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MISSOURI PUBLIC SERVICE COMMISSION

COMMISSION STAFF DIVISION

AUDITING DEPARTMENT

REBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

**LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.,
d/b/a LIBERTY UTILITIES**

CASE NO. GR-2018-0013

Jefferson City, Missouri
April 2018

1 **REBUTTAL TESTIMONY**

2 **OF**

3 **MARK L. OLIGSCHLAEGER**

4 **LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP.,**

5 **d/b/a LIBERTY UTILITIES**

6 **CASE NO. GR-2018-0013**

7 Q. Please state your name and business address.

8 A. Mark L. Oligschlaeger, P.O. Box 360, Suite 440, Jefferson City, MO 65102.

9 Q. Please describe your educational background and work experience.

10 A. I attended Rockhurst College in Kansas City, Missouri, and received a
11 Bachelor of Science degree in Business Administration, with a major in Accounting, in 1981.
12 I have been employed by the Missouri Public Service Commission (“Commission”) since
13 September 1981, within the Auditing Department.

14 Q. What is your current position with the Commission?

15 A. In April 2011, I assumed the position of Manager of the Auditing Department
16 within the Commission Staff Division.

17 Q. Are you a Certified Public Accountant (CPA)?

18 A. Yes, I am. In November 1981, I passed the Uniform Certified Public
19 Accountant examination and, since February 1989, have been licensed in the state of Missouri
20 as a CPA.

21 Q. Have you previously filed testimony before this Commission?

22 A. Yes, numerous times. A listing of the cases in which I have previously filed
23 testimony before this Commission, and the issues I have addressed in testimony in cases from
24 1990 to current, is attached as Schedule MLO-r1 to this rebuttal testimony.

1 Q. What knowledge, skills, experience, training, and education do you have in the
2 areas of which you are testifying as an expert witness?

3 A. I have been employed by this Commission as a Regulatory Auditor for
4 approximately 36 years and have submitted testimony on ratemaking matters numerous times
5 before the Commission. I have also been responsible for the supervision of other Commission
6 employees in rate cases and other regulatory proceedings many times. I have received
7 continuous training at in-house and outside seminars on technical ratemaking matters since
8 I began my employment at the Commission.

9 Q. Have you participated in the Commission Staff's ("Staff") review of the
10 application filed by Liberty Midstates - MO in Case No. GR-2018-0013 to increase its
11 customer rates?

12 A. Yes, I have, with the assistance of other members of Staff.

13 **EXECUTIVE SUMMARY**

14 Q. Please summarize your rebuttal testimony in this proceeding.

15 A. In this testimony, I address from a policy perspective the proposals discussed
16 by Liberty Midstates - MO witnesses Robert B. Hevert and Timothy S. Lyons in their direct
17 testimonies seeking authorization to implement certain special regulatory mechanisms, called
18 "trackers," to account for plant-in-service additions, property tax expense, bad debt expense,
19 and vegetation management/right of way expenses. Regarding each proposed tracker, the
20 Staff recommends that the Company's request be denied.

1 **TRACKER PROPOSALS**

2 Q. What is a “tracker”?

3 A. The term “tracker” refers to rate mechanisms under which the amount of
4 a particular cost of service item actually incurred by a utility is “tracked” and compared to
5 the amount of that item currently included in a utility’s rate levels. Any over-recovery or
6 under-recovery of the item in rates compared to the actual expenditures made by a utility
7 is then booked to a regulatory asset or regulatory liability account, and would be eligible to
8 be included in the utility’s rates set in its next general rate proceeding through an amortization
9 to expense.

10 Q. Should use of trackers be a common occurrence in Missouri rate regulation
11 of utilities?

12 A. No. Rates are normally set in Missouri to allow a utility an opportunity to
13 recover its cost of service, measured as a whole, on an ongoing basis from the utility’s
14 customers. However, under this approach, neither utilities nor utility customers are allowed
15 to be reimbursed through the rate case process for any prior under- or over-recovery of costs
16 experienced by the utility in rates, either measured for its cost of service as a whole or for
17 individual cost of service components. For this reason, use of trackers in order to provide
18 reimbursement in rates to utilities or customers of any over- or under-recovery of individual
19 rate component items is rare and should be dependent on unique and unusual circumstances.

20 Q. Under what criteria might Staff consider the use of trackers to be justified?

21 A. Use of trackers may be justified under the following circumstances: (1) when
22 the applicable costs demonstrate significant fluctuation and up-and-down volatility over time,
23 and for which accurate estimation is difficult; (2) new costs for which there is little or

1 no historical experience, and for which accurate estimation is accordingly difficult; and
2 (3) costs imposed upon utilities by newly promulgated Commission rule. In addition, the
3 costs should be material in amount.

4 Q. Why are trackers sometimes justified by significantly fluctuating and
5 volatile costs?

6 A. If a utility's cost levels for a particular rate item over time demonstrate
7 significant up-and-down volatility, it can be appropriate to implement a tracker mechanism
8 for this type of item to reduce the amount of risk associated with a material inaccuracy in
9 estimating the particular cost for purposes of setting the utility's rates.

