

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

In the Matter of Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty (MNG) Purchased Gas Adjustment Tariff Filing)	<u>Case No. GR-2021-0101</u>
)	Tariff No. YG-2021-0116
)	

STAFF RECOMMENDATION

COMES NOW Staff of the Missouri Public Service Commission, by and through counsel, and for its recommendation states:

1. On November 6, 2020, Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty (MNG) (hereafter “Liberty” or “Company”) filed a tariff sheet, bearing a proposed effective date of December 6, 2020. The tariff sheet reflects changes in Liberty’s Purchased Gas Adjustment (PGA) factors as the result of estimated changes in the cost of natural gas for the upcoming winter season and changes in Liberty’s Actual Cost Adjustment (ACA) factors.

2. In addition on November 6th, Liberty filed a motion for a variance from a mandatory provision of its PGA tariff (Tariff Sheet No. 41) that requires the Company to file its winter PGA/ACA no earlier than October 15th and no later than November 4, 2020. Liberty missed its required filing deadline by 2 days.

3. On November 6th, the Commission ordered Staff to file an expedited recommendation addressing the pending PGA filing and the motion for variance no later than November 16, 2020.

4. Liberty’s motion cites no authority for the Commission to grant it a variance from its requirement to file its winter PGA by November 4th. Liberty’s tariff contains no provisions permitting the Company to seek a variance or waiver. Even if a variance was permitted under its tariff, which it is not, Liberty offers no good cause for its motion and

no explanation for its failure to meet its filing deadline. Because Liberty's tariff does not permit a variance or a waiver of its tariff filing requirements, the Company may not avail itself of a permissive authority that does not exist. Therefore Liberty may not seek a variance from the specific and mandatory filing deadline of its PGA tariff. Staff recommends the Commission deny Liberty's motion for variance.

5. Under its PGA tariff, Liberty is required to file a winter PGA. Though missing its filing deadline by two days, Liberty has filed its winter PGA tariff which Staff addresses below and in its report memorandum and recommendation. Though Liberty has no authority under its tariff to apply for a variance of its tariff terms, the Commission may proceed *sua sponte* regarding Liberty's out of date PGA filing and approve the Company's required winter PGA filing.

6. Late November 13, 2020, Liberty filed a substitute tariff sheet to correct significant errors in its original tariff sheet filing. Liberty extended the effective date of its tariff sheet from December 6th to December 13th to allow Staff sufficient time to review the PGA calculations. On November 17th, Liberty filed a second substitute tariff sheet to correct another error.

7. Again, on November 19th, Liberty filed a third substitute tariff sheet that changed all of the rates. In addition to a Kirksville interruptible service volume error, the Company stated in its tariff filing letter there was an allocation error of hedging activity among the different districts. PAD reviewed Liberty's third substitute tariff filing and made the appropriate rate correction adjustments to its report memorandum and recommendation.

8. As a result of the early errors in Liberty's tariff sheet, Staff sought and was granted by the Commission an extension of time to file its recommendation regarding Liberty's PGA tariff sheet from November 16th to November 20th.

9. As explained in Staff's attached report memorandum and recommendation, attached as "Appendix A" and incorporated herein, Staff has reviewed Liberty's PGA filing and has determined that it is calculated in conformance with Liberty's PGA Clause (Tariff Sheet No. 41) with the exception of Liberty missing its filing deadline by two days.

10. As further explained in Staff's attached memorandum, Staff recommends the Commission approve the following PGA rates for Liberty's four gas service areas. Staff notes that the variances in PGA rates (shown per Ccf in the below chart) are partly attributable to different districts being served by different pipelines. Staff further notes that the rates in the chart below incorporate all corrections made by the Company in its substitute tariff sheet filings:

	<u><i>Current</i></u>	<u><i>NEW</i></u>	<u><i>Difference</i></u>
	<u><i>Total PGA</i></u>	<u><i>Total PGA</i></u>	
Liberty West			
Firm	\$0.33671	\$0.31944	-\$0.01727
Interrupt	\$0.28127	\$0.25959	-\$0.02168
Kirksville			
Firm	\$0.31639	\$0.21708	-\$0.09931
Interrupt	\$0.20458	\$0.01573	-\$0.18885
Northeast			
Firm	\$0.36512	\$0.18555	-\$0.17957
Interrupt	\$0.27007	\$0.06188	-\$0.20819
Southeast			
Firm	\$0.35250	\$0.27687	-\$0.07563
Interrupt	\$0.22588	\$0.09211	-\$0.13377

