didn't want
13 to wait to bring this up.

14 So that's kind of what got us here today.
15 And like I said, we've been receiving some of the
16 updated -- not the updated, some of the missing
17 data from -- from Liberty within the past week.
18 Don't know whether we've got everything we need or
19 not because, like I say, we just got some this
20 morning even.

21 But I think everybody's working -- trying
22 to make this work, but we need -- an order from you
23 authorizing the supplemental filing on the 18th of
24 June, assuming we get all the data we need by next
25 week. So that's, again, that's why we're here.

1 So --

2 JUDGE PRIDGIN: Okay. All right,
3 Mr. Keevil, thank you. Liberty, any response,
4 Mr. Dority or Mr. Fischer?

5 MR. DORITY: Yes. Thank you, Judge. We
6 certainly have no objection to Staff's request to
7 file supplemental direct testimony as Mr. Keevil
8 set forth in his motion.

9 We would respectfully suggest that the
10 Motion to Compel is moot to the reasons that he
11 just elaborated.

12 As the Commission's own records in EFIS
13 will reflect, we filed the information in
14 supplemental responses to the data requests that
15 were at issue on May 9th.

16 Upon receiving additional inquiries from
17 Staff regarding those responses, we requested and
18 personally participated in a meeting here in the
19 Commission's offices just two days ago seeking
20 clarification as to what their particular needs
21 are.

22 And we have conveyed those additional
23 requests to Atmos, and we've already -- as
24 Mr. Keevil indicated, we've already received some
25 of that additional information, and we filed it

1 this morning in EFIS.

2 We did provide all of the information in
3 our possession that we had in order that Staff
4 would have a full year's data in the format that
5 they requested.

6 But the information going back into those
7 early months in the test year that they need to --
8 if I understand it correctly, is to prepare a
9 weather normalization type adjustment. They need
10 more -- the information more granular than what we
11 had in summary format that we had received from
12 Atmos at that point in time, billing cycle type
13 data.

14 So we went back and requested of Atmos to
15 go in and provide it. This is data that's
16 hopefully in the former billing system that Atmos
17 no longer uses. So they've had their IT people
18 going back and extrapolating the data to the extent
19 they can.

20 And we did -- as I say, we did receive it.
21 We filed it. Staff had identified some concerns,
22 and we've gone back and we're trying to make sure
23 we get the information that they need so they can
24 make -- make their filing.

25 So from that standpoint, we would

1 certainly object to any Motion to Compel being
2 ordered because the information is not in our
3 possession. But we are certainly working hard to
4 get everything the Staff needs.

5 And I would agree with Mr. Keevil that,
6 you know, I think we've collectively been trying to
7 make sure that they have the information they need
8 so they can make the filing that they wish to file.
9 So --

10 JUDGE PRIDGIN: Mr. Dority, thank you.
11 Mr. Poston, anything?

12 MR. POSTON: I have no comment. Thank
13 you.

14 JUDGE PRIDGIN: All right. Mr. Keevil, it
15 sounds like we have no objection to the
16 supplemental direct order, and I'll be glad to do
17 that from the Bench or in writing or both,
18 whichever the parties prefer.

19 MR. KEEVIL: Well, Judge, I'm a little bit
20 concerned because we got some of this data this
21 morning. I don't know that we've received
22 everything in the format that we need it.

23 My people probably haven't even had time
24 to review it adequately would be my guess.

25 MS. COX: I believe last night in EFIS, we

1 received the cycle that we were needing, the cycle.
2 We did receive that. And today it appears it was
3 just the cities that were put into divisions for
4 us. So we do still have some outstanding items.

5 MR. KEEVIL: Okay.

6 MR. DORITY: I think what we provided this
7 morning, also, was all of the revenue information
8 that you were looking for. I think we're still
9 looking for some volume information.

10 MS. COX: Yes. Uh-huh.

11 MR. DORITY: And it's my understanding
12 that that's forthcoming.

13 MS. COX: Okay.

14 MR. KEEVIL: Judge, I mean, because of
15 that -- and like I say, they're trying to get it,
16 Judge. But I do think we still need the Motion to
17 Compel to continue the -- I mean, because, again,
18 it's true they had to go back to Atmos to get it.
19 I grant you that.

20 But if you look back at the -- the
21 documentation from that Atmos acquisition case,
22 this was stuff that they should have received from
23 Atmos, or at least Atmos was under a contractual
24 agreement to give it to them if they ask for it.

25 So there shouldn't have been any

1 hesitation there from -- on the part of Liberty to
2 ask Atmos for it. And for some reason, apparently,
3 it took, like I said previously, until after we got
4 a response back to the first part before they even
5 asked Atmos, Hey, can you give us this -- do you
6 have it, can you give it to us.