10 Q. What is an example of a Commission authorized tracker for a volatile cost?

11 A. All major utilities operating in Missouri, including Liberty, have tracker
12 mechanisms in place, at the present time, for their pension and other post-employment benefit
13 (OPEB) expenses. (The term "OPEBs" generally refers to retiree medical benefits.)
14 Annual pension and OPEB expense amounts have at times been subject to significant annual
15 volatility, primarily because pension and OPEB funding amounts are impacted by investment
16 outcomes in equity and debt markets that, of course, can swing upward or downward based
17 upon trends in the general economy.

18 Q. Are there other unusual aspects to pension and OPEB expense that justify
19 using tracking mechanisms?

20 A. Yes. In Missouri, utilities place amounts intended for later payment to retired
21 employees for pensions and OPEBs into external trust funds to help ensure that such funds are

1 available when due to utility employees.¹ It is good policy for utilities to keep as current as
2 possible on funding of pension and OPEB amounts. In this respect, authorizing tracker
3 mechanisms for these expense items encourages utilities to stay current on pension and OPEB
4 funding levels, by ensuring that utilities are ultimately made whole for their contributions,
5 even in the event such contributions exceed the amount of pension and OPEB expense
6 allowances currently included in their rate levels. Of course, if pension or funding amounts
7 turn out to be less than the amounts for these items currently included in a utility's rate level,
8 the use of trackers also ensures that the funding/rate differential would ultimately be flowed
9 back to its customers.

10 Q. Are there other instances where trackers may be justified?

11 A. In rare circumstances, utilities will incur significant new expenses for which
12 they have little or no history to aid in determining an appropriate ongoing level for these
13 expenses for setting rates. In those circumstances, it may be appropriate to authorize a tracker
14 to protect both the utility and its customers from over- or under-recovery in rates of these
15 expenses due to erroneous estimates.

16 Q. Has Staff agreed to use of trackers for this reason?

17 A. Yes. When the Iatan II generating station went into service in 2010, given the
18 lack of prior history for this plant's O&M expenses Staff agreed to a tracker applicable to
19 these expenses for the co-owners of this unit (KCPL; its affiliate, GMO; and Empire District
20 Electric). However, Staff only intended to agree to this tracker for the initial years of
21 operation of the Iatan II unit, until such time that an adequate history of the unit's O&M

¹ Federal law requires prefunding of pension amounts. In Missouri, under state law utilities must prefund OPEB amounts in order to be eligible for rate recovery of this item on an accrual basis in advance of actual payment to retirees.

1 expenses existed. This tracker was discontinued for all these utilities in subsequent general
2 rate proceedings.

3 Q. Are there any other instances where the Commission has used trackers?

4 A. In some circumstances, the Commission has established, within the rules it
5 promulgates, provisions for tracking and recovery of incremental costs caused by utility
6 compliance with new rules. This was the case with the Commission rules requiring electric
7 utilities to take certain actions regarding vegetation management and infrastructure inspection
8 activities, which became effective in 2008.

9 Q. Are cost deferrals resulting from use of trackers any different from cost
10 deferrals resulting from use of accounting authority orders?

11 A. Yes. In Missouri, when someone refers to an “accounting authority order,”
12 also known as an AAO, it is understood that person is referring to a Commission order that
13 allows a utility to defer certain costs on its balance sheet, for potential recovery of the
14 deferred costs in rates through amortizations to expense in general rate proceedings. This is
15 similar to how deferrals resulting from trackers may be treated in general rate proceedings.
16 However, the nature of the costs to which AAOs are normally granted, and the nature of the
17 costs to which tracking treatment is normally granted, are quite different.

18 Q. Would you explain the major differences in how AAOs and trackers have been
19 used in Missouri?

20 A. Typically, AAOs have been used to allow utilities to capture certain
21 unanticipated and “extraordinary” costs that are not considered to be included in their ongoing
22 rate levels. The term “extraordinary costs” has been defined as costs associated with an event
23 that is unusual, unique, and non-recurring in nature. The classic example of an extraordinary

1 event is the occurrence of a natural disaster, such as a wind or ice storm, or major flood that
2 affects a utility's service territory.

3 In contrast, trackers have been used in Missouri to track certain costs that are ongoing
4 to a utility, and for which some allowance has been built into the company's existing rate
5 levels. For this reason, while costs subject to trackers exhibit some highly unusual or unique
6 attributes which justify the use of a tracker, these costs are not "extraordinary" in the sense
7 that this term is commonly applied to costs covered by AAOs.

8 Q. Why would widespread use of trackers in setting utility rates not be in the
9 public interest?

10 A. There are at least two reasons. First, excessive use of trackers would tend to
11 unreasonably skew ratemaking results either in favor of the utility or in favor of its customers.
12 Secondly, broad use of trackers would inevitably dull the incentives a utility has to operate
13 efficiently and productively under the rate regulation approach employed in Missouri.

14 Q. Why would the widespread use of trackers tend to unreasonably skew the
15 ratemaking results for a utility?

16 A. With certain exceptions, the policy in Missouri has been to set a utility's rates
17 based upon measurement of "all relevant factors," taking into account levels of revenues,
18 expenses, rate base, and rate of return that are calculated at or about the same point in time.
19 Use of an "all relevant factors" approach is necessary in order to ensure that a utility's
20 rate levels are based upon an accurate measurement of its cost of service at a particular point
21 in time.

