

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

|  |   |                           |
|--|---|---------------------------|
| In the Matter of the Verified Application    | ) |                           |
| and Petition of Liberty Utilities (Midstates | ) |                           |
| Natural Gas) Corp. d/b/a Liberty Utilities   | ) | File No. GO-2016-_____    |
| To Change its Infrastructure System          | ) | Tariff Tracking No. _____ |
| Replacement Surcharge.                       | ) |                           |

**VERIFIED APPLICATION AND PETITION  
OF LIBERTY UTILITIES TO CHANGE ITS  
INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE**

COMES NOW Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty Utilities,” “Liberty” or “Company”), pursuant to Sections 393.1009, 393.1012 and 393.1015 of the Revised Statutes of Missouri and Missouri Public Service Commission (“Commission”) Rules 4 CSR 240-2.060, 2.080 and 3.265 and, for its Verified Application and Petition to Change its Infrastructure System Replacement Surcharge (its “Application”), respectfully states as follows:

**BACKGROUND**

1. Sections 393.1009, 393.1012 and 393.1015 of the Revised Statutes of Missouri and Commission Rule 4 CSR 240-3.265 authorize eligible gas corporations to recover certain infrastructure replacement costs through the implementation of an infrastructure system replacement surcharge (“ISRS”). Prior to implementing or changing an ISRS, the gas corporation must file a petition with the Commission for review and approval before its rates and charges can be adjusted to provide for the recovery of the ISRS costs. To that end, Liberty submits this Application.

2. Liberty’s current ISRS was established in Commission File No. GO-2015-0350, effective October 17, 2015. That filing covered ISRS costs incurred during the period April 1,

2014 through May 31, 2015. Since May 31, 2015, the Company has continued to make ISRS-eligible investments. Liberty submits this Application to change its ISRS to reflect these additional investments covering the period June 1, 2015 through January 31, 2016.

### **THE APPLICANT**

3. Liberty Utilities is a public utility and gas corporation incorporated under the laws of the State of Missouri, with its principal office located at 2751 North High Street, Jackson, Missouri 63755. A Certificate of Good Standing and Certificate of Amendment (reflecting the change in name of the corporation) from the Office of Secretary of State were submitted in Case Nos. GM-2012-0037 and GN-2014-0090, respectively, and are incorporated herein by reference.

4. Liberty Utilities is a “gas corporation” and a “public utility” as those terms are defined in Section 386.020 of the Revised Statutes of Missouri and, as such, is subject to the jurisdiction of the Commission as provided by law.

5. Communications in regard to this Application should be addressed to:

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6. Other than cases that have been previously docketed at the Commission, Liberty Utilities has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates.

7. Liberty Utilities is current on its annual report and assessment fee obligations to the Commission, and no such report or assessment fee is overdue.

### **ISRS APPLICATION**

8. With this Application, Liberty Utilities requests an adjustment to its ISRS rate schedule that provides for the recovery of ISRS-eligible infrastructure system costs incurred during the period June 1, 2015 through January 31, 2016. In accordance with the provisions of Sections 393.1009-1015 and 4 CSR 240-3.265, the proposed ISRS rate schedule reflects the appropriate pre-tax ISRS revenues necessary to produce net operating income equal to Liberty Utilities' weighted cost of capital multiplied by the net original cost of the requested infrastructure replacements during this period that are eligible for the ISRS, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that are included in Liberty's currently effective ISRS. Liberty Utilities also seeks to recover all state, federal and local income or excise taxes applicable to such ISRS income and to recover all other ISRS costs such as depreciation expense and property taxes due within 12 months of this filing.

## **A. Eligibility of Costs**

9. The infrastructure system replacements for which Liberty Utilities seeks ISRS recognition are set forth on Appendix A, which is attached hereto and made a part hereof for all purposes. The infrastructure system replacements listed on Appendix A are eligible gas utility plant projects in that they are either: a) mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition; or b) main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; or c) unreimbursed infrastructure facility relocations due to the construction or improvement of a highway, road, street, public way or other public work required by or on behalf of the United States, the State of Missouri, a political subdivision of the State of Missouri, or another entity having the power of eminent domain.