7 You know, and we -- like I said, we need
8 the information fairly soon in order to even make
9 that June 18th date. So, I mean, it's kind of
10 keep, you know, the ball moving here.

11 I do think we still need the Motion to
12 Compel just -- again, just to keep things moving
13 because if -- if you give us till the 18th to file
14 our testimony and we still don't get data, it
15 doesn't do us any good to give us to the 18th to
16 file the testimony, you know.

17 So I hate to -- that it's come to this,
18 but, I mean, I think it has. And I -- again, I
19 don't understand really why Liberty was hesitant to
20 ask Atmos initially for the data when they knew it
21 was test year -- it's not like it was, you know,
22 like a -- sometimes you'll see data requests that
23 say, Give us three years worth of this or, you
24 know, four years worth of this.

25 This was test year information. This was

1 not stuff going back. This was test year stuff
2 that we needed.

3 And as Mr. Dority indicated, Liberty has
4 since given us the similar information for the
5 following five months since that isn't where it was
6 in Liberty's possession because it was after the
7 transfer. But -- and that's what I referred to
8 initially as temporary data that we're kind of
9 substituting.

10 But even though we can use it on a
11 temporary basis to get an initial case, filed it's
12 not test year data, so it's not going to be
13 properly matched up with expenses. And -- and you
14 can't really normalize and annualize it the way you
15 should because it's not going to fit with the rest
16 of the seven months of the test year.

17 So I do still think we need the Motion to
18 Compel even though there's still -- they're trying,
19 apparently, to get the information from Atmos.

20 So -- and as to your question, I think
21 we'd be better off, I think, if you did issue a
22 written order --

23 JUDGE PRIDGIN: Certainly.

24 MR. KEEVIL: -- as soon as you could.

25 So --

1 JUDGE PRIDGIN: Okay. I can certainly do
2 that. And any further response on the Motion to
3 Compel?

4 MR. DORITY: Yes, Judge. We did provide
5 data for the test year. It was just in a summary
6 format that we had received from Atmos. It was not
7 in the granular format that Staff is claiming that
8 they need on a billed cycle sort of basis.

9 So once that confusion was clarified, then
10 we have gone to Atmos. We've now got the
11 information. And I just don't want to put my
12 client in the position to where they're under an
13 order compelling them to provide information that
14 they don't have possession or control of.

15 We've been working closely with Atmos to
16 get it. They've been cooperating with us. And to
17 the extent it exists, I have every reason to
18 believe we're going to be able to provide it.

19 But I would object to the entry of an
20 order at this point when we're still trying to get
21 the information together.

22 JUDGE PRIDGIN: All right. Anything
23 further from Counsel? All right. I will -- I'm
24 going to take the Motion to Compel under
25 advisement. I'm going to look at it, and I may

1 order further written responses.

2 I know time is very short. So anything
3 that I would order would be, you know, within the
4 next day or two because I -- the Motion -- the
5 Motion asked that the information be provided or
6 compelled -- Liberty to provide the information by
7 May 20th.

8 And, obviously, if we're going to do that,
9 Liberty is entitled to some time to meet that 20th
10 deadline. And so I would rather -- well, with the
11 understanding that -- that the company may be
12 ordered to do that, I may order parties to respond
13 rather quickly so that I can get you an order as
14 quickly as I can to know if you've got a deadline
15 on the 20th or not, if that makes any sense.

16 I may order for some sort of written
17 response, if you will, to Staff's Motion to Compel
18 based on what you've told me today so I can read
19 it, digest it and issue a written order as quickly
20 as I can. That's -- that's where I'm trying to go
21 with this, if that makes sense.

22 MR. DORITY: I see. Withhold ruling
23 until --

24 JUDGE PRIDGIN: And I'm glad to issue an
25 order to grant the -- the Motion to allow Staff to

1 -- to file that supplemental direct testimony as I
2 don't hear an objection to that. Is there -- is
3 there anything else Counsel wants to bring to my
4 attention, any questions or anything?

5 MR. DORITY: Well, I'm just wondering,
6 rather -- as Mr. Keevil has indicated, I -- I
7 think, collectively, we're getting the information
8 that they need.

9 Would there be any resistance to just
10 withholding the ruling on the Motion to Compel
11 until we see what the first of the week brings in
12 terms of getting you the information?

13 JUDGE PRIDGIN: And I'll let -- I'll let
14 Counsel reply to that.

15 MR. KEEVIL: I -- run that by me again.
16 What are you suggesting?

17 MR. DORITY: I was just suggesting that
18 the Judge could withhold ruling on the Motion until
19 we see if we're getting you the information that --
20 that you need in order to make the adjustment that
21 you're talking about.

