

**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

**STATEMENTS OF POSITION
OF
LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.
d/b/a LIBERTY UTILITIES**

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

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

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Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty” or “Company”) respectfully submits its Statements of Position in accordance with the Commission’s *Order Setting Procedural Schedule* issued in this matter on March 20, 2014. This Position Statement will address the issues identified in *the List of Issues, List And Order of Witnesses, Order of Opening Statements, and Order of Cross-Examination* filed by the Staff of the Commission (“Staff”) on August 26, 2014.

I. INTRODUCTION

This is the first rate case for Liberty Utilities since the Commission authorized Liberty to purchase the Missouri assets of Atmos Energy Corporation (“Atmos”) in Case No. GM-2012-0037. Since beginning operations in August 2012, Liberty has effectively stepped into the shoes of Atmos following the terms of the Stipulation and Agreement in that acquisition case.

The Company is engaged in the business of distributing and selling natural gas in the States of Missouri, Illinois and Iowa, serving approximately 85,000 customers. About 65% of those customers, or approximately 55,000, are located in Missouri.

Liberty Utilities' ultimate corporate parent, Algonquin Power and Utilities Corp. ("Algonquin"), is a Canadian corporation whose stock is traded on the Toronto Stock Exchange. Algonquin has two business units: (a) a power generation unit that owns or has interests in renewable energy facilities and thermal energy facilities representing more than 1100 MW of installed capacity, and (b) a utility services unit that owns and operates thirty regulated utilities located in ten states that provide retail water, sewer, electric and natural gas service.

On February 6, 2014, Liberty filed revised tariff sheets which set forth revised rate schedules and certain revised charges for all of Liberty's service territories in the state of Missouri, designed to produce an increase of approximately \$7.6 million in revenues for the Company. Approximately \$1.3 million of this amount is associated with the Company's Infrastructure System Replacement Surcharge ("ISRS") which has previously been approved. The ISRS will be reset to zero as a part of this case. Therefore, the Company is really requesting \$6.3 million of new revenues in this case. This represents a 13% increase above test year revenues.

The timing of the rate case was due in part to the fact that Liberty agreed to a rate case moratorium in the acquisition case. That rate case moratorium ended on December 31 of last year. In addition, in order to continue its ISRS, the Company needed to file a general rate case no later than the middle of February of 2014. As a result, there was a short window of time between the rate case moratorium period and the time required by the ISRS statutes for the Company to file this general rate case.

As David Swain, the State President of Liberty, explains in his direct testimony, the Company is making substantial investments in furthering Liberty's local approach to

management, service and support. As the Company explained to the Commission in the acquisition case, Liberty's philosophy is to emphasize local management and local customer service. (Swain Direct, p. 7)

Liberty Utilities has constructed significant new facilities that will facilitate the Company's local emphasis in providing more responsive service to our customers. Such investments include accounting and billing software and the new regional headquarters in Jackson, Missouri as well as the continued investments in distribution facilities. (Swain Direct, p. 9) Furthermore, the last rate case for Liberty's predecessor company included an updated period that ended on February 28, 2010, over four years ago.

While Liberty maintains a strong focus on cost control, it is not immune to increasing operating and maintenance expenses which need to be reflected in rates if the Company is to have an opportunity to earn a reasonable return on its investment. (*Id.*) Like other gas companies, Liberty has experienced declining revenues as the number of customers has declined and the existing customers have used less gas on a per capita basis as they weatherize their homes and use more efficient heating equipment.

The purpose of this case is to determine the just and reasonable rates after considering Liberty's significant investments and overall cost of service.

II. LIST OF ISSUES

1. Cost of Capital:

- a. What capital structure should the Commission use in this case to determine a revenue requirement for Liberty?**
- b. What is the appropriate embedded cost of debt that the Commission should apply in this case to determine a revenue requirement for Liberty?**

c. What is the appropriate cost of equity that the Commission should apply in this case to determine a revenue requirement for Liberty?

Liberty's Position: The Company is recommending that the Commission use the Company's actual capital structure which is as follows:

Equity: 58.34%

Debt: 41.66%

The cost of debt for Liberty Utilities is 4.50% and the Company is recommending a return on equity of 10.50%. (Hevert Direct, pp. 2-49; Hevert Rebuttal, pp. 2-41; Hevert Surrebuttal, pp. 1-41)

2. Contract Customers:

a. Is Liberty currently authorized to enter into special contracts at non-tariffed rates with its customers in Missouri, such as Noranda and General Mills?

