

**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 General Rate Increase For Natural Gas Service in the Missouri Service Areas of the Company. )  
)  
)  
)  
)

**Case No. GR-2014-0152**

**LIBERTY UTILITIES' VERIFIED RESPONSE TO PUBLIC COUNSEL'S  
RESPONSE IN OPPOSITION TO PROPOSED RATE CASE EXPENSE**

COMES NOW Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty Utilities" or "Company") and, pursuant to the Missouri Public Service Commission's ("Commission") *Order Directing Filing* issued in this matter on November 25, 2014, submits its Verified Response to Public Counsel's Response in Opposition to Proposed Rate Case Expense. In support of its Verified Response, Liberty Utilities respectfully states as follows:

1. On November 19, 2014, Liberty Utilities and the Staff of the Commission filed their Joint Filing Memorandum in accordance with the Commission's *Order Approving Partial Stipulation And Agreement* ("Order") issued in this matter on August 20, 2014, submitting Late-Filed Exhibit 63 which depicted the final amount of rate case expenses to be included in revenue requirement in this matter.

2. Ordered Paragraph 1 of the Commission's Order provided in part, "The Partial Stipulation and Agreement As To Certain Issues filed on August 12, 2014, is approved as a resolution of the issues addressed in that stipulation and

agreement. The signatories are ordered to comply with the terms of the Partial Stipulation and Agreement As To Certain Issues.” The Office of the Public Counsel (“Public Counsel”), along with the Company and Staff, was a signatory to the Partial Stipulation.

3. Paragraph 2 of the Partial Stipulation and Agreement As To Certain Issues provides:

2. **Rate Case Expense** – The Signatories agree to a three year normalization period. The Signatories agree that additional rate case expense incurred of \$37,768 will be included in rates. Additional amounts incurred will be reviewed for possible inclusion at future stages of this rate case pending the outcome of settlement negotiations and/or litigation. If a settlement is reached on all issues, the cutoff for inclusion of rate case expense shall be two weeks after the filing of the Stipulation and Agreement resolving all issues, or two weeks after the presentation of the Stipulation and Agreement at an on-the-record hearing, whichever is later. If the case continues to litigation, the cutoff for inclusion of the rate case expense shall be two weeks after the filing of the final post-hearing briefs. The Company and Staff will jointly file a late-filed exhibit identifying the final amount of rate case expenses to be included in revenue requirement. (Emphasis added).

4. As stated in the Joint Filing Memorandum, pursuant to, and in accordance with, the time-line referenced above, additional rate case expense amounts incurred were provided by Company and reviewed by Staff, resulting in the final amount of rate case expenses to be included in revenue requirement. Late-Filed Exhibit 63 was attached to the Joint Filing Memorandum reflecting a total amount of \$609,679 normalized over a three-year period at \$203,226 per year to be included in rates.

5. At the eleventh hour, and with no prior notice to the Company or Staff, Public Counsel filed its Response in Opposition to Proposed Rate Case Expense, now suggesting that the Commission should reject the recovery of any rate case expense in addition to the amount already approved by the Commission, absent additional

information addressing myriad issues that Public Counsel now wishes to interject.

6. At the outset, Public Counsel attempts to set the stage by referencing dollar amounts that appears to be comparing “apples to oranges.” At Paragraph 2 of its Response, Public Counsel characterizes the \$609,679 amount as “an increase of \$571,911 above the \$37,768 the parties agreed in the Stipulation to include in revenue requirement for rate case expense and \$209,679 above what was requested in Liberty’s direct testimony.” Public Counsel compares total rate case expense of \$609,679 before normalization to an amount cited in the Partial Stipulation that already has been adjusted for the agreed-upon three year normalization. Furthermore, the \$37,768 amount referenced in the first Partial Stipulation is only the amount of incremental normalized rate case expense over and above the normalized amount of \$51,210 already included in Staff’s direct filing. The resulting total of \$88,978 already approved in the Partial Stipulation would now be replaced by the \$203,226 annual expense amount that will actually be included in rates. Accordingly, the annual expense amount reflects an increase of \$114,248 when compared to the initial amount approved in the Partial Stipulation.

7. It is important to understand that this initial amount of \$88,978 captured a portion of expenses prior to Surrebuttal Testimony, Continuing Discovery, Evidentiary Hearing and Briefing, all of which involved the consultants and outside counsel. And as Public Counsel should be painfully aware, this case continuously remained on two parallel tracks, one attempting to reach stipulations resolving most, if not all, of the issues, and the other proceeding to litigation in the hearing room. Indeed, the Revised Second Partial Stipulation and Agreement As To Certain Issues – involving the issues

of ISRS, Cost of Removal, Rate Design and Related Issues and Energy Efficiency and Weatherization Program – was not reached and executed until September 10, 2014, during the evidentiary hearings.