22 MR. KEEVIL: How do we -- let's say you
23 aren't and we don't get it by the 20th. Then what
24 do we do?

25 MR. DORITY: Well, I suppose we could just

1 simply notify the Judge that there's still
2 disagreement as to whether the information has been
3 provided.

4 I mean, based upon our conversations
5 Tuesday of this week, it's my understanding that if
6 we got the information to you next week that that
7 hopefully would -- would serve your needs.

8 We're hoping that we'll get it to you by
9 Tuesday, the 20th. It might be a day or two after
10 that. But I just want to be sure we're on the same
11 page.

12 MR. KEEVIL: I can -- I mean --

13 MR. FISCHER: I think it's our
14 understanding that we're down to 15 customers.
15 That's what we're talking about still out there.

16 MS. COX: For the small and medium
17 transport customers.

18 MR. FISCHER: Yeah. So that's -- we're
19 working to get that done, but that's what we
20 understand is still likely to be needed.

21 MS. COX: Yeah. And there was additional
22 three large transportation customers that were not
23 included as well. So I don't know the counts of
24 the 15, if that's accurate or not, but --

25 MR. FISCHER: Okay.

1 MS. COX: That's the data that I'm
2 showing.

3 MR. FISCHER: We're almost there, we hope.

4 MR. DORITY: Chris, did you have any
5 clarification on that? Are we -- are we correct in
6 what we're reciting here?

7 MR. KRYGIER: Yes. So, basically, the 15
8 is what I'm -- is what I'm referring to, kind of
9 the all in individual, the small medium
10 transportation and the few others that you
11 identified.

12 MS. COX: That would be accurate.

13 MR. KEEVIL: What was the revenue stuff
14 that was missing?

15 MS. COX: I had -- the revenue?

16 MR. KEEVIL: Didn't you say --

17 MS. COX: No. They said that was part of
18 what was filed this morning.

19 MR. KEEVIL: That was part of what was
20 filed this morning. Okay.

21 MS. COX: But I need actual usage
22 associated with --

23 MR. KEEVIL: Oh, the usage, yes.

24 MR. DORITY: Yeah. The usage piece is
25 still coming, right, Chris? Is that --

1 MR. KRYGIER: So, basically, what's kind
2 of -- what's still outstanding is those customers
3 that came, and Joel identified what will be
4 provided in the volumes, plus the dollars for those
5 15 customers.

6 MS. COX: The other item, Chris, is the
7 month of March that's missing for all the transport
8 customers.

9 MR. KRYGIER: Yeah. And that's -- I'm
10 still tracking that down, but I kind of had that in
11 a separate bucket if that makes sense.

12 MS. COX: Okay. That's --

13 JUDGE PRIDGIN: All right. So let me, I
14 guess, inquire of Counsel. I think Liberty has
15 suggested that I defer ruling on the Motion to
16 Compel. And I guess I would welcome any responses
17 or guidance as to other parties' positions on that.

18 MR. KEEVIL: Yeah. I think could probably
19 do that, Judge, with the understanding that I'm
20 certainly not abandoning it or withdrawing it or
21 anything.

22 And I would hope that -- I guess I've been
23 through this rodeo so many times, not with Liberty,
24 but with other companies. I hope that Tuesday gets
25 here and we don't have the information we need that

1 we're not going to have to go through this again
2 because, again, time is of the essence here.

3 JUDGE PRIDGIN: Correct.

4 MR. KEEVIL: And we're -- we're actually
5 in the stage of preparing -- actually preparing the
6 testimony now for the June 6th, May 15th --
7 preparing testimony for the June 6th filing, early
8 stages of it, obviously.

9 But there's not a whole lot of leeway that
10 we have here, not a whole lot of freetime we have
11 to be following up on things that we could have
12 been ruled on today.

13 JUDGE PRIDGIN: I understand.

14 MR. KEEVIL: So, I mean, I'm willing to do
15 that, but --

16 MR. DORITY: And we would --

17 MR. KEEVIL: -- very reluctantly would
18 be --

19 MR. DORITY: I'm sorry. I didn't mean to
20 interrupt. And we would commit that we're going to
21 continue to work as diligently as we can to get the
22 information that exists.

23 We simply may be in a position where they
24 cannot get information for whatever reason. But to
25 the extent it exists, we've made it clear that we

1 need it as quickly as possible.

2 We hope to have it by Tuesday. It may be
3 a date or two later in the week, but we're -- we're
4 hoping that we can meet the Tuesday deadline.

