

In the Matter of:
LIBERTY UTILITIES CORPORATION

GR-2018-0013 VOL 2

February 06, 2018



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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Discovery Conference
February 6, 2018
Jefferson City, Missouri
Volume 2

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

MORRIS L. WOODRUFF, Presiding
CHIEF REGULATORY LAW JUDGE

REPORTED BY:
Beverly Jean Bentch, CCR No. 640
TIGER COURT REPORTING, LLC

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P R O C E E D I N G S

JUDGE WOODRUFF: We're on the record then. Welcome all to the discovery conference. This is File No. GR-2018-0013 which is Liberty Utilities general rate case. These discovery conferences were established in the procedural schedule for the case. Staff has indicated that they had a matter that they wanted to bring up for resolution today.

The Commission has authorized me to make rulings on this directly. So as appropriate I may make a decision immediately on the record today or if I need more time to think about it and consider it I'll defer and make a written decision later.

This is on the record but I don't think it has to be terribly formal. I'll look to staff first -- Well, first of all let's take entries of appearance. For staff?

MS. FORCK: Marcie Forck for the staff of the Missouri Public Service Commission, and my information is on file with the court reporter.

JUDGE WOODRUFF: For Liberty?

MR. FISCHER: Jim Fischer and Larry Dority, and you have our contact information.

JUDGE WOODRUFF: Staff and Liberty are the only parties here today, correct?

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1 MS. FORCK: Yes.

2 JUDGE WOODRUFF: I'll turn to staff and let
3 you explain what you want to talk about.

4 MS. FORCK: Sure, thank you. So staff has a
5 number of outstanding data requests that are past due.
6 I did not count the total here. I have a list, though,
7 of past due unanswered data requests. Additionally,
8 there are a number of data requests that have been
9 responded to in EFIS but from staff's perspective are
10 largely unresponsive to the actual requests.

11 So in those the company has given us something
12 but -- Some of them they've given us something. We have
13 concerns it isn't everything and we want to verify that.
14 Others the response itself doesn't seem to actually
15 answer the question that was asked. So we'd like to
16 address those.

17 In the last 24 hours we've gotten a number of
18 data request responses from the company. We're still
19 going through those. But from what we've seen, a lot of
20 them refer to previously responded to data requests or
21 previously provided documents. So we're still trying to
22 figure out with those latest the level of responsiveness
23 of those data requests, but previous to that we still
24 have a number.

25 The company had indicated a January 15

1 deadline on a lot of these for themselves that they
2 would provide this, and a lot of these we didn't start
3 seeing information coming in until January 15 and then a
4 lot of these that are outstanding were -- some of the
5 responses were due by the 15th according to the
6 discussion with the company and we still haven't seen
7 them.

8 So those are kind of the general concerns. We
9 can go into more detail and I would defer to our witness
10 if you want to do that on specific DRs.

11 JUDGE WOODRUFF: We'll get into that in a
12 moment. I'm turn it over to Liberty and see if you have
13 a general response.

14 MR. FISCHER: I guess, Judge, I would say
15 we've appreciated the fact that staff has been working
16 with the company to try to get the information so that
17 we understand what they're looking for. There have been
18 some that have been outstanding that -- let me get --
19 I'll just start with the ones that aren't Mr. Dittmer.
20 There have been some the auditors have asked for and
21 we've provided information but we haven't responded in a
22 formal DR. Like Lisa Ferguson, one of the auditors,
23 they've been working on site and there's been a lot of
24 information exchanged on those areas that have been more
25 informal. So I guess I would put those aside in a

1 different bucket.

2 MS. FORCK: I think I agree with that too. My
3 understanding is the only -- I reached out to staff this
4 morning just to verify who still had concerns, and I
5 think the large concern is the data requests requested
6 by Mr. Dittmer.

7 MR. FISCHER: This is in the area of the cost
8 allocation manual which I think you may be involved in
9 that cost allocation docket that is also looking at
10 that, the overall picture, but this is -- of course,
11 they do have some allocated costs that come into the
12 revenue requirement. It's certainly a legitimate area
13 of inquiry, and we've been trying to work with staff to
14 get them the information that they need.

15 I think what we've found is that unfortunately
16 sometimes the information is not in the format that
17 staff might be hoping it's in and we aren't able to give
18 them the information that way, but my understanding is
19 they've been trying to come up with other reports that
20 would be responsive and give them information similar to
21 that.

22 I think like Mr. Dittmer I think has issued
23 something like 81 DRs and many of them have many
24 subparts several pages long too, but I think there are
25 really 12 that are overdue now. And there are some that

1 he just filed a day or two ago it's my understanding. I
2 think there are about 12 that were outstanding that were
3 overdue. Some of those asked for similar information
4 like for each entity do you own land, do you own
5 buildings, and so there would be like three or four. So
6 it may really be an even smaller number of areas that we
7 need the information on, but I think what we would
8 request is the opportunity to continue to work with
9 staff and Mr. Dittmer to try to get this stuff to you in
10 a way that you can use it. And I'm not sure it's going
11 to be productive to go through item by item and ask for
12 resolution; but if that's what you want to do, I guess
13 we'll try to do that.