Liberty's Position: Yes. Liberty has stepped into the shoes of Atmos which has had three long-standing special contracts. Such special contracts have been reviewed by the Commission in previous rate cases. The Company believes it has the authority to enter into such contracts when it is reasonable and appropriate to do so under its existing tariffs.

b. If Liberty is not currently authorized to enter into special contracts at non-tariffed rates with its customers in Missouri such as Noranda and General Mills, should the Commission authorize Liberty to adopt a tariff to allow it to enter into such special contracts? If yes, what should such tariff state?

Liberty's Position: As stated above, the Company believes it has the authority to enter into such contracts when it is reasonable and appropriate to do so under its

existing tariffs. However, the Company is not opposed to the establishment of a specific tariff that authorizes the use of special contracts. If the Commission believes that a new special contract tariff is necessary or appropriate, the Company has proposed the use of 1st Revised Sheet No. 34 (Negotiated Gas Sales Service) contained in Schedule CDK-R7 attached to the Rebuttal Testimony of Christopher D. Krygier. (Krygier Rebuttal, pp. 4-5; Schedule CDK-R-7)

c. What rate should the Commission use to calculate Liberty’s revenues from Noranda and General Mills for purposes of this rate case?

Liberty’s Position: The Commission should use the actual rates contained in the contracts of Noranda and General Mills for purposes of establishing the revenues from these customers. The Commission should reject the Staff’s position to use the full tariffed rate, resulting in the use of hypothetical, imputed revenues for establishing the revenues from these customers. (Krygier Direct, pp. 17-19; Krygier Rebuttal, pp. 2-9; Krygier Surrebuttal, pp. 8-10.)

d. What rate should the Commission use to calculate Liberty’s revenues from SourceGas for purposes of this rate case?

Liberty’s Position: The Commission should use the actual rates contained in the contract of SourceGas for purposes of establishing the revenues from this customer. The Commission should reject the Staff’s position **_____

_____ ** These services are interstate services under the FERC’s exclusive jurisdiction and the interstate

discounted rate is accepted by the FERC for this interstate transportation service.
(DaFonte Surrebuttal, pp. 3-15)

3. Depreciation: What depreciation rates should be ordered by the Commission for corporate plant accounts 399.1, 399.3, 399.4 and 399.5?

Liberty's Position: The Company is recommending the continuation of the 7 years' life for corporate system hardware and software, and implementation of a life of 5.3 years for PC hardware and software. The corresponding depreciation rates for these lives are 14.29% (seven years) and 18.98% (five years). These depreciation rates are consistent with rates used by Atmos in the past and provide a realistic useful life for these systems. Liberty believes that these corporate depreciation rates should continue to be utilized until a comprehensive Depreciation Study can be completed for the next Liberty rate case. (Fallert Direct, pp. 12-13; Fallert Rebuttal, pp. 9-11; Fallert Surrebuttal, pp. 2-5)

4. Cost of Removal: Should Liberty's accumulated depreciation reserve balances be increased, and rate base decreased, to reflect removing cost of removal from the accumulated depreciation reserve calculation? If yes, by how much?

Liberty's Position: No. Public Counsel witness William Addo proposed an actual adjustment for the first time in surrebuttal testimony filed on August 15, 2014 (purportedly responding to Staff's revenue requirement testimony), leaving the parties with no opportunity to respond to the proposed adjustment. Furthermore, said

adjustment results in a revenue impact amount inconsistent with the terms of the Partial Stipulation and Agreement approved by the Commission on August 20, 2014.

In reality, Public Counsel is presenting an affirmative position which should have been raised in its direct testimony. 4 CSR 240-2.130(7) requires that direct testimony “shall include all testimony and exhibits asserting and explaining that party’s entire case-in-chief.” Surrebuttal testimony “shall be limited to material which is responsive to matters raised in another party’s rebuttal testimony.” 4 CSR 240-2.130(7)(D). .

5. ISRS: Should Liberty’s revenue requirement be decreased to remove certain costs included in Liberty’s ISRS? If yes, by how much?