22 When trackers are used as part of setting rates, certain cost factors inevitably receive
23 different and inconsistent treatment compared to other cost factors. For example, if a utility

1 tracks expenses that tend to increase in amount over time, but does not track cost of service
2 factors that may reduce its cost of service (factors such as revenue growth, or increases in the
3 rate base offsets for accumulated depreciation or deferred taxes), the utility will have the
4 potential of receiving retroactive dollar-for-dollar recovery of certain cost increases in its
5 customer rates through the operation of its trackers, while pocketing for itself any beneficial
6 changes in other cost of service components that occur over the same period. In this manner,
7 inappropriate use of trackers can lead to skewed and unfair ratemaking results.

8 Q. How do trackers affect a utility's incentives to operate efficiently?

9 A. An inevitable byproduct of the Missouri ratemaking approach is
10 "regulatory lag." "Regulatory lag" is simply the passage of time between when a utility
11 experiences a change in its cost of service, and when that change is reflected in its rate levels.
12 While the utilities often portray regulatory lag as a phenomenon that is entirely negative or
13 harmful, the existence of regulatory lag does provide utilities with incentive to be as efficient
14 and cost-effective over time as they can. Excessive use of trackers can serve to eliminate or
15 weaken these beneficial incentives.

16 Q. Would you explain your point further?

17 A. The operation of regulatory lag as part of the normal ratemaking process
18 exposes a utility to the prospect of lower earnings if its cost of service increases between
19 general rate proceedings, but it also allows the utility to experience higher earnings after a
20 general rate proceeding, if it is able to reduce its cost of service. The use of trackers would
21 damage this "penalty/reward" aspect of current Missouri ratemaking policy, if applied to
22 normal and ongoing utility costs. A company that experiences an increase in an expense that
23 is being tracked will experience no reduction in earnings related to that increased cost

1 (because the cost increase will be captured on its balance sheet and not on its income
2 statement) and, therefore, will have less incentive to attempt to minimize any such cost
3 increase. On the other hand, a company that experiences a reduction in an expense that is
4 being tracked will experience no increase to its ongoing earnings levels as a result of the
5 decreased cost (again, because the cost decrease will be captured on its balance sheet and not
6 on its income statement). Therefore, the utility would have less incentive to attempt to
7 produce the lower cost levels in the first place.

8 Q. For what cost of service items is Liberty Midstates - MO seeking authority to
9 implement new tracking mechanisms?

10 A. In this rate case, Liberty Midstates - MO is seeking authority to implement
11 trackers for costs associated with most plant in service additions, property tax expense, bad
12 debt expense and vegetation management/right-of-way expenses. I will separately address
13 each of these requests, and explain why they do not meet appropriate criteria for when to use
14 a tracker.

15 Q. Please describe Liberty Midstates - MO's proposed Capital Reliability tracker,
16 or "CR tracker."

17 A. Authorization of the CR tracker would enable Liberty Midstates - MO to defer
18 on its books all depreciation expense associated with production, transmission, and
19 distribution plant additions that have yet to be included in the utility's rate base in a general
20 rate proceeding, as well as accrue a carrying charge on the cost of the plant additions set equal
21 to Liberty Midstates - MO's weighted average cost of capital until such point as the additions
22 are included in utility rate base. Liberty Midstates - MO would have the opportunity to
23 recover these deferred costs through an amortization in subsequent general rate cases.

1 Q. What benefit would Liberty Midstates - MO receive from operation of the
2 CR tracker?

3 A. If implemented, the CR tracker would essentially guarantee that
4 Liberty Midstates - MO would not suffer any earnings detriment associated with most
5 ongoing plant additions.

6 Q. Does a utility automatically suffer an earnings detriment when it continually
7 adds plant to its system between general rate cases, due to unrecovered depreciation expense
8 and return associated with the new plant?

9 A. No, from several perspectives.

10 First, many types of operational and financial events continually affect a utility's
11 earnings. Total revenues may be increasing or decreasing, total expenses may be increasing
12 or decreasing, rate base may be increasing or decreasing, and the required cost of capital value
13 may be increasing or decreasing. While in isolation the addition of new plant will serve to
14 reduce a utility's earnings due to depreciation and return impacts, whether a utility's return is
15 actually increasing, decreasing, or stable on an overall basis depends on current trends in a
16 utility's revenues, expenses, cost of capital, and other rate base items in addition to the
17 specific impact of new plant on earnings. For this reason, a mechanism such as the
18 CR tracker that is intended to "protect" a utility's earnings from changes in one aspect of its
19 operations, but that does not take into account other possible concurrent changes in other
20 aspects, is not appropriate absent unusual or extraordinary circumstances.