10. In addition to meeting the foregoing criteria, the infrastructure system replacements listed on Appendix A are also eligible for ISRS treatment because they: a) did not increase revenues by directly connecting to new customers; b) are currently in service and used and useful; c) were not included in rate base in the most recently completed general rate case, and d) replaced and/or extended the useful life of existing infrastructure.

11. The data for additions is presented in Appendix A Schedule 1, and for retirements in Appendix A Schedule 3. In each schedule the data by project is summarized for each rate division at the utility account level, with the in service date and addition amount provided for the project. The Accumulated Depreciation is calculated by multiplying the Monthly Depreciation

Rate by the number of Months the asset has been in service. The Depreciation Expense column contains the annual depreciation expense for the asset. Sub-total rows are provided for each rate division and class of assets. The assets selected were assigned a 15 year MACRS class life. According to the Internal Revenue Code, these assets are permitted to be depreciated by 50% in the initial year (bonus depreciation) with the remaining amount depreciated over 15 years, 150%, double declining balance, half year convention.

12. The infrastructure system replacements listed on Appendix A also are eligible for ISRS treatment because Liberty Utilities' last general rate case proceeding was decided by Commission Report and Order issued on December 3, 2014, effective January 2, 2015, in Case No. GR-2014-0152 ("Rate Case Order").

**B. Rate Schedules, Calculations and Supporting Documentation**

13. Attached hereto as Appendix B is the rate schedule, with supporting documents, proposed by Liberty in order to establish the ISRS and to provide for the adjustment of its rates and charges to reflect recovery of eligible infrastructure costs. This proposed rate schedule, on an annualized basis, will produce ISRS revenues of at least one-half of one percent of the base revenue level approved by the Commission in the most recent general rate proceeding, but not in excess of ten percent of the base revenue level.

14. In determining the appropriate pre-tax ISRS revenues, the proposed rate schedule utilizes current local, state, and federal income tax rates through a combined income tax rate conversion factor of 1.64103.

15. In determining the appropriate pre-tax ISRS revenues, the proposed rate schedule utilizes the capital structure and weighted average cost of debt approved by the Commission in its Rate Case Order, and reflects an overall rate of return of 7.22%.

16. In determining the appropriate pre-tax ISRS revenues, the proposed rate schedule utilizes a cost of common equity of 10.0%, consistent with the Commission's Rate Case Order.

17. In determining the appropriate pre-tax ISRS revenues, the proposed rate schedule utilizes a current composite property tax rate for each of Liberty's three rate districts – Northeast (NEMO), Southeast (SEMO) and West (WEMO) – as follows: NEMO – 1.08%; SEMO – 1.07% and WEMO – 1.17%.

18. In determining the appropriate pre-tax ISRS revenues, the proposed rate schedule utilizes depreciation rates currently applicable to the eligible infrastructure system replacements, as approved by the Commission for Liberty Utilities in the Rate Case.

19. Section 393.1015.5(1), RSMo provides:

5. (1) The monthly ISRS charge may be calculated based on a reasonable estimate of billing units in the period in which the charge will be in effect, which shall be conclusively established by dividing the appropriate pretax revenues by the customer numbers reported by the gas corporation in the annual report it most recently filed with the commission pursuant to subdivision (6) of section 393.140, and then further dividing this quotient by twelve. Provided, however, that the monthly ISRS may vary according to customer class and may be calculated based on customer numbers as determined during the most recent general rate proceeding of the gas corporation so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class.

In determining the appropriate monthly ISRS charge, the proposed rate schedule is based on a reasonable estimate of billing units in the period in which the charge will be in effect, which is derived by dividing the appropriate pre-tax revenues, as calculated above, by the customer numbers reported by Liberty in its annual report most recently filed with the Commission, and then further dividing this quotient by twelve. (See Appendix B, Schedule 5).

