

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

In the Matter of Liberty Utilities (Midstates)
Natural Gas) Corp. d/b/a Liberty Utilities')
Tariff Revisions Designed to Implement a) **File No. GR-2018-0013**
General Rate Increase for Natural Gas)
Service in the Missouri Service Areas of the)
Company)

**STAFF’S MOTION TO COMPEL DISCOVERY FROM LIBERTY AND
MOTION FOR DISCOVERY CONFERENCE REGARDING THE SAME**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Motion to Compel Discovery From Liberty and Motion for Discovery Conference Regarding the Same* hereby respectfully states:

1. Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty”) filed revised tariffs indicating a request for a rate increase on September 29, 2017, causing the Commission to open Case No. GR-2018-0013. Staff began a full investigation of the company related to its request. On November 30, 2017, the Commission issued its *Order Adopting Recommended Procedural Schedule* in this matter, which contained several provisions regarding the conduct of discovery.

2. The procedural schedule provides for monthly discovery conferences in which written discovery motions may be taken up, and waives the requirement of Commission Rule 4 CSR 240-2.090 that a party must seek a telephone conference with the presiding officer before filing a discovery motion. The next scheduled discovery conference is scheduled for January 9, 2018.

3. Staff submitted data request (DR) numbers 0136 – 169 and 0170 – 180, to Liberty on December 8 and December 12, 2017, respectively. Copies of

DR numbers 0136, 0137, 0138, 0139, 0144, 0146, 0154, 0155, 0159, 0172, 0173, and 0177 are attached to this motion as Exhibit A.

4. On December 18, 2017, Staff received Liberty's notice of additional time required to respond to DRs 0136 – 0180, and objection to the DRs specified in paragraph 3 above as Exhibit A. A copy of this notice and objection is attached as Exhibit B.

5. Staff responded to Liberty via email on December 20, 2017, indicating that Staff would prefer to review the responses prior to the January 9, 2018 discovery conference, and explaining why each of the objections is without merit. A copy of Staff's response is attached as Exhibit C.

6. Staff has been working with the company to obtain the information or, in the alternative, to determine what information it may be able to use instead. However, so far, production of information has been slow and has not yet been satisfactory. Staff will continue to work with the company, but Staff believes a discovery conference is necessary to compel adequate responses to Staff's DRs.

7. As of the date and time of this filing, Staff has not received responses to any of the DRs between numbers 0136 and 0180.

8. Because the discovery conference will occur prior to Liberty's requested extension of January 15, Staff does not feel it is necessary to address all of those DRs at the discovery conference. On the other hand, Staff remains concerned about the lack of response to the DRs to which Liberty specifically objected:

a) 0136 – This DR seeks information related to officers and employees of Algonquin Power & Utilities Corp and was objected to for being overly

broad and unduly burdensome. Staff believes the information is necessary in order to determine whether any portion of each employee's or officer's cost is being allocated to Missouri utility operations, and if so, whether that person's role supports a utility function. The company has claimed both in testimony and its CAM that Algonquin direct-assigns time to benefitting entities to the maximum extent possible. Staff would like to verify this claim and would like to review the cost amounts for normalcy.

b) 0137 – This DR seeks information related to Algonquin Power & Utilities Corp corporate/shared service costs other than labor and labor-related costs and was originally objected to for being overly broad and unduly burdensome. Staff believes this request is reasonable for the same reasons it believes DR 0136 is reasonable.

c) 0138 – This DR seeks annual and quarterly budget variance reports for Algonquin Power & Utilities Corp corporate/shared services costs and was originally objected to because Liberty does not believe the information is relevant or reasonably calculated to lead to the discovery of admissible evidence. Algonquin Power & Utilities Corp budget variance reports constitute books and records of Liberty's parent and other affiliated entities, which should be available to audit pursuant to the Commission's affiliate transactions rules. Further review of budget variance reports is an integral component for determining the "normalcy" of test year expenses that would have been direct-assigned/allocated down to Liberty Utility Mid-States Gas Operations.

d) 0139 – This DR seeks budgeted 2016, 2017, and 2018 Algonquin Power & Utilities Corp corporate/shared services costs by Type of Cost and was originally objected to because the Company believes the responsive information to be

irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Part of the Company's CAM adjustment appears to be based upon considering 2018 budgeted Algonquin Power & Utilities Corp shared services costs. Requesting this data for preceding years will assist in assessing normalcy and trends in corporate/shared services costs.

