

In the Matter of Liberty’s Application for )  
Accounting Authority Orders Allowing the )  
Electric, Gas, Water, and Wastewater Utilities to ) Case No. \_\_\_\_\_  
Record and Preserve Costs Related to COVID-19 )

herein by reference. A certificate from the Missouri Secretary of State that EDE, a foreign corporation, is authorized to do business in Missouri was filed with the Commission in Case No. EM-2000-369 and is incorporated herein by reference. This information is current and correct.

3. EDG is a corporation organized and existing under the laws of the state of Kansas. EDG is a wholly-owned subsidiary of EDE and provides natural gas utility service throughout a number of Missouri counties. A certified copy of EDG's Certificate of Authority to do business as a foreign corporation evidencing EDG's authority to conduct business in Missouri was submitted in Case No. GO-2006-0205 and is incorporated herein by this reference. The information on such Certificate is currently applicable and correct.

4. Liberty Water is a Missouri limited liability company and provides water and wastewater services to customers in its Missouri service areas, as certificated by the Commission. Liberty Water currently serves approximately 8,000 water and/or wastewater customers in Missouri. A copy of Liberty Water's Certificate of Good Standing was attached as Appendix A to the Joint Application filed in Commission Case No. WM-2018-0023. This document is incorporated by reference and is currently applicable and correct.

5. Midstates is a corporation organized and existing under the laws of the state of Missouri and is primarily engaged in the business of distributing and transporting natural gas to approximately 55,000 customers in the West, Northeast and Southeast portions of Missouri. A Certificate of Good Standing evidencing Midstates' standing to do business in Missouri was attached as Exhibit 1 to the Application filed in Case No. GE-2019-0251. The information on such Certificate is currently applicable and correct.

6. Each Applicant is a "public utility," as defined by RSMo. §386.020 and, therefore, is subject to the general regulatory jurisdiction of the Commission as provided by law.

7. The Applicants have no pending or final unsatisfied judgments or decisions against them, or any of them, from any state or federal agency or court that involve customer service or rates and that have occurred within the three years immediately preceding the filing of this Motion. The Applicants' Annual Reports and assessment fees are not overdue.

**B. Liberty's Crisis Preparedness and Response to COVID-19**

8. Liberty established a cross-functional task force to closely monitor COVID-19 issues and impacts. The task force originally met daily to provide regular updates and discuss developments and conditions within the various service areas. Meetings to provide regular updates and discuss developments continue.

9. Because Liberty's top priority is the health and safety of its employees, its customers, and the communities it serves, a comprehensive plan was enacted in response to the COVID-19 pandemic. The plan presented to employees describes specific details on how to avoid, or at least slow, the spread of the virus. The plan covers the importance of washing hands, social distancing, and the proper use of appropriate PPE. It also includes the cessation of all non-essential travel and the conduction of meetings electronically.

10. Guidelines were developed to support frontline employees on how to mitigate business and health risks - such as the required use of nitrile gloves by Customer Service Representatives when handling cash and increased cleaning processes for high traffic areas. Employees providing essential safety, security, and reliability services were also provided guidance and risk-mitigation support. Additionally, information technology infrastructure was enhanced to ensure adequate bandwidth and support availability for increased offsite workload. The supply chain team continues to monitor and assess the impact of COVID-19 on critical materials.

11. Additionally, Business Continuity Plans were established and refined for all departments (finance, engineering, operations, regulatory, etc.), ensuring that critical services can continue to be provided in the event of widespread illness.

12. Liberty acted quickly in recognizing the impact of the COVID-19 crisis on customers and created a plan to keep employees as safe as possible and continue providing safe and reliable service, while also extending accommodations to customers who may be facing financial difficulties.

13. As of March 16, 2020, for all customers, Liberty had been foregoing the collection of fees related to late payments, had not been disconnecting customers due to nonpayment, had not been sending collection or disconnection notices, and had been working to bring recently disconnected customers back onto the systems.