21 Second, the structure of the CR tracker is not appropriate even if one takes into
22 account only changes in utility rate base when assessing its use. While utilities continually
23 add new plant to their systems, thus increasing rate base, the companies are also charging

1 increasing amounts to their accumulated depreciation reserves on an ongoing basis to record
2 recovery in rates of depreciation expense associated with existing utility plant. Increases in
3 the accumulated depreciation reserve balance reduces utility rate base. Also, utilities
4 continually charge increasing amounts to their accumulated deferred income tax reserves
5 associated with tax benefits tied to new plant additions. Increases in the accumulated
6 deferred income tax reserve reduce utility rate base as well. For these reasons, there is no
7 reason to assume that new plant additions will necessarily result in an increasing rate base or
8 increasing revenue requirement on an overall basis when all potential changes to rate base and
9 revenue requirement are properly considered.

10 Q. If the CR tracker or a similar mechanism were to be adopted, would it be
11 appropriate to offset Liberty Midstates - MO's new plant addition costs with concurrent
12 increases in its accumulated depreciation reserve and accumulated deferred income tax
13 reserve, at a minimum, in calculating CR tracker deferrals?

14 A. Yes.

15 Q. Is Liberty Midstates - MO proposing use of the depreciation reserve and
16 deferred tax offsets in calculating its CR tracker deferrals?

17 A. In response to Staff Data Request No. 327, Liberty Midstates – MO states
18 an intent to offset the deferrals relating to qualifying plant additions with growth in the
19 depreciation and deferred tax reserves associated with plant that was previously reflected in
20 the current CR tracker.

21 Q. Is this adequate from Staff's perspective?

22 A. No. Staff's position is that, if a utility's proposes to defer the financial impacts
23 of all or almost all plant additions, such deferrals should be calculated using offsets of all of

1 the growth in a utility's depreciation and deferred tax reserves, taking into account both new
2 plant additions made since the utility's last general rate proceeding and plant included in rate
3 base in prior rate cases. To do otherwise would essentially give special earnings protection to
4 utilities for isolated rate base increases due to plant additions while ignoring concurrent rate
5 base decreases due to growth in the depreciation and deferred tax reserves.

6 Q. Would it ever be an acceptable practice to allow a utility to defer the costs
7 associated with new plant additions?

8 A. Yes. In the past, the Staff has supported, and the Commission has adopted,
9 proposals to allow utilities to use "construction accounting" (deferral of depreciation expense
10 and return) in regard to certain very large and extraordinary plant additions once the plant was
11 in service and prior to the utility's next general rate proceeding. In most of the instances in
12 which use of construction accounting was approved, the new plant in question consisted of
13 major generating additions for electric utilities. However, Staff's past agreements to
14 recommend use of construction accounting were made on a very limited basis, in contrast to
15 Liberty Midstates - MO's request in this case for blanket authority to receive deferral
16 treatment on almost all normal and ongoing plant additions.

17 Q. Does Liberty Midstates - MO already possess the ability to use special
18 ratemaking mechanisms to recover costs associated with some new plant additions?

19 A. Yes, Liberty Midstates - MO can use and has used the Infrastructure System
20 Replacement Surcharge (ISRS) mechanism to obtain accelerated single-issue rate recovery of
21 the costs of qualifying new plant additions outside of general rate proceedings.

22 Q. How would the existing ISRS rate mechanism work in relation to the proposed
23 CR tracker?

1 A. That is not clear. Based on Liberty Midstates - MO's direct testimony, it
2 appears that all of the plant additions that currently qualify for ISRS treatment would also be
3 eligible for inclusion in the CR tracker. It is not clear whether Liberty Midstates - MO would
4 continue to use the ISRS mechanism if it receives authorization to implement the CR tracker.
5 In any event, Staff's position is that the existence of the ISRS mechanism makes the
6 CR tracker superfluous. In other words, there is no apparent justification for a utility to have
7 the simultaneous ability to protect its earnings by deferring all costs associated with new plant
8 additions and still obtain accelerated rate recovery of a significant portion of those
9 new additions.

10 Q. Is the CR tracker comparable in purpose and scope to the type of tracker
11 mechanisms authorized in Missouri in the past?

12 A. No. As previously discussed, Staff's consistent position has been that trackers
13 should only be authorized on a very limited basis, when certain strict criteria are met.
14 Adoption of proposals to track and defer all or almost all costs associated with new plant
15 additions, a major and ongoing potential driver of utility revenue requirements, would be an
16 unprecedented escalation of use of these devices in this jurisdiction.

17 Q. Has a similar proposal to Liberty Midstates - MO's CR tracker ever been
18 previously made to the Commission?

19 A. Yes. In Case No. ER-2012-0166, Ameren Missouri proposed that it be
20 allowed to use "plant in service accounting" for most of its new plant additions, which is
21 identical in concept to the accounting treatment sought by Liberty Midstates -MO in this case
22 through the CR tracker. In that case, the Commission denied Ameren Missouri's request to
23 use plant in service accounting to defer depreciation and return associated with new plant

1 additions for a number of reasons, stating that it considered such an approach to be
2 “bad public policy.”

3 Q. Is it generally appropriate to track property taxes?

4 A. No. All major utilities incur property taxes on a routine annual basis, as an
5 ongoing cost of service item. In the last 30 years, they have been a component of utility cost
6 of service in all general rate cases in which I have been involved. Utilities incur these costs
7 according to a regular schedule and a set process in which they are intimately familiar.
8 Moreover, increases in property tax expense incurred by utilities are usually associated with
9 increases to their plant-in-service balances included in rate base, and can be planned for
10 inclusion in rates in the same manner that other revenue requirement changes associated with
11 plant additions are included.