e) 0144 – This DR seeks information related to Algonquin Power & Utilities Corp corporate/shared service costs that were not charged down to subsidiaries or affiliates during the test year and was originally objected to for being overly broad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Liberty indicated in a teleconference that not all Algonquin Power & Utilities Corp costs are direct-assigned or allocated down to Liberty Utilities. This request seeks to delineate those costs and the reasons why such costs were voluntarily retained. 4 CSR 240-40.015(5)(A)(3) requires the utility to provide a description of all affiliate costs that are not subject to allocation to Missouri utilities.

f) 0146 – This DR seeks information surrounding acquisitions of regulated and unregulated utilities and utility assets not acquired to replace existing utility assets or acquired to serve an existing customer base and was originally objected to for being overly broad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Algonquin Power & Utilities Corp's annual shareholders report states its intent to grow the business through acquisitions. This request will help Staff determine if Algonquin Power & Utilities Corp is following the Missouri precedent of not charging costs associated with mergers and acquisitions activities to Missouri retail operations.

g) 0154 – This DR seeks budget variance reports for LUC Business Services and/or Corporate Services costs and was originally objected to for relevance and not being reasonably calculated to lead to the discovery of admissible evidence. Staff disagrees, because LUC budget variance reports constitute books and records of Liberty’s parent and any other affiliated entities, which should be available for audit pursuant to the Commission’s affiliate transactions rules. Further review of budget variance reports is an integral component for determining the “normalcy” of test year expenses that would have been direct-assigned/allocated down to Liberty Utility Mid-States Gas Operations.

h) 0155 – This DR seeks budgeted 2016, 2017, and 2018 LUC costs by Type of Cost and was originally objected to because the Company believes the responsive information to be irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Part of the Company’s CAM adjustment appears to be based upon considering 2018 budgeted LUC shared services costs. Requesting this data for preceding years will assist in assessing normalcy and trends in corporate/shared services costs.

i) 0159 – This DR seeks information related to LUC Business Services or Corporate Services costs that were not charged down to subsidiaries or affiliates during the test year and was originally objected to for being overly broad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Liberty indicated in a teleconference that not all Algonquin Power & Utilities Corp costs are direct-assigned or allocated down to Liberty Utilities. Staff is unaware whether LUC retained any such costs. This request seeks to delineate

those costs that may be retained by LUC and the reasons why such costs were voluntarily retained. 4 CSR 240-40.015(5)(A)(3) requires the utility to provide a description of all affiliate costs that are not subject to allocation to Missouri utilities.

j) 0172 – This DR seeks budget variance reports for LUSC Shared Services costs and was originally objected to for relevance and not being reasonably calculated to lead to the discovery of admissible evidence. Staff disagrees, because LUSC budget variance reports constitute books and records of Liberty’s parent and any other affiliated entities, which should be available for audit pursuant to the Commission’s affiliate transactions rules. Further review of budget variance reports is an integral component for determining the “normalcy” of test year expenses that would have been direct-assigned/allocated down to Liberty Utility Mid-States Gas Operations.

k) 0173 – This DR seeks budgeted 2016, 2017, and 2018 LUSC costs by categories delineated within CAM table 5 and was originally objected to because the Company believes the responsive information to be irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Part of the Company’s CAM adjustment appears to be based upon considering 2018 budgeted LUC shared services costs. Requesting this data for preceding years will assist in assessing normalcy and trends in corporate/shared services costs.

l) 0177 – This DR seeks information related to LUSC Shared Services costs that were not charged down to subsidiaries or affiliates during the test year and was originally objected to for being overly broad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Liberty indicated in a teleconference that not all Algonquin Power & Utilities Corp costs

are direct-assigned or allocated down to Liberty Utilities. Staff is unaware whether LUSC retained any such costs. This request seeks to delineate those costs that may be retained by LUSC and the reasons why such costs were voluntarily retained. 4 CSR 240-40.015(5)(A)(3) requires the utility to provide a description of all affiliate costs that are not subject to allocation to Missouri utilities.

9. The purpose of this rate case is to determine just and reasonable rates to be paid by Liberty customers for safe and adequate utility service. Staff has an obligation to reasonably ensure that the rates will cover the costs of services for Liberty but also to reasonably ensure that the ratepayers are not providing more than the cost of service.

10. Staff requests that these discovery matters be addressed in the next scheduled discovery conference, January 9, 2018.

WHEREFORE, Staff requests the Commission issue an order requiring Liberty to respond to this motion to compel; set these matters to be discussed at the discovery conference presently scheduled for January 9, pursuant to the Commission-approved procedural schedule; compelling Liberty to provide the discovery requested in the data requests attached as Exhibit A; and grant such other and further relief as is appropriate under the circumstances.

Respectfully submitted,

/s/ Marcella L Forck

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record this 5th day of January, 2018.

/s/ Marcella L. Forck