14. During the COVID-19 emergency, the Applicants have been sending emails and bill messages and making social media posts encouraging customers to continue to pay toward past due balances and encouraging customers to call if they need to make payment arrangements. The Applicants also have been providing customers with energy assistance information, and the credit and collection team has been sending reminder notices to customers with past due balances. The Applicants also contacted the energy assistance agencies, and the Project Help program made changes to program guidelines to allow for more customers to receive assistance from the program during the COVID-19 emergency.

15. Additionally, the Applicants' parent company, Algonquin Power & Utilities Corp., pledged \$500,000 to support communities in their service territories as a result of the COVID-19 emergency, with \$128,000 earmarked for Missouri. For the Applicants, this breaks down to \$60,000 for utility bill assistance by community action agencies, \$45,000 for employee-

selected organizations and charities that support Liberty customers and the communities Liberty serves, and \$23,000 for the customer service representative goodwill program. For this last component, each Missouri customer service/contact center representative was allotted \$250 to credit the bills of customers impacted by the COVID-19 emergency.

16. Beginning July 16, 2020, the Applicants began sending shut-off notices, charging late fees, sending collection notices, and working disconnects. Practices did not return to normal all at once, however. From July 16, 2020, to September 15, 2020, the Applicants used a higher threshold for collection calls and sent two additional reminder letters to customers to give them an additional 60 days to pay or make payment arrangements before a balance was turned over to collections.

17. Additionally, the Applicants continue to work with customers to come current on their utility bills. For residential customers, the Applicants are offering a 12-month payment plan for past due balances. For commercial and industrial customers, the Applicants are offering two options: 33% down and three installments, or 50% down and six installments. If a payment plan is entered into and followed, service will not be disconnected. There will also be no late fees or interest charged if the customer makes payments pursuant to the agreement.

### **C. Motion for Waiver – 60-Day Notice Requirement**

18. Commission Rule 20 CSR 4240-4.017(1) provides that “(a)ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case.” A notice was not filed 60 days prior to the filing of this Application, and, as such, the Applicants seek a waiver of the 60-day notice requirement.

19. Commission Rule 20 CSR 4240-4.017(1)(D) provides that a waiver may be granted for good cause. In this regard, the Applicants declare (as verified) that they have had no

communications with the Office of the Commission (as defined in Commission Rule 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case.

20. Further, it would serve no reasonable purpose to delay the Commission's consideration of Liberty's request for AAOs to permit Liberty's electric, gas, water, and wastewater utilities to accumulate and defer to a regulatory asset for consideration of recovery in future rate case proceedings all extraordinary costs and financial impacts incurred as a result of the COVID-19 pandemic, plus associated carrying costs.

#### **D. Legal Authority and Request for the Issuance of AAOs**

21. The Commission has the power to prescribe methods of accounting under RSMo. §393.140(4) for gas, electric, water, and wastewater utilities, "(e)xamine all persons and corporations under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business" pursuant to §393.140(5), and to order the accounts "in which particular outlays and receipts shall be entered, charged or credited" under §393.140(8).

22. The Commission has recognized that it is appropriate to allow a utility to defer into a regulatory asset those costs that are associated with providing reliable electric service during extraordinary events, such as extreme weather events, and the Commission has authorized Missouri utilities to defer and amortize such extraordinary costs, including carrying charges, that are incurred to deal with the effects of natural disasters.<sup>1</sup>

23. This regulatory treatment allows utilities the opportunity, but not a guarantee, to

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<sup>1</sup> *In re Southern Union Co.*, Report and Order at 26, Commission Case No. GU-2011-0392 (Jan. 25, 2012) (Joplin tornado).

recover prudently incurred costs from customers in a future rate case.<sup>2</sup>

24. In evaluating what actions should be taken regarding unexpected costs incurred as a result of extraordinary and unusual events, the Commission follows its interpretation of the guidance of the Uniform System of Accounts (“USOA”), 18 C.F.R. Part 101.