5 So --

6 JUDGE PRIDGIN: Okay. All right. And I
7 certainly understand, Mr. Keevil, you're not
8 withdrawing or abandoning your motion, and I'm
9 showing it's still pending.

10 Is there anything further Counsel wants to
11 bring to my attention? Okay. I'm hearing nothing,
12 and I'll leave it up to the parties. You're
13 certainly welcome to continue to use this room if
14 you'd like to talk, and I'll keep the line open.
15 And I'll excuse myself here in just a moment.

16 Is there anything else before we go off
17 the record? All right. Hearing nothing, we will
18 go off the record. That concludes this procedural
19 conference in GR-2014-0152. Thank you very much.
20 We're off the record.

21 (The proceedings were concluded at 10:25 a.m. on
22 May 15, 2014.)

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REPORTER'S CERTIFICATE

STATE OF MISSOURI)

) ss.

COUNTY OF OSAGE)

I, Monnie S. Mealy, Certified Shorthand Reporter,
Certified Court Reporter #0538, and Registered Professional
Reporter, within and for the State of Missouri, do hereby
certify that I was personally present at the proceedings as
set forth in the caption sheet hereof; that I then and there
took down in stenotype the proceedings had at said time and
was thereafter transcribed by me, and is fully and accurately
set forth in the preceding pages.

Monnie S. Mealy, CSR, CCR #0538
Registered Professional Reporter

A	37:20 38:19 39:6,10,15 attention 41:4 46:11 authority 28:3 authorizing 32:23 a.m 26:8 46:21	C	33:12,19 commit 45:20 companies 44:24 company 24:13 27:10 30:23 40:11 company's 31:25 Compel 33:10 35:1 36:17 37:12 38:18 39:3,24 40:17 41:10 44:16 compelled 40:6 compelling 39:13 complicated 30:11 concerned 35:20 concerns 28:6 34:21 concluded 46:21 concludes 46:18 conference 24:5 26:3,6 46:19 conferences 28:1 confusion 39:9 continue 36:17 45:21 46:13 Continuing 28:23 contractual 36:23 control 39:14 conversations 42:4 conveyed 33:22 cooperating 39:16 Corp 24:10 25:12 26:23 correct 43:5 45:3 correctly 34:8 Counsel 25:7,8 26:10 27:2,4,14 27:17 39:23 41:3,14 44:14 46:10 counts 42:23	COUNTY 47:4 Court 47:7 COX 35:25 36:10 36:13 42:16,21 43:1,12,15,17 43:21 44:6,12 CSR 24:20 47:17 currently 29:13 30:22 customers 42:14 42:17,22 44:2,5 44:8 cycle 34:12 36:1 36:1 39:8
	B		D	
abandoning 44:20 46:8 able 30:7,9 39:18 accurate 42:24 43:12 accurately 47:12 acquisition 36:21 actual 31:16 43:21 additional 27:23 30:13 33:16,22 33:25 42:21 address 26:14,21 adequately 35:24 adjustment 34:9 41:20 advisement 39:25 ago 33:19 agree 35:5 agreement 28:23 36:24 ahead 30:16 allow 40:25 alternative 30:7 annualize 38:14 apparently 29:9 37:2 38:19 appearance 26:9 27:7 appearing 26:22 27:3 appears 36:2 April 28:12,16 28:17 Areas 24:13 asked 29:11 37:5 40:5 assigned 26:5 associated 43:22 assuming 30:25 32:24 Atmos 31:13 33:23 34:12,14 34:16 36:18,21 36:23,23 37:2,5	back 28:12 31:1 34:6,14,18,22 36:18,20 37:4 38:1 background 27:24 ball 37:10 based 40:18 42:4 basically 43:7 44:1 basis 38:11 39:8 beginning 26:10 behalf 26:18,22 27:1 believe 28:2,16 29:3 35:25 39:18 Bench 35:17 benefit 29:14 best 32:4,7 better 38:21 beyond 28:14 billed 39:8 billing 34:12,16 bit 35:19 Boulevard 24:21 Box 25:4,9 26:15 27:4 bring 32:13 41:3 46:11 brings 41:11 brought 32:3 bucket 44:11 Building 26:8 bump 30:1 business 26:24	C 25:1 26:1 called 28:23 caption 47:10 case 24:11 26:4 30:5,16 36:21 38:11 cases 30:4 caused 30:1 CCR 24:20 47:17 certain 28:1,22 28:24 certainly 33:6 35:1,3 38:23 39:1 44:20 46:7 46:13 CERTIFICATE 47:1 Certified 47:6,7 certify 47:9 chance 27:20 Chris 43:4,25 44:6 Christopher 27:11 cities 36:3 City 24:7,22 25:5 25:10,15 26:7 26:15,22 27:5 claiming 39:7 clarification 33:20 43:5 clarified 39:9 clear 45:25 client 39:12 closely 39:15 collectively 35:6 41:7 come 32:8,9 37:17 coming 30:3 43:25 comment 35:12 Commission 24:1 25:2,3 26:11 31:20 Commission's	D 26:1 data 28:6 30:23 31:4,6,8,13,21 31:23 32:17,24 33:14 34:4,13 34:15,18 35:20 37:14,20,22 38:8,12 39:5 43:1 date 28:24 31:4 32:9 37:9 46:3 day 40:4 42:9 days 33:19 deadline 40:10 40:14 46:4 decent 31:11 defer 44:15 delay 29:25 delegated 28:3 delegation 28:2 depend 30:11 Designed 24:11 digest 40:19 diligently 45:21 direct 30:16,21 30:24 33:7 35:16 41:1 Director 27:9 disagreement 42:2 discovery 24:5	