The monthly ISRS charge is apportioned between customer classes and the rate districts in the same manner utilized in setting rates in the most recently completed general rate proceeding (File No. GR-2014-0152).

### **ADDITIONAL INFORMATION**

20. In accordance with 4 CSR 240-3.265(9), Appendix C Attachment 1 provides a copy of the one-time customer notice notifying customers of the ISRS charge to be sent with the initial bills containing the ISRS, as well as a copy of the annual notice Liberty will provide to affected customers each year explaining the ISRS and what it is designed to recover.

21. Pursuant to 4 CSR 240-3.265(22)(A), updated information informing customers of the ISRS will be posted on Liberty's website and an example of the text is provided in Appendix C Attachment 2. The information on this page of the website will reflect the information provided in the bill inserts.

22. Pursuant to 4 CSR 240-3.265(22)(B), talking points and scripts for the customer call center employees are provided in Appendix C Attachment 3.

23. Also in accordance with 4 CSR 240-3.265(9), an example customer bill showing how the ISRS is described on affected customers' bills is provided in Appendix C Attachment 4.

### **CONTINGENT REQUEST FOR WAIVER**

24. Liberty Utilities does not believe this matter would be considered a "contested case" under 4 CSR 240-4.020 (Ex Parte and Extra Records Communications Rule). Based on numerous prior ISRS cases submitted by both Liberty Utilities and its predecessor, Atmos Energy Corporation, all but one have been resolved by agreement among the parties without a

contested evidentiary hearing, including Liberty Utilities' most recent ISRS filing, File No. GO-2015-0350. However, out of an abundance of caution to the extent that a 60-day Notice of Filing could otherwise be required under 4 CSR 240-4.020(2), Liberty Utilities respectfully requests a waiver of said section for good cause pursuant to 4 CSR 240-4.020(2)(B).

25. In its previous ISRS applications, Liberty Utilities has included a contingent request for waiver of the applicability of 4 CSR 240-4.020(2), no party has ever contested such request for waiver, the Commission has consistently granted such waiver, and Liberty Utilities respectfully submits that good cause continues to exist for waiving the 60 day notice period herein. (See, also, *Order Regarding Adjusted ISRS Rates*, File No. GO-2013-0048, October 18, 2012; *Order Setting ISRS Amounts, Rejecting Tariff Sheet, and Authorizing Company to File New Tariff Sheet*, File No. GO-2015-0350, September 16, 2015). The scope and format of the instant ISRS filing is consistent with prior non-contested filings and no extra record communications have been held regarding this matter. The goal of the ISRS process -- to provide eligible gas corporations with the ability to recover, on a timely basis, certain infrastructure replacement costs outside of a formal rate case filing via the ISRS -- would not be served by the imposition of a 60 day waiting period in this matter. No public utility other than Liberty Utilities will be affected by this particular waiver.



**WHEREFORE**, pursuant to 393.1015.2(3) and Commission Rule 3.265(12), Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities respectfully requests that the Commission issue an Order, effective as soon as reasonably possible, approving Liberty Utilities' ISRS rate schedules in order to provide for the recovery of the eligible infrastructure system replacement investments made from June 1, 2015 through January 31, 2016, as described herein, to the extent required granting the requested waiver of Commission Rule 4 CSR 240-4.020(2), and granting such other relief as may be necessary and appropriate to accomplish the purposes of Sections 393.1009 through 393.1015.

Respectfully submitted,

**/s/ Larry W. Dority**

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Attorneys for Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Application and Petition was served on the General Counsel of the Staff of the Missouri Public Service Commission and the Office of the Public Counsel on this 19<sup>th</sup> day of February, 2016 by hand-delivery, fax, electronic or regular mail.

**/s/ Larry W. Dority**  
Larry W. Dority