25. General Instruction 7 of the USOA states that “extraordinary items” relate to the “effects of events ... which have occurred during the current period and which are of unusual nature and infrequent occurrence.” These events must be “of significant effect which are abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the foreseeable future.”

26. Both the Commission and the courts have recognized that it is appropriate for a utility “to book incremental changes in revenues and expenses” to an AAO that were caused by an emergency amendment to the Cold Weather Rule. Such changes can relate to the financial impacts caused by service reconnections or disconnections, or bad debt that would be accounted for as a regulatory asset for consideration by the Commission in a rate case.<sup>3</sup> The Commission and the courts have also recognized that revenues not collected by an electric utility to recover its costs can be an item that may be deferred and considered for later ratemaking where the utility lost its largest customer for 14 months as a result of an ice storm.<sup>4</sup>

27. A number of other states have authorized regulatory assets for utilities to defer impacts related to COVID-19, including Arkansas, Connecticut, Georgia, Illinois, Iowa, Kansas, Louisiana, Maryland, Mississippi, Nevada, Oklahoma, Texas, and Virginia. The Maryland Commission stated:

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<sup>2</sup> *Missouri Gas Energy v. PSC*, 978 S.W.2d 434, 437 (Mo. App. W.D. 1998).

<sup>3</sup> *State ex rel. Mo. Gas Energy v. PSC*, 210 S.W.3d 330, pp. 333, 335-36 (Mo. App. W.D. 2006).

<sup>4</sup> *In re Union Elec. Co.*, Report and Order at 3- 4, Commission Case No. EU-2012-0027 (Nov. 26, 2013); *State ex rel. Union Elec. Co. v. PSC*, 399 S.W.3d 467, 489 (Mo. App. 2013).

. . . in light of the extraordinary circumstances and in an effort to minimize adverse financial impacts to Maryland Utilities, the Commission authorizes each Utility to create a regulatory asset to record the incremental costs related to COVID-19 prudently incurred beginning on March 16, 2020, by the Utility to ensure that Maryland residents have essential utility services during this period. The Commission finds that the creation of the regulatory asset for COVID-19-related expenses will facilitate the recovery of those costs prudently incurred by the Utilities in their efforts to serve customers during this period, and the Commission finds that deferral of such costs is appropriate because the current catastrophic health emergency is outside the control of the Utility and a nonrecurring event. Such incremental costs shall also include any assistance or benefit received by the Utilities in connection with COVID-19, regardless of form, that would offset any COVID-19- related expenses.<sup>5</sup>

28. The Federal Energy Regulatory Commission (“FERC”) has also recognized the substantial financial impact the COVID-19 pandemic is having on utilities and the fact that “the reliability and security of our Nation’s vital energy infrastructure” are “critical to meeting the energy requirements essential to the American people.” FERC committed to expeditiously process any requests for cost recovery.<sup>6</sup>

29. The circumstances that exist in conjunction with the COVID-19 pandemic satisfy the Commission’s standard for approval of an AAO. As FERC and multiple other state commissions have recognized, the existence of such a public health emergency is an extraordinary event that is outside a utility’s control and will have substantial financial impacts on utilities, including the Applicants.

30. The COVID-19 pandemic has caused Liberty to incur extraordinary costs that are not currently included in base rates, and those extraordinary costs will continue to be incurred for an undetermined period of time into the future. It is thus appropriate for the Commission to authorize Liberty’s electric, gas, water, and wastewater utilities to accumulate and defer the

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<sup>5</sup> *In re State of Emergency and Public Health Emergency in the State of Maryland due to COVID-19*, Case No. 9639, Order Authorizing Establishment of a Regulatory Asset for COVID-19 related Incremental Costs, pp. 2-3 (Md. P.S.C., Apr. 9, 2020).

<sup>6</sup> Business Continuity of Energy Infrastructure, Statement of Policy, 171 FERC ¶ 61,007 (Apr. 2, 2020).



increased costs and lost revenues they are experiencing that otherwise would not be collected from customers. However, where Liberty experiences reductions in costs as a result of COVID-19 that are not automatically passed on to customers, Liberty will track those amounts as a reduction to the totals tracked and deferred in the regulatory asset established.