14 JUDGE WOODRUFF: You're not arguing that
15 they're improper?

16 MR. FISCHER: No, Judge. It's just a matter
17 of -- The information is clearly relevant to the issues
18 of the cost allocations, but we're mostly talking about
19 what is the corporate entities above, what kind of
20 reports do they have. If they don't have the reports in
21 a form that is easily available, rather than say it's
22 not that way we've been trying to figure out a way to
23 get them the information so that they can look at it.
24 But that's been a slow process and I think it's been
25 frustrating for our utility folks because the corporate

1 folks don't always have it in the format that they'd
2 like. So I think it may be inherent in cost allocation
3 manuals, but we've never had this detailed of an audit
4 before. In the last case there wasn't anything like
5 this. It's kind of a first time for us. Maybe down the
6 road with their cost allocation case that you're dealing
7 with maybe that will become a little easier. For now
8 we're trying to deal with the hand that's dealt us so to
9 speak and get them the information that they need.

10 JUDGE WOODRUFF: For staff then how quickly do
11 you need this information? I understand direct
12 testimony is coming up fairly soon.

13 MS. FORCK: Direct testimony is coming up
14 fairly soon. Honestly, Judge, I think it would have
15 been helpful to have this information a month ago.
16 Obviously that not being the situation that we are in
17 right now, as soon as it can come in the better. And we
18 are continuing to try and work with the company. We are
19 trying -- the audit will continue even after direct is
20 filed if we don't have everything that we need. But I
21 do want to make sure that the responses that we're
22 getting are useful responses so not just in a format
23 that works but like I mentioned earlier some of these
24 responses don't seem to truly be responsive to the
25 questions asked. So checking the box of having answered

1 the DR doesn't really meet staff's needs in those
2 situations. I just want to make sure that with going
3 forward and getting this information that it's actually
4 the information that staff requires.

5 MR. FISCHER: Would it be helpful from staff's
6 perspective to look at those and try to see if there's
7 information that we have that would -- I mean more
8 informally rather than asking the Judge to rule on that?

9 MS. FORCK: I guess we could do that.

10 JUDGE WOODRUFF: Well, you can certainly
11 continue to talk after we go off the record. But I want
12 to make sure we're on the same page while we are still
13 on the record. What does staff want?

14 MS. FORCK: I think staff wants responses to
15 the data requests, and the company has indicated that
16 they're willing to continue trying to provide that. I
17 wanted to just have this discovery conference to
18 preserve the fact that we're on the record that we are
19 in fact seeking this so that when our direct testimony
20 filing happens and if we can't make a good
21 recommendation based on a lack of information that we've
22 --

23 JUDGE WOODRUFF: I appreciate that.

24 MS. FORCK: -- notified the Commission that
25 we've taken the steps that we can to try and get the

1 information.

2 JUDGE WOODRUFF: One of my pet peeves is that
3 when we get to hearing and then to have a witness on the
4 stand saying well, they didn't answer my DRs and the
5 next question of course is well, did you file a motion
6 to compel or do anything else. Well, no, and then it
7 just sounds like complaining and whining.

8 MS. FORCK: Right, and we did -- I do want to
9 note we did file a motion to compel previously in the
10 case. We withdrew after discussions with the company.

11 JUDGE WOODRUFF: I'm not implying that you
12 should be filing one now. I think you are appropriately
13 following the process.

14 MS. FORCK: Just to be clear.

15 MR. FISCHER: The company appreciates staff
16 working with us. We had a call last week with counsel
17 involved, and I think before that there have been
18 probably ten or more calls between the technical people
19 trying to deal with some of these issues. It's a very
20 difficult area to be in and there's a lot of detail
21 apparently involved in these allocations, especially in
22 an organization that has several entities.

23 JUDGE WOODRUFF: I'll note for the record also
24 that there's several technical people here in the room
25 that can continue with discussions, and so forth, that I

1 don't think necessarily need to be on the record unless
2 you all feel differently.

3 MR. DORITY: I would just indicate for the
4 record that Jill Schwartz who's the senior manager of
5 rates and regulatory affairs for Liberty drove up from
6 Joplin this morning to participate today and continue
7 the discussions. So we're definitely taking this very
8 seriously. We're trying to be as diligent as we can.

9 JUDGE WOODRUFF: Michelle Bocklage and Jim
10 Dittmer are also here from staff. Well, I'll leave it
11 up to you do you want anything further on the record or
12 should I conclude this part of it?

13 MS. FORCK: I think if we can continue
14 discussions afterwards I don't see any need to continue
15 on the record at this point.

16 JUDGE WOODRUFF: If you're not able to reach
17 satisfactory resolution, go ahead and file a written
18 pleading. I'd say bring me back down here but we don't
19 want to keep the court reporter. Let me know if there
20 are problems. You can file a written motion if that's
21 necessary. I hope and trust that you can work this all
22 out amongst yourselves. With that then, we're off the
23 record.

24 (Off the record.)
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