12 Q. What has been Liberty Midstates - MO's recent experience with property
13 taxes?

14 A. The following are the amounts of property taxes paid by Liberty Midstates -
15 MO in the last four years:

| | | |
|----|------|-------------|
| 16 | 2014 | \$1,132,000 |
| 17 | 2015 | \$1,389,000 |
| 18 | 2016 | \$1,491,000 |
| 19 | 2017 | \$1,666,000 |

20 Q. Has the amount of property taxes paid by Liberty Midstates - MO in recent
21 years been highly volatile?

22 A. No. The totals provided above do show a steady increase in recent years for
23 this expense. However, the fact that a cost may be increasing over time is not a sufficient

1 reason for the use of extraordinary ratemaking measures such as use of trackers absent other
2 unusual circumstances.

3 Q. Are property taxes a “new cost” to Liberty Midstates - MO?

4 A. No.

5 Q. Are the amounts of property taxes paid by Liberty Midstates - MO in recent
6 years a result of new Commission rulemakings?

7 A. No.

8 Q. Liberty Midstates - MO witness Hevert states at page 23, line 13 of his direct
9 testimony that the company has no control over property taxes. Does Staff have a response to
10 this claim?

11 A. Yes. A cost being partially or totally out of a utility’s direct control is not a
12 sufficient justification to track a particular cost. In any event, Liberty Midstates - MO
13 under-emphasizes its ability to take steps to control the level of the property taxes it pays over
14 time. I am aware of at least two utilities that have appealed property tax assessments,
15 and achieved reductions in the amount of property taxes paid as a result. These two utilities
16 are Missouri Gas Energy (rate treatment of property tax refunds at issue in Case No.
17 GR-2006-0422), and Union Electric Company d/b/a Ameren Missouri (rate treatment of
18 property tax refunds at issue in Case No. ER-2012-0166). In addition, Staff is aware that
19 Ameren Missouri is currently in the process of appealing some of its property tax assessments
20 related to its natural gas business, and has prevailed in at least some of these appeals to date.

21 It is hard to imagine why a utility that received authority to track property tax expense
22 amounts would choose to undergo the work and expense of appealing property tax increases

1 when the operation of the tracker would insulate it from financial harm associated with the
2 increase in the first place.

3 Q. Has the Commission ever approved use of a tracker for property tax expense
4 on a global basis in the past?

5 A. No. In fact, the Commission specifically rejected KCPL's request for a
6 property tax tracker in Case No. ER-2014-0370.

7 Q. Is it generally appropriate to track bad debt expenses?

8 A. No. Bad debt expense is incurred on a routine basis both by regulated utilities
9 and competitive companies. There is nothing unusual or extraordinary in nature about bad
10 debt expense in concept, and Liberty Midstates - MO has not pointed to anything in its direct
11 testimony that makes its incurrence of bad debt expense unusual or extraordinary.

12 Q. What has been Liberty Midstates - MO's recent experience with bad debt
13 expense?

14 A. The following are the amounts of bad debt expense incurred by Liberty
15 Midstates - MO in the last three years:

| | | |
|----|------|-----------|
| 16 | 2015 | \$920,000 |
| 17 | 2016 | \$379,000 |
| 18 | 2017 | \$161,000 |

19 Q. Has the amount of bad debt expense incurred by Liberty Midstates - MO in
20 recent years been highly volatile?

21 A. No. The totals presented above do show a sharp decline in this expense
22 over the past three years. Staff is aware that one reason for this trend is that Liberty
23 Midstates - MO has changed its bad debt write-off policy during this period.

1 Q. Is bad debt expense a “new cost” to Liberty Midstates - MO?

2 A. No.

3 Q. Is the amount of bad debt expense incurred by Liberty Midstates - MO in
4 recent years a result of new Commission rulemakings?

5 A. No.

6 Q. Is the amount of bad debt expense incurred by Liberty Midstates - MO
7 currently material?

8 A. No. The amount of bad debts charged off by Liberty Midstates – MO in
9 calendar year 2017 constitutes approximately 1.4% of the total adjusted O&M expenses
10 included in Staff’s direct recommended revenue requirement.

11 Q. Have other Missouri utilities made requests in the past to track and defer bad
12 debt expense on a global basis?

13 A. No.

14 Q. Is it generally appropriate to track vegetation management/right of way
15 expenses?

16 A. No. These types of expense are incurred on a routine basis by regulated
17 utilities. There is nothing unusual or extraordinary in nature about utility vegetation
18 management/right of way expense in concept, and Liberty Midstates - MO has not pointed
19 to anything in its direct testimony that makes its incurrence of these expenses unusual
20 or extraordinary.

21 Q. What has been Liberty Midstates - MO's recent experience with vegetation
22 management/right of way expense?

1 A. The following are the amounts of vegetation management/right of way expense
2 incurred by Liberty Midstates - MO in the last five years:

| | | |
|---|------|----------|
| 3 | 2014 | \$25,000 |
| 4 | 2015 | \$21,000 |
| 5 | 2016 | \$ 4,000 |
| 6 | 2017 | \$46,000 |

7 Q. Has the amount of vegetation management/right of way expense incurred by
8 Liberty Midstates - MO in recent years been highly volatile?