31. It is appropriate to defer lost revenues in this instance, given the extraordinary circumstances that exist as a result of the COVID-19 pandemic, including the government-ordered shut-down of businesses and the substantial financial impact the pandemic is having and is expected to have over an unknown period of time on the utility sector. The lack of substantial Commission precedent for the deferral of lost revenues does not negate the financial impact on the utility sector stemming from these extraordinary circumstances and the essential nature of utility services.

32. Given the foregoing, Liberty requests AAOs permitting EDE, EDG, Liberty Water, and Midstates to identify, track, document, accumulate, and defer in a regulatory asset from March 1, 2020 forward: (1) each utility's actual reasonable and prudently incurred costs related to the COVID-19 pandemic, including but not limited to new or incremental operating and maintenance expense related to protecting employees and customers, increased bad debt expense to the extent they exceed levels included in the cost of service, costs related to preparing for and any actual sequestration of employees, and costs related to new assistance programs implemented to aid customers with payment of utility bills during the pandemic; (2) lost revenues related to the COVID-19 pandemic; (3) less costs avoided related to COVID-19; and 4) carrying costs.

33. The items requested for inclusion will be tracked and deferred for consideration by the Commission for rate recovery in subsequent general rate cases. Carrying costs will be

calculated using each Applicant's respective cost of capital, exclusive of related taxes, as determined in its most recent rate case.

34. It is unknown at this time how long the extraordinary impacts associated with COVID-19 will continue, and, therefore, Liberty agrees to track all specific expenses and financial impacts, including revenue degradation, included in each Applicant's regulatory asset, and to retain all appropriate documents supporting those calculations for the Commission's consideration in subsequent general rate cases. Liberty will also track all offsets to the cost increases and will reduce the amount of each regulatory asset by any cost reductions. Such offsets may include reduction in travel costs, reduction in electricity and other costs at Liberty offices, and any related increase in residential revenues that occurs as a result of more people working from home.

35. Liberty further agrees to file an annual report, with the first report filed no later than May 1, 2021, and no later than May 1 for each succeeding year until each of the Applicant's next respective general rate case filings, setting forth its costs incurred and revenues lost relating to COVID-19 during the preceding calendar year.

36. In future rate cases, the Commission and other stakeholders will have a full opportunity to review COVID-19 expenses and lost revenues for prudence and accuracy, as well as to consider other issues such as the appropriate form and time of recovery (i.e., amortization period) for the approved amount of regulatory assets.

37. Liberty requests that the Commission expeditiously set an intervention period and schedule a procedural conference to allow the parties an opportunity to discuss whether the requests in this Application may be resolved by agreement and whether a procedural schedule is needed, as Liberty seeks an expedited order of the Commission to allow the requested deferrals

to be reflected on Liberty's 2020 books.

WHEREFORE, Liberty requests an order of the Commission waiving the 60-day notice requirement of Rule 4.017(1) and granting the requested authority to track and defer in regulatory assets all incremental costs and other financial impacts specifically including lost revenues related to the COVID-19 pandemic.

/s/ Diana C. Carter  
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### **VERIFICATION**

On behalf of the Applicants, The Empire District Electric Company, The Empire District Gas Company, Liberty Utilities (Missouri Water) LLC, and Liberty Utilities (Midstates Natural Gas) Corp., and pursuant to Commission Rule 20 CSR 4240-2.060(1)(M), the undersigned, upon her oath and under penalty of perjury, hereby states that the above COVID-19 AAO Application is true and correct to the best of her information, knowledge, and belief.

/s/ Sheri Richard  
Sheri Richard  
Director of Rates and Regulatory Affairs  
Liberty Utilities Central Region

### **CERTIFICATE OF SERVICE**

I hereby certify that the above document was filed in EFIS on this 17<sup>th</sup> day of September, 2020, and electronically delivered to the Staff of the Commission and the Office of the Public Counsel.

/s/ Diana C. Carter