Liberty’s Position: No. Public Counsel is raising issues that were previously addressed by this Commission in Liberty’s most recent ISRS case, Case No. GO-2014-0006. Public Counsel’s position that costs incurred replacing or repairing infrastructure damaged by third parties are not an eligible ISRS cost was specifically rejected by this Commission in its Report and Order issued on October 16, 2013. Indeed, Public Counsel appealed this specific issue to the Western District Court of Appeals (Case No. WD77089) and the Court affirmed the Commission’s decision in its Opinion issued July 29, 2014. (Public Counsel’s motion for rehearing was overruled, and its application for transfer to the Missouri Supreme Court was denied, by the Court of Appeals on September 2, 2014.) The Commission also rejected Public Counsel’s position regarding leak repairs, finding that such expenditures were properly accounted for as capital in nature, qualifying as eligible ISRS projects.

Again, Public Counsel witness William Addo presented these adjustments for the first time in surrebuttal testimony filed on August 15, 2014, leaving the parties with no opportunity to respond. Clearly, Public Counsel is presenting an affirmative position which should have been raised in its direct testimony. 4 CSR 240-2.130(7) requires that direct testimony “shall include all testimony and exhibits asserting and explaining that party’s entire case-in-chief.” Surrebuttal testimony “shall be limited to material which is responsive to matters raised in another party’s rebuttal testimony.” 4 CSR 240-2.130(7)(D).

6. Rate Design and Related Issues:

a. How should rates be designed to reflect any change in rates from the outcome of this case?

Liberty’s Position: The Company has not prepared a class cost of service study for this proceeding. As a result, and in accordance with the terms of the Stipulation and Agreement in Case No. GM-2012-0037, it is not proposing to alter the existing rate districts or to alter the existing rate classifications. In addition, it is proposing that the revenue increases to customer classes within the existing rate districts be applied on an across-the-board equal percentage basis to all customer classes and all rate elements. Special contracts are not allocated any of the Company’s proposed revenue increase. (Krygier Direct, pp. 7-9; Krygier Surrebuttal, pp. 2-7)

b. Should the customer charge in the NEMO and WEMO districts of Liberty be decreased from their current levels?

Liberty's Position: No. The Commission should spread the increase in rates on an equal percentage basis to all classes and all rate elements, including the NEMO and WEMO district customer charges. (Krygier Surrebuttal, pp. 3-6)

c. Should Liberty's "foregone delivery charge," which is charged to customers who leave and return to the Liberty system within seven or fewer months, be eliminated?

Liberty's Position: No. The Commission has previously approved this charge, and it should not discontinue its use at this time. (Krygier Surrebuttal, pp. 6-7)

7. Energy Efficiency and Weatherization Program:

a. Should Liberty have an evaluation, measurement and verification (EM&V) performed to determine the cost-effectiveness of an energy efficiency program before making any future expenditures on the program?

Liberty's Position: No. The Commission has previously approved funding for the energy efficiency program, and it should not suspend or discontinue the energy efficiency program at this time. The Company stepped into the shoes of Atmos regarding the Energy Conservation and Efficiency Program ("EE Program") (Krygier Direct, p. 16). The Company believes the EE Program should continue at its existing funding levels at this time.

Public Counsel did not raise this issue until the filing of surrebuttal testimony. As explained in the *Missouri Division of Energy's Motion To Strike Portions Of OPC Witness Geoff Marke's Surrebuttal Testimony And Motion For Expedited Treatment* filed by the Missouri Division of Energy on August 27, 2014, the Public Counsel's surrebuttal testimony is not responsive to rebuttal testimony, and

is therefore inappropriate surrebuttal testimony. In addition, it violates the terms of the *Partial Stipulation And Agreement* that was signed by all parties, including the Public Counsel, and has been approved by the Commission on August 20, 2014. This is not an appropriate issue for resolution by the Commission in this proceeding.

b. Should low income weatherization assistance funding be in addition to the 0.5 percent target funding level for energy efficiency, or should the 0.5 percent target funding level include energy efficiency and low income weatherization assistance programs combined?

Liberty Position: The Company believes that the 0.5 percent target should include both energy efficiency and low income weatherization assistance programs. (Krygier Direct, p. 16)

Respectfully submitted,

/s/ James M. Fischer

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

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

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, First Class mail, postage prepaid, this 3rd day of September, 2014, to all counsel of record in this matter.

/s/ James M. Fischer