26:3 28:1,3,4 divisions 36:3 documentation 36:21 doing 26:24 29:2 dollars 44:4 Dority 25:13,14 26:19,20,20,25 27:8,13 33:4,5 35:10 36:6,11 38:3 39:4 40:22 41:5,17,25 43:4 43:24 45:16,19 DR 28:8 DRs 28:9,11 due 28:19 d/b/a 24:11 25:12	fact 28:21 29:1 29:14 fairly 37:8 fall 31:22 February 29:3,3 file 30:16,20,24 31:12,14,19 32:2 33:7 35:8 37:13,16 41:1 filed 29:16 33:13 33:25 34:21 38:11 43:18,20 filing 30:21 31:5 32:9,23 34:24 35:8 45:7 financial 31:21 31:23 fine 29:5 first 37:4 41:11 Fischer 25:14,14 26:20,20 27:1 33:4 42:13,18 42:25 43:3 fit 38:15 five 38:5 fix 31:11 following 38:5 45:11 format 34:4,11 35:22 39:6,7 former 34:16 forth 33:8 47:10 47:13 forthcoming 36:12 four 37:24 free 45:10 full 34:4 fully 47:12 further 30:18 39:2,23 40:1 46:10	General 24:12 getting 30:23 31:7 41:7,12,19 give 27:20 36:24 37:5,6,13,15,23 given 38:4 glad 29:17 35:16 40:24 go 30:16 34:15 36:18 40:20 45:1 46:16,18 going 30:4,11 34:6,18 38:1,12 38:15 39:18,24 39:25 40:8 45:1 45:20 good 26:2 37:15 gotten 29:15 32:11 Governor 26:7 grant 31:25 36:19 40:25 granular 34:10 39:7 GR-2014-00152 24:11 GR-2014-0152 26:4 46:19 guess 27:15,15 35:24 44:14,16 44:22 guidance 44:17	hopefully 34:16 42:7 hoping 31:15 42:8 46:4 hot 32:12	Jeffrey 25:3 Joel 44:3 Judge 24:17 26:2 26:5,12,17,19 26:25 27:6,13 27:22 31:20 32:6,10,10 33:2 33:5 35:10,14 35:19 36:14,16 38:23 39:1,4,22 40:24 41:13,18 42:1 44:13,19 45:3,13 46:6 June 30:21,25 31:2,5,10 32:24 37:9 45:6,7		
<hr/> E <hr/> E 25:1,1 26:1,1 early 28:11 29:18 29:19 34:7 45:7 EFIS 33:12 34:1 35:25 elaborated 33:11 enter 27:7 entire 30:1 entitled 40:9 entries 26:9 entry 26:14 39:19 essence 45:2 eventually 31:12 everybody's 32:21 exception 31:23 excuse 46:15 exists 39:17 45:22,25 expenses 38:13 explain 30:18 extent 34:18 39:17 45:25 extrapolating 34:18	<hr/> F <hr/> Gas 24:10,12 25:12 26:23	<hr/> G <hr/> G 26:1 Gas 24:10,12 25:12 26:23	<hr/> H <hr/> handed 26:13 hard 35:3 hate 37:17 hear 41:2 hearing 46:11,17 held 26:6 hereof 47:10 hesitant 37:19 hesitation 37:1 Hey 37:5 Honor 27:8 hope 43:3 44:22 44:24 46:2	<hr/> I <hr/> identified 34:21 43:11 44:3 Implement 24:11 included 42:23 Increase 24:12 indicated 28:12 33:24 38:3 41:6 individual 43:9 information 28:24,25 29:15 29:18 30:8,14 30:17 31:6 33:13,25 34:2,6 34:10,23 35:2,7 36:7,9 37:8,25 38:4,19 39:11 39:13,21 40:5,6 41:7,12,19 42:2 42:6 44:25 45:22,24 initial 28:14,15 30:21 38:11 initially 37:20 38:8 inquire 44:14 inquiries 33:16 interrupt 45:20 issue 33:15 38:21 40:19,24 item 44:6 items 36:4	<hr/> J <hr/> Jackson 27:11 James 25:14 26:20 Jeff 26:13 Jefferson 24:7,22 25:5,10,15 26:7 26:15,21 27:5	<hr/> K <hr/> keep 37:10,12 46:14 Keevil 25:3 26:12 26:13,17 27:15 27:18,19,22 32:7 33:3,7,24 35:5,14,19 36:5 36:14 38:24 41:6,15,22 42:12 43:13,16 43:19,23 44:18 45:4,14,17 46:7 kind 30:6 31:24 32:3,11,14 37:9 38:8 43:8 44:1 44:10 knew 37:20 know 27:25 29:13,17,21 32:3,18 35:6,21 37:7,10,16,21 37:24 40:2,3,14 42:23 Krygier 27:11 43:7 44:1,9
<hr/> F <hr/> F	<hr/> G <hr/> G	<hr/> H <hr/> H	<hr/> I <hr/> I	<hr/> J <hr/> J	<hr/> K <hr/> K	
<hr/> F <hr/> F	<hr/> G <hr/> G	<hr/> H <hr/> H	<hr/> I <hr/> I	<hr/> J <hr/> J	<hr/> L <hr/> L	
<hr/> F <hr/> F	<hr/> G <hr/> G	<hr/> H <hr/> H	<hr/> I <hr/> I	<hr/> J <hr/> J	<hr/> L <hr/> L	