11. Staff points out there is a significant decrease in the new PGA factor for many of Liberty's service areas. This is mostly attributable to a large over-recovery from customers for gas costs in the 2019-2020 ACA period. Such a large and significant over-recovery could have been mitigated by Liberty had it made an optional PGA adjustment filing before the over-recovery grew to such significant levels. Because Liberty did not do this, Liberty accumulated a large over-recovery from its customers. Said another way, Liberty's customers paid more for gas costs than required - hence there comes a significant decrease in PGA rates. To prevent this situation in the future, Staff recommends that Liberty *more closely monitor its monthly ACA balances* and file an optional PGA as appropriate.

12. This filing also reflects adjustments to Liberty's ACA factors. Staff's Procurement Analysis Department (PAD) will review Liberty's ACA filing and may recommend adjustments to the ACA account balance(s). Due to the limited time available to review the documentation supporting the ACA factors in this filing, the PAD requests permission to submit its results and recommendations regarding the information included in this ACA filing to the Commission by December 15, 2021.

13. Case No. GR-2021-0101, under which these changes were filed, was established to track Liberty's PGA factors to be reviewed in its 2019-2020 ACA filing. Case No. GR-2020-0126 was established to track Liberty's PGA factors to be reviewed in its 2018-2019 ACA filing. Any rate change implemented pursuant to this tariff filing should be *implemented on an interim basis, subject to refund*, pending final Commission decisions in Case Nos. GR-2021-0101 and GR-2020-0126.

14. As explained above and in the Staff's report memorandum and recommendation attached as Appendix A, and incorporated herein, Liberty late-filed its tariff sheet on November 6, 2020 to be effective December 6, 2020, allowing thirty (30) days¹ notice for its PGA change. Liberty later extended the effective date of its tariff sheet to December 13, 2020. Therefore, Staff recommends the Commission approve the tariff sheet on *an interim basis, subject to refund status* pending final Commission decisions in Case Nos. GR-2021-0101 and GR-2020-0126.

15. Staff also recommends the Commission order PAD Staff to file the results of its review of the ACA factors represented in this filing no later than December 15, 2021.

WHEREFORE, Staff recommends the Commission issue an order denying Liberty's motion for variance for missing its PGA tariff filing deadline, and take up Liberty's winter PGA filing *sua sponte* to issue an order approving the following Liberty PGA tariff sheet number 44, filed on November 6, 2020 as substituted on November 13th and substituted again on November 17th, and substituted again on November 19th to become effective December 13, 2020, *on an interim basis, subject to refund* pending final Commission decisions in Case Nos. GR-2021-0101 and GR-2020-0126, and that the Commission order PAD Staff to file the results of its ACA review in this docket by December 15, 2021:

P.S.C. MO No. 2
27th Revised Sheet No. 44, Cancelling 26th Revised Sheet No. 44

¹ Liberty's tariff sheet no. 40 states "Any PGA filing shall not be approved unless it has first been on file with the Commission for a period of ten (10) business days." Liberty has met this requirement.

Respectfully submitted,

/s/ Robert S. Berlin

Robert S. Berlin
Deputy Staff Counsel
Missouri Bar No. 51709

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-526-7779 (Voice)
573-751-9285 (Fax)
bob.berlin@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties and/or counsel of record on this 20th day of November, 2020.