8. Regarding Public Counsel’s allegations concerning the Company’s original estimate of \$400,000 for rate case expense contained in its direct case, as the Company’s first-ever general rate case proceeding this amount was, indeed, a good faith estimate (with the Company fully cognizant that the previous Atmos Energy Corporation rate case had settled).

9. Public Counsel also takes issue with the utilization of outside consultants and attorneys, and its perceived need for additional analysis required to substantiate the reasonableness of same. First, the Company has no in-house counsel.<sup>1</sup> The Company’s outside regulatory attorneys served the Company’s predecessor-in-interest, Atmos Energy Corporation, in the same capacity (Atmos did have in-house counsel). Robert Hevert and James Fallert are recognized experts in their respective fields, both having extensive experience before this Commission, who appropriately augmented and supported in-house regulatory personnel in preparing and prosecuting this complex regulatory proceeding. Regarding the rates charged and hours worked, Public Counsel’s Data Request No. 8 issued on May 1, 2014 requested “all terms, including compensation, between Liberty and the outside consultants retained for this rate case. Liberty’s response should include any and all contracts, agreements, and RFP responses by the consultants regarding their scope of work for the rate case.”<sup>2</sup> Liberty

---

<sup>1</sup> The Company has pursued hiring in-house counsel for its Jackson, Missouri headquarters location.

<sup>2</sup> The Company would point out that highly confidential invoices/billing information from outside consultants was provided to Staff in continuing responses to Staff Data Request 103, via EFIS.

Utilities provided Public Counsel complete, highly-confidential responses to this Data Request on May 21, 2014, fully setting forth the requested information including hourly rates and applicable contracts. Obviously, this information was in Public Counsel's possession prior to becoming a signatory to the Partial Stipulation.

10. Company certainly is not suggesting that Public Counsel, by entering into the Partial Stipulation, somehow acquiesced to the Company having a "blank check" as to additional rate case expense. As stated in the previously filed Joint Filing Memorandum and above, all of the detailed, underlying invoices submitted by outside consultants and attorneys were carefully reviewed by the Staff and, upon request, clarification and further explanation was provided. It is the Company's understanding that Staff consulted with member(s) of Public Counsel during the process of finalizing Staff's workpaper that became the basis for the Late-Filed Exhibit 63. Company and Staff appropriately followed the process set forth in the Partial Stipulation regarding rate case expense, as previously ordered by this Commission, and Public Counsel should not now be heard to complain.

---

By agreement among Liberty Utilities and Staff, highly confidential detailed outside counsel invoices were reviewed by Staff at the company's offices and at the offices of outside counsel. When Public Counsel requested copies of such highly confidential outside counsel invoices, they were promptly provided per Public Counsel's directions on November 21, 2014.

WHEREFORE, Liberty Utilities respectfully submits its Verified Response to Public Counsel's Response in Opposition To Proposed Rate Case Expense, and again moves the admission of Late-Filed Exhibit 63 into the record herein.

Respectfully submitted,

/s/ Larry W. Dority

---

James M. Fischer, MBN 27543  
Larry W. Dority, MBN 25617  
FISCHER & DORITY, P.C.  
101 Madison Street, Suite 400  
Jefferson City, MO 65101  
573-636-6758  
573-636-0383 (fax)  
jfischerpc@aol.com  
lwdority@sprintmail.com

ATTORNEYS FOR LIBERTY UTILITIES  
(MIDSTATES NATURAL GAS) CORP.  
D/B/A LIBERTY UTILITIES

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 General Rate Increase )  
For Natural Gas Service in the Missouri Service )  
Areas of the Company. )

Case No. GR-2014-0152

AFFIDAVIT OF CHRISTOPHER D. KRYGIER

STATE OF MISSOURI )  
 ) ss  
COUNTY OF CAPE GIRARDEAU )

Christopher D. Krygier, being first duly sworn on his oath, states:

1. My name is Christopher D. Krygier. I am employed by Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities ("Liberty Utilities") as Director, Regulatory & Government Affairs. My business address is 2751 N. High Street, Jackson, Missouri 63755.

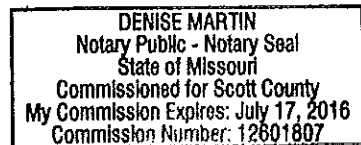
2. I have reviewed the attached "Liberty Utilities' Verified Response To Public Counsel's Response In Opposition To Proposed Rate Case Expense" and I have knowledge of the matters set forth therein. I hereby swear and affirm that the information contained therein is true and accurate to the best of my knowledge, information and belief.

Christopher D. Krygier 11/26/14  
Christopher D. Krygier

Subscribed and sworn before me this 26<sup>th</sup> day of November, 2014.

Denise Martin  
Notary Public

My commission expires: July 17, 2016



## Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 1<sup>st</sup> day of December, 2014.

/s/ Larry W. Dority

---

Larry W. Dority