26:19 Law 24:17 26:5 leave 46:12 leeway 45:9 letting 27:15 let's 41:22 Liberty 24:10,11 25:12,12 26:18 26:23,24 28:7 28:11,12,19,20 28:24 29:10 30:7,18 32:17 33:3 37:1,19 38:3 40:6,9 44:14,23 Liberty's 29:14 38:6 line 27:10 46:14 list 32:5 Litigation 24:21 little 35:19 located 27:11 longer 34:17 look 36:20 39:25 looked 31:18 looking 29:1 31:15 36:8,9 lot 45:9,10	medium 42:16 43:9 meet 40:9 46:4 meeting 33:18 merely 31:21 Midstates 24:10 25:12 26:23 Midwest 24:21 missing 32:16 43:14 44:7 Missouri 24:1,7 24:12 25:2 26:7 26:16,22 27:5 27:12 47:3,8 MO 24:22 25:5 25:10,15 moment 46:15 Monnie 24:20 47:6,17 month 44:7 months 29:7 34:7 38:5,16 moot 33:10 morning 26:2 27:10,24 28:6 29:19,24 32:20 34:1 35:21 36:7 43:18,20 motion 27:16,19 28:8 29:4 31:16 33:8,10 35:1 36:16 37:11 38:17 39:2,24 40:4,5,17,25 41:10,18 44:15 46:8 motions 28:4 moving 37:10,12	32:24 34:7,9,23 35:7,22 36:16 37:7,11 38:17 39:8 41:8,20 43:21 44:25 46:1 needed 38:2 42:20 needing 36:1 needs 27:17 33:20 35:4 42:7 night 35:25 normalization 34:9 normalize 38:14 note 27:8 notify 42:1 numbers 28:8	ordered 35:2 40:12 originally 28:10 OSAGE 47:4 outstanding 36:4 44:2 owner 28:20,21 29:2,8,11 30:8 30:24 31:7	prefer 35:18 prepare 34:8 preparing 45:5,5 45:7 present 47:9 preside 26:5 Presiding 24:16 previous 28:20 28:21 29:2,8,10 30:8 31:7 previously 37:3 Pridgin 24:16 26:2,4,17,25 27:6,13 32:6 33:2 35:10,14 38:23 39:1,22 40:24 41:13 44:13 45:3,13 46:6 prior 30:23 probably 30:13 35:23 44:18 problem 29:21 30:3 procedural 27:25 30:2,3 46:18 proceed 27:15,16 proceedings 24:3 46:21 47:9,11 Professional 47:7 47:18 projected 31:21 31:23 properly 38:13 proposing 30:15 30:15 provide 34:2,15 39:4,13,18 40:6 provided 28:1,10 36:6 40:5 42:3 44:4 providing 28:21 PSC 26:13 Public 24:1 25:2 25:3,7,7,8 27:2 27:4 put 31:1 36:3
<hr/> M <hr/> M 25:14 Madison 25:4,9 25:15 26:15,21 Marc 25:8 March 28:11 29:4 44:7 Mark 27:3 matched 38:13 Matter 24:10 matters 28:4 Mealy 24:20 47:6 47:17 mean 30:11 31:10,25 36:14 36:17 37:9,18 42:4,12 45:14 45:19	<hr/> N <hr/> N 25:1 26:1 Natural 24:10,12 25:12 26:23 nature 31:17 necessarily 30:10 need 30:13 31:8 31:11 32:18,22	<hr/> O <hr/> O 26:1 object 35:1 39:19 objection 33:6 35:15 41:2 obviously 27:19 40:8 45:8 Office 25:7,8 26:7,15 27:1,4 offices 33:19 Oh 43:23 okay 29:5 32:6 33:2 36:5,13 39:1 42:25 43:20 44:12 46:6,11 once 39:9 open 46:14 option 32:4 options 32:5 oral 26:9 order 28:2 31:14 31:16,20 32:2 32:22 34:3 35:16 37:8 38:22 39:13,20 40:1,3,12,13,16 40:19,25 41:20	<hr/> P <hr/> P 25:1,1 26:1 page 42:11 pages 47:13 part 28:18,25 37:1,4 43:17,19 participated 33:18 particular 33:20 parties 32:11 35:18 40:12 44:17 46:12 party 31:19 PC 25:14 26:20 pending 46:9 people 34:17 35:23 personally 33:18 47:9 piece 43:24 please 26:10,18 27:2 plus 44:4 point 32:8 34:12 39:20 poor 32:5 position 39:12 45:23 positions 32:12 44:17 possession 34:3 35:3 38:6 39:14 possible 46:1 Post 26:15 Poston 25:8 27:3 27:3,6 35:11,12 preceding 47:13	