/s/ Robert S. Berlin

MEMORANDUM

TO: Missouri Public Service Commission Official Case File,
Case No. GR-2021-0101, Tariff No. YG-2021-0116
Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty Utilities

FROM: Michael J. Ensrud - Procurement Analysis Department

/s/ David M. Sommerer 11/20/2020 /s/ Robert S. Berlin 11/20/2020
Financial and Business Analysis Div. / Date Staff Counsel's Office/Date

SUBJECT: Staff Recommendation for Liberty Utilities' Scheduled Winter Purchased Gas Adjustment (PGA) Filing Effective December 6, 2020

DATE: November 20, 2020

On November 6, 2020, Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty Utilities ("Liberty" or "Company") filed a tariff sheet, bearing an effective date of December 6, 2020. The tariff sheet was filed to reflect changes in Liberty's Purchased Gas Adjustment (PGA) factors as a result of estimated changes in the cost of natural gas and changes to the Actual Cost Adjustment (ACA) factors.

In addition, on November 6, 2020, Liberty filed **LIBERTY'S MOTION FOR TARIFF VARIANCE** from a provision of its tariff that requires its winter PGA/ACA tariff to be filed by November 4, 2020.

Liberty's PSC MO No. 2, Sheet No. 41 provides "(t)he Winter PGA shall be filed between October 15 and November 4 of each calendar year." Liberty late-filed its mandatory update on November 6, 2020. Liberty missed its filing deadline by 2 days.

On November 6, 2020, the Commission issued an **ORDER DIRECTING EXPEDITED STAFF RECOMMENDATION, AND SETTING TIME FOR RESPONSES** which requires Staff to file its recommendation no later than November 16, 2020.

On November 13, 2020, Liberty filed its first substitute tariff sheet and a cover letter explaining a significant correction which required rates in Liberty's west service area to be recalculated. Liberty stated as follows:

The substitute tariff sheet filing was created to correct calculation errors in the workpapers of Liberty's consultant. This was first discovered by Staff in review of the Liberty West Area (WEMO) rates. In each of the PGA service areas, injections of gas into storage was entered in the filing workpapers with the incorrect sign. Due to the magnitude of the withdrawal volumes, the correction has changed the ACA/PGA rates for each area. Also, during the process a few minor reconciliation items were identified and resolved.

Liberty characterizes (in its November 13 cover letter) that the first substitute rates accomplishes the following:

As a result of this Winter PGA filing, as corrected, the WEMO firm PGA rate will decrease from the current \$0.33671 per Ccf (100 cubic feet) to \$0.32024 per Ccf. For the Kirksville area, the effect of these changes will decrease the firm PGA rate from the current \$0.31639 per Ccf to \$0.18067 per Ccf. For the Northeast Area (NEMO), the effect of these changes will decrease the firm PGA rate from the current \$0.36512 per Ccf to \$0.18595 per Ccf. For the Southeast Area (SEMO), the effect of these changes will decrease the firm PGA rate from the current \$0.35250 per Ccf to \$0.27627 per Ccf.

Liberty corrected the errors, in the original tariff filing, however the amended filing contained an incorrect sign that required another correction. This correction resulted in Liberty filing a second substitute tariff sheet on November 17, 2020 to correct the remaining error.

The cover letter filed with the second substitute tariff describes the correction incorporated into that tariff sheet page as follows:

This second substitute tariff sheet was prepared to correct a scrivener's error in math for the Southeast Area, Firm Sales, ACA rate component which was presented as a positive amount. This amount is correctly presented as a negative amount on the second substitute. All other amounts remain the same.

This second substitute tariff page corrected the remaining scrivener's error.

On November 19, 2020 Liberty filed a third substitute tariff. Liberty describes the changes to its tariff as:

This third substitute tariff sheet was prepared to correct an error noted by Staff. This substitute reflects a corrected formula error used in computing the current year interruptible volumes for Kirksville which led to an overstatement of the 3-year average, and recalculated rates due to corrected cell references in our consultant's workpaper for the allocation of hedging activity among the different service areas. All other amounts remain the same.

Staff's chart below calculates the change in PGA rates for each service area that result from Liberty's third substitute tariff.

The initial substitute tariff page required Staff to request additional time to review the corrections. Staff filed its **MOTION FOR EXTENSION OF TIME TO FILE STAFF RECOMMENDATION** on November 16, 2020. The Commission granted Staff's request for additional time to file its recommendation not later than November 20, 2020 in its **ORDER EXTENDING TIME FOR STAFF RECOMMENDATION AND OTHER RESPONSES**.