9 A. It is possible that the fluctuation in the annual totals shown above could be
10 characterized as “volatile.” However, these amounts cannot be considered to be material to
11 Liberty Midstates - MO. The amount of vegetation management/right of way expense
12 charged against income by Liberty Midstates - MO in calendar year 2017 constitutes
13 approximately 0.4% of its total adjusted O&M expenses included in Staff’s direct
14 recommended revenue requirement.

15 Q. Are vegetation management/right of way expenses a “new cost” to Liberty
16 Midstates - MO?

17 A. No.

18 Q. Is the amount of vegetation management/right of way expense incurred by
19 Liberty Midstates - MO in recent years a result of new Commission rulemakings?

20 A. No.

21 Q. Have other Missouri utilities made requests in the past to track and defer
22 vegetation management/right of way expenses?

1 A. Yes. As previously discussed, the Commission allowed electric utilities to
2 defer certain incremental vegetation management expenses associated with implementation of
3 new Commission rules approximately ten years ago. These particular utilities have either
4 agreed to or were ordered to cease tracking these expenses since that time.

5 Staff did stipulate to use of a tracker for Empire District Gas for vegetation
6 management/right of way costs in that utility's 2009 general rate case. However, this tracker
7 was agreed to because of some highly unusual circumstances pertinent to Empire District Gas
8 at the time that are not relevant to Liberty Midstates – MO.

9 Q. What is your understanding of the underlying reason for why Liberty
10 Midstates - MO is requesting trackers in this proceeding?

11 A. Based upon Liberty Midstates - MO's direct testimony filed in this proceeding,
12 it appears that these tracker requests are premised upon claims that the current Missouri
13 ratemaking process does not provide Liberty Midstates - MO with a realistic opportunity to
14 actually earn at or near the authorized return set by the Commission without approval of these
15 tracker requests.

16 Q. Are general concerns regarding the nature of the Missouri ratemaking process
17 relevant when considering whether to authorize trackers?

18 A. In Staff's opinion, no. As I previously testified, any request to track individual
19 cost of service items should be considered on the basis of whether there are highly unusual
20 considerations present that would make this type of special accounting treatment justified.
21 Generic complaints regarding the current Missouri rate process are not an adequate
22 justification.

1 Q. What evidence does Liberty Midstates - MO put forth in direct testimony to
2 buttress its claims of consistent under-earning?

3 A. At page 11 of Mr. Hevert's direct testimony, he presents earnings results for
4 recent years based upon a comparison of net operating income amounts to net plant balances.
5 These results purport to show that Liberty Midstates - MO has not earned close to its
6 authorized return during this period.

7 Q. Are these earnings results meaningful?

8 A. No. Mr. Hevert's earnings totals are based upon a comparison of
9 Liberty Midstates - MO's annual net operating income amounts to its net plant values
10 (i.e., gross plant less accumulated depreciation). However, utility earnings are appropriately
11 measured by comparing actual net operating income results to utility total rate base. Net plant
12 in service is normally the largest component of utility rate base, but rate base also consists of
13 many other elements of net utility investment that can be materially significant when
14 considered individually and in total. In particular, Mr. Hevert's omission of consideration of
15 Liberty Midstates - MO's accumulated deferred income tax balance, a reduction to rate base,
16 from his analysis means that the earnings results presented in his testimony are materially
17 understated for all years depicted.

18 Q. Has Staff been able to restate Liberty Midstates - MO's annual earnings
19 to incorporate, at a minimum, the impact of accumulated deferred income tax balances on
20 the calculations?

21 A. No. Liberty Midstates - MO's annual reports to the Commission do not reflect
22 any ongoing balances for accumulated deferred income tax reserve. Since Liberty Midstates
23 - MO's customers have and are providing recovery of deferred income taxes in rates, the

Rebuttal Testimony of
Mark L. Oligschlaeger

1 failure of Liberty Midstates – MO to properly account for these recoveries in a normal fashion

2 is a concern to Staff.

3 Q. Does this conclude your rebuttal testimony?

4 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

AFFIDAVIT OF MARK L. OLIGSCHLAEGER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW MARK L. OLIGSCHLAEGER and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing Rebuttal Testimony and that the same is true and correct according to his best knowledge and belief.

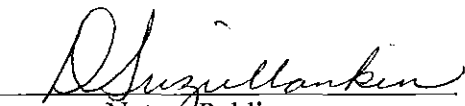
Further the Affiant sayeth not.