39:11 P.O 25:4,9 27:4	REPORTED 24:20 reporter 26:13 47:6,7,8,18	41:10,18 44:15 run 41:15 running 32:10	stage 45:5 stages 45:8 standpoint 34:25 State 24:1 47:3,8 stereotype 47:11 Street 25:4,9,15 stuff 29:20 30:25 31:6 36:22 38:1 38:1 43:13 submitted 28:10 substitute 30:17 31:4,4 substituting 38:9 suggest 33:9 suggested 44:15 suggesting 41:16 41:17 Suite 24:21 25:15 26:21 summary 34:11 39:5 supplemental 30:24 31:12,14 31:18,19 32:2 32:23 33:7,14 35:16 41:1 suppose 41:25 sure 34:22 35:7 42:10 system 34:16	45:6,7 thank 26:17,19 27:1,6,14 33:3 33:5 35:10,12 46:19 thing 29:16 things 30:12 37:12 45:11 think 31:22 32:21 35:6 36:6 36:8,16 37:11 37:18 38:17,20 38:21 41:7 42:13 44:14,18 three 28:17 37:23 42:22 till 37:13 time 26:8 28:14 28:18 29:25 30:5,13 34:12 35:23 40:2,9 45:2,10 47:11 times 44:23 timing 32:1 today 31:24 32:4 32:14 36:2 40:18 45:12 told 40:18 top 32:9 tracking 44:10 transcribed 47:12 TRANSCRIPT 24:3 transfer 38:7 transition 28:20 transport 42:17 44:7 transportation 42:22 43:10 true 36:18 Truman 24:21 trying 29:20 32:21 34:22 35:6 36:15 38:18 39:20 40:20
Q question 38:20 questions 41:4 quickly 40:13,14 40:19 46:1	REPORTER'S 47:1 representing 26:12 request 29:10 33:6 requested 28:6 29:7,12 33:17 34:5,14 requests 33:14 33:23 37:22 requirement 32:2 resistance 41:9 respectfully 33:9 respond 40:12 responding 28:13,13 response 28:14 28:19 33:3 37:4 39:2 40:17 responses 28:16 33:14,17 40:1 44:16 rest 38:15 revenue 36:7 43:13,15 review 35:24 Revisions 24:11 right 27:13,18 33:2 35:14 39:22,23 43:25 44:13 46:6,17 rodeo 44:23 Ron 26:4 RONALD 24:16 room 46:13 RPR 24:20 rule 28:3 31:19 32:1 ruled 45:12 rules 31:15 ruling 40:22	S S 24:20 25:1 26:1 47:6,17 says 31:19 schedule 27:25 30:2,3 scheduled 30:22 see 29:17 37:22 40:22 41:11,19 seeking 33:19 SENIOR 24:17 sense 40:15,21 44:11 separate 44:11 serve 42:7 Service 24:1,12 24:12 25:2,3 services 24:21 28:22,23 29:2 set 33:8 47:10,13 seven 38:16 sheet 47:10 short 40:2 Shorthand 47:6 showing 43:2 46:9 similar 38:4 simply 42:1 45:23 small 42:16 43:9 soon 37:8 38:24 sorry 45:19 sort 39:8 40:16 sounds 35:15 specific 28:7 ss 47:3 Staff 25:2 26:10 26:13 28:6 30:9 30:15 32:11 33:17 34:3,21 35:4 39:7 40:25 Staff's 33:6 40:17	T take 39:24 talk 46:14 talking 29:6 41:21 42:15 Tariff 24:11 temporary 31:11 38:8,11 terms 41:12 test 28:25 29:6 31:5,7,8 34:7 37:21,25 38:1 38:12,16 39:5 testimony 30:24 31:18 33:7 37:14,16 41:1	
R R 25:1 26:1 Rate 24:12 read 27:19 40:18 really 27:22,23 30:20 37:19 38:14 reason 31:3 37:2 39:17 45:24 reasons 33:10 recall 30:2 receive 28:15 30:17 34:20 36:2 received 28:16 29:22 33:24 34:11 35:21 36:1,22 39:6 receiving 32:15 33:16 reciting 43:6 record 26:3 46:17,18,20 records 33:12 referred 38:7 referring 43:8 reflect 33:13 regarding 27:24 28:4 33:17 Registered 47:7 47:18 regular 30:16 Regulatory 24:17 26:5 27:9 reluctantly 45:17 replaces 31:21 replacing 31:23 reply 41:14				