In its substitute tariff sheet filing, Liberty extended the effective date of its tariff from December 6, 2020 to December 13, 2020.

Pursuant to Liberty’s tariffs, each Area’s Total PGA rate includes two factors: (1) the Regular Purchased Gas Adjustment (RPGA), which reflects the Company’s best estimate of its cost of gas for the upcoming season, and (2) the Actual Cost Adjustment (ACA), which results from the corrections made through the Deferred Purchased Gas Cost-Actual Cost Adjustment Accounts.

The Liberty West Area (“WEMO”) includes Butler, Rich Hill and Hume is served by Panhandle Eastern Pipe Line Company (“PEPL”) and Southern Star Central Gas Pipeline Company (“SCC”).

The Liberty Kirksville Area includes Kirksville and Lancaster, is served by is the ANR Pipeline Company (“ANR”).

The Liberty Northeast Area (“NEMO”) including Hannibal, Canton, Bowling Green and Palmyra or Combined District is served by the PEPL Company.

The Liberty Southeast Area (“SEMO”) including Jackson, Charleston, New Madrid, Caruthersville, and Neelyville, is served by the Natural Gas Pipeline Company of America, Texas Eastern Transmission, Enable Mississippi River Transmission, and Ozark Gas Transmission.

The variances in PGA (as reflected in the below chart) are partly attributable to different districts being served by different pipe lines.

	<u><i>Current</i></u>	<u><i>NEW</i></u>	<u><i>Difference</i></u>
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Southeast			
Firm	\$0.35250	\$0.27687	-\$0.07563
Interrupt	\$0.22588	\$0.09211	-\$0.13377

The Staff notes a significant decrease in the new PGA factor for many of the Liberty districts (areas).

This is primarily attributable to a large over-recovery of gas costs in the 2019-2020 ACA period. Such a significant over-recovery could have been mitigated by Liberty if it had used an optional PGA filing before the over-recovery grew to such significant levels. Liberty did not avail itself of using an optional PGA filing, thereby building up a significant over-recovery from its customers. To prevent this situation in the future, Staff recommends that Liberty more closely monitor its monthly ACA balances and file an optional PGA as appropriate.

Case No. GR-2021-0101, under which these changes were filed, was established to track the Company's PGA factors to be reviewed in its 2019-2020 ACA filing. Case No. GR-2020-0126 was established to track the Company's PGA factors to be reviewed in its 2018-2019 ACA filing. These rate changes should be made on an interim, subject to refund status pending final Commission decisions in ACA Case Nos GR-2021-0101 and GR-2020-0126.

Due to the limited time available to review the documentation supporting the ACA factor in this filing, the Procurement Analysis Department has requested permission to submit the results and recommendations regarding the information included in this ACA filing to the Commission on or before December 15, 2021. The ACA procedure involves review and true-up of the actual gas costs incurred.

Staff has verified that the Company has filed its annual report and is not delinquent on any assessment. Staff is not aware of any other matter before the Commission that affects or is affected by this filing, other than as mentioned above.

Staff has reviewed this filing and has determined it was calculated with conformance with Liberty's PGA Clause with the exception that Liberty filed two days after the required filing range provided in the Company's tariff. Per Tariff Sheet No. 40, any PGA filing shall not be approved unless it has first been on file with the Commission for a period of ten (10) business days. The Company has met this requirement. Therefore, Staff recommends that the following tariff sheet filed on November 6, 2020, as substituted on November 13th, 17th, and 19th be approved effective December 13, 2020, on an interim basis, subject to refund pending final Commission decisions in Case Nos. GR-2021-0101 and GR-2020-0126:

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Liberty Utilities)
(Midstates Natural Gas) Corp.) Case No. GR-2021-0101
d/b/a Liberty (MNG) Purchased Gas)
Adjustment Tariff Filing)

AFFIDAVIT OF MICHAEL J. ENSRUD

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COME NOW MICHAEL J. ENSRUD 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, under penalty of perjury.

Further the Affiants sayeth not.

/s/ Michael J. Ensrud
_____)
MICHAEL J. ENSRUD