MARK L. OLIGSCHLAEGER

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 12th day of April 2018.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: December 12, 2020
Commission Number: 12412070


Notary Public

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

| Company Name | Case Number | Issues |
|--|-------------------------------------|--|
| Empire District, a Liberty Utilities Company | EO-2018-0092 | Rebuttal: Asbury Regulatory Asset; Affiliate Transaction Variance |
| Missouri-American Water Company | WR-2017-0285 | Direct: Future Test Year Rebuttal: Future Test Year; New Tax Legislation Surrebuttal: Future Test Year; Tax Cuts and Jobs Act |
| Spire Missouri, Inc., d/b/a Spire (Laclede Gas Company / Missouri Gas Energy) | GR-2017-0215 and GR-2017-0216 | Rebuttal: Tracker Proposals; Other Policy Proposals; Software Costs |
| Missouri-American Water Company | WU-2017-0351 | Rebuttal: Property Tax AAO Surrebuttal: Property Tax AAO |
| Missouri Gas Energy and Laclede Gas Company | GO-2016-0332 and GO-2016-0333 | Rebuttal: ISRS Updates; Capitalized Incentive Compensation; Hydrostatic Testing |
| Kansas City Power & Light Company | ER-2016-0285 | Rebuttal: Tracker Proposals; Use of Projected Expenses; Expense Trackers in Rate Base |
| Laclede Gas Company and Missouri Gas Energy | GO-2016-0196 and GO-2016-0197 | Rebuttal: ISRS True-ups |
| Union Electric Company d/b/a Ameren Missouri | ER-2016-0179 | Rebuttal: Transmission Tracker; Noranda Deferral; Regulatory Reform |
| KCP&L Greater Missouri Operations Company | ER-2016-0156 | Rebuttal: Tracker Proposals; Use of Projected Expenses; Tracker Balances in Rate Base; Deferral Policy |
| Missouri-American Water Company | WR-2015-0301 | Rebuttal: Environmental Coast Adjustment Mechanism; Energy Efficiency and Water Loss Reduction Deferral Mechanism Tracker |
| Laclede Gas Company | GO-2015-0178 | Direct: ISRS True-ups |
| Kansas City Power & Light Company | EU-2015-0094 | Direct: Accounting Order – Department of Energy Nuclear Waste Fund Fees |
| Union Electric Company d/b/a Ameren Missouri (2018) | EO-2015-0055 | Rebuttal: MEEIA Accounting Conditions |

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

| Company Name | Case Number | Issues |
|---|--------------------|--|
| Union Electric Company d/b/a Ameren Missouri (2015) | EO-2015-0055 | Rebuttal: Demand-Side Investment Mechanism |
| Kansas City Power & Light Company | ER-2014-0370 | Rebuttal: Trackers Surrebuttal: Trackers; Rate Case Expense |
| Kansas City Power & Light Company | EO-2014-0255 | Rebuttal: Continuation of Construction Accounting |
| Union Electric Company d/b/a Ameren Missouri | EC-2014-0223 | Rebuttal: Complaint Case – Rate Levels |
| Kansas City Power & Light Company | EO-2014-0095 | Rebuttal: DSIM |
| Union Electric Company d/b/a Ameren Missouri | ET-2014-0085 | Surrebuttal: RES Retail Rate Impact |
| Kansas City Power & Light Company & KCP&L Greater Missouri Operations Co. | EU-2014-0077 | Rebuttal: Accounting Authority Order |
| Kansas City Power & Light Company | ET-2014-0071 | Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact |
| KCP&L Greater Missouri Operations Company | ET-2014-0059 | Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact |
| Missouri Gas Energy, A Division of Laclede Gas Company | GR-2014-0007 | Surrebuttal: Pension Amortizations |
| The Empire District Electric Company | ER-2012-0345 | Direct (Interim): Interim Rate Request Rebuttal: Transmission Tracker, Cost of Removal Deferred Tax Amortization; State Income Tax Flow-Through Amortization Surrebuttal: State Income Tax Flow-Through Amortization |
| KCP&L Greater Missouri Operations Company | ER-2012-0175 | Surrebuttal: Transmission Tracker Conditions |
| Kansas City Power & Light Company | ER-2012-0174 | Rebuttal: Flood Deferral of off-system sales Surrebuttal: Flood Deferral of off-system sales, Transmission Tracker conditions |
| Union Electric Company d/b/a Ameren Missouri | ER-2012-0166 | Responsive: Transmission Tracker |
| Union Electric Company d/b/a Ameren Missouri | EO-2012-0142 | Rebuttal: DSIM |

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

| Company Name | Case Number | Issues |
|---|--------------------|--|
| Union Electric Company d/b/a Ameren Missouri | EU-2012-0027 | Rebuttal: Accounting Authority Order Cross-Surrebuttal: Accounting Authority Order |
| KCP&L Greater Missouri Operations Company | EO-2012-0009 | Rebuttal: DSIM |
| Missouri Gas Energy, A Division of Southern Union | GU-2011-0392 | Rebuttal: Lost Revenues Cross-Surrebuttal: Lost Revenues |
| Missouri-American Water Company | WR-2011-0337 | Surrebuttal: Pension Tracker |
| The Empire District Electric Company | ER-2011-0004 | Staff Report on Cost of Service: Direct: Report on Cost of Service; Overview of the Staff's Filing Surrebuttal: SWPA Payment, Ice Storm Amortization Rebasing, SO2 Allowances, Fuel/Purchased Power and True-up |
| The Empire District Electric Company, The-Investor (Electric) | ER-2010-0130 | Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Regulatory Plan Amortizations; Surrebuttal: Regulatory Plan Amortizations |
| Missouri Gas Energy, a Division of Southern Union | GR-2009-0355 | Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Rebuttal: Kansas Property Taxes/AAO; Bad Debts/Tracker; FAS 106/OPEBs; Policy; Surrebuttal: Environmental Expense, FAS 106/OPEBs |
| KCP&L Greater Missouri Operations Company | EO-2008-0216 | Rebuttal: Accounting Authority Order Request |
| The Empire District Electric Company | ER-2008-0093 | Case Overview; Regulatory Plan Amortizations; Asbury SCR; Commission Rules Tracker; Fuel Adjustment Clause; ROE and Risk; Depreciation; True-up; Gas Contract Unwinding |
| Missouri Gas Utility | GR-2008-0060 | Report on Cost of Service; Overview of Staff's Filing |
| Laclede Gas Company | GR-2007-0208 | Case Overview; Depreciation Expense/Depreciation Reserve; Affiliated Transactions; Regulatory Compact |
| Missouri Gas Energy | GR-2006-0422 | Unrecovered Cost of Service Adjustment; Policy |
| Empire District Electric | ER-2006-0315 | Fuel/Purchased Power; Regulatory Plan Amortizations; Return on Equity; True-Up |