Tuesday 42:5,9 44:24 46:2,4 turn 29:12 two 33:19 40:4 42:9 46:3 type 34:9,12	46:13 went 34:14 we'll 30:20 31:4 31:11 42:8 we're 27:24 29:6 30:15 32:9,25 34:22 36:8 38:8 39:18,20 40:8 41:7,19 42:8,10 42:14,15,18 43:3,6 45:1,4,4 45:20 46:3,3,20 we've 29:22 32:15,18 33:23 33:24 34:22 35:6,21 39:10 39:15 45:25 whichever 35:18 willing 45:14 wish 35:8 wishing 27:7 withdrawing 44:20 46:8 withhold 40:22 41:18 withholding 41:10 wondering 41:5 work 32:22 45:21 working 31:25 32:21 35:3 39:15 42:19 worth 37:23,24 writing 35:17 written 26:14 38:22 40:1,16 40:19	year's 34:4 <hr/> # #0538 47:7,17 <hr/> 1 10 26:8 10:25 46:21 101 25:15 26:21 11th 28:16 14th 28:17 15 24:7 42:14,24 43:7 44:5 46:22 15th 26:6 45:6 18th 30:25 32:23 37:9,13,15 <hr/> 2 20 28:14 20th 30:9,25 40:7 40:9,15 41:23 42:9 20-day 28:14 200 25:4,9 26:14 2013 29:3 2014 24:7 26:6 46:22 207 24:21 2230 25:9 27:4 <hr/> 3 3 24:8 3432 24:21 360 25:4 26:15 <hr/> 4 400 25:15 26:21 <hr/> 5 526-4887 25:5 573 24:22 25:5 25:10,16 <hr/> 6 6th 30:21 31:2,5 31:11 45:6,7 636-6758 25:16 636-7551 24:22	65101 25:15 26:22 65102 25:5,10 27:5 65109 24:22 <hr/> 7 751-5558 25:10 <hr/> 9 9th 33:15
<hr/> U Uh-huh 36:10 understand 34:8 37:19 42:20 45:13 46:7 understanding 29:13 36:11 40:11 42:5,14 44:19 updated 32:16 32:16 usage 43:21,23 43:24 use 30:10,14,22 38:10 46:13 uses 34:17 Utilities 24:10,11 25:12,12 26:18 26:23,24 28:7	Y Yeah 42:18,21 43:24 44:9,18 year 28:25 29:6 31:5,7,8 34:7 37:21,25 38:1 38:12,16 39:5 years 37:23,24		
<hr/> V volume 24:8 36:9 volumes 44:4			
<hr/> W W 24:21 25:13 wait 32:8,13 waited 29:11 want 27:20 30:1 30:18 32:8,12 39:11 42:10 wants 27:17 41:3 46:10 way 27:23 38:14 weather 34:9 week 29:16 30:9 30:14 32:17,25 41:11 42:5,6 46:3 welcome 44:16			