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

| Company Name | Case Number | Issues |
|---|--|---|
| Missouri Gas Energy | GR-2004-0209 | Revenue Requirement Differences; Corporate Cost Allocation Study; Policy; Load Attrition; Capital Structure |
| Aquila, Inc., d/b/a Aquila Networks-MPS-Electric and Aquila Networks-L&P-Electric and Steam | ER-2004-0034 and HR-2004-0024 (Consolidated) | Aries Purchased Power Agreement; Merger Savings |
| Laclede Gas Company | GA-2002-429 | Accounting Authority Order Request |
| Union Electric Company | EC-2002-1 | Merger Savings; Criticisms of Staff's Case; Injuries and Damages; Uncollectibles |
| Missouri Public Service | ER-2001-672 | Purchased Power Agreement; Merger Savings/Acquisition Adjustment |
| Gateway Pipeline Company | GM-2001-585 | Financial Statements |
| Ozark Telephone Company | TC-2001-402 | Interim Rate Refund |
| The Empire District Electric Company | ER-2001-299 | Prudence/State Line Construction/Capital Costs |
| Missouri Gas Energy | GR-2001-292 | SLRP Deferrals; Y2K Deferrals; Deferred Taxes; SLRP and Y2K CSE/GSIP |
| KLM Telephone Company | TT-2001-120 | Policy |
| Holway Telephone Company | TT-2001-119 | Policy |
| Peace Valley Telephone | TT-2001-118 | Policy |
| Ozark Telephone Company | TT-2001-117 | Policy |
| IAMO Telephone Company | TT-2001-116 | Policy |
| Green Hills Telephone | TT-2001-115 | Policy |
| UtiliCorp United & The Empire District Electric Company | EM-2000-369 | Overall Recommendations |
| UtiliCorp United & St. Joseph Light & Power | EM-2000-292 | Staff Overall Recommendations |
| Missouri-American Water | WM-2000-222 | Conditions |

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

| Company Name | Case Number | Issues |
|---|----------------------------|--|
| Laclede Gas Company | GR-99-315 (remand) | Depreciation and Cost of Removal |
| United Water Missouri | WA-98-187 | FAS 106 Deferrals |
| Western Resources & Kansas City Power & Light | EM-97-515 | Regulatory Plan; Ratemaking Recommendations; Stranded Costs |
| Missouri Public Service | ER-97-394 | Stranded/Transition Costs; Regulatory Asset Amortization; Performance Based Regulation |
| The Empire District Electric Company | ER-97-82 | Policy |
| Missouri Gas Energy | GR-96-285 | Riders; Savings Sharing |
| St. Louis County Water | WR-96-263 | Future Plant |
| Union Electric Company | EM-96-149 | Merger Savings; Transmission Policy |
| St. Louis County Water | WR-95-145 | Policy |
| Western Resources & Southern Union Company | GM-94-40 | Regulatory Asset Transfer |
| Generic Electric | EO-93-218 | Preapproval |
| Generic Telephone | TO-92-306 | Revenue Neutrality; Accounting Classification |
| Missouri Public Service | EO-91-358 and EO-91-360 | Accounting Authority Order |
| Missouri-American Water Company | WR-91-211 | True-up; Known and Measurable |
| Western Resources | GR-90-40 and GR-91-149 | Take-Or-Pay Costs |

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Cases prior to 1990 include:

| <u>COMPANY NAME</u> | <u>CASE NUMBER</u> |
|-------------------------------------|-----------------------|
| Kansas City Power and Light Company | ER-82-66 |
| Kansas City Power and Light Company | HR-82-67 |
| Southwestern Bell Telephone Company | TR-82-199 |
| Missouri Public Service Company | ER-83-40 |
| Kansas City Power and Light Company | ER-83-49 |
| Southwestern Bell Telephone Company | TR-83-253 |
| Kansas City Power and Light Company | EO-84-4 |
| Kansas City Power and Light Company | ER-85-128 & EO-85-185 |
| KPL Gas Service Company | GR-86-76 |
| Kansas City Power and Light Company | HO-86-139 |
| Southwestern Bell Telephone Company | TC-89-14 |