Exhibit No.:	
Issues:	*Tracker Proposals;*
	Pensions/OPEBs
	Witness: Mark L. Oligschlaeger
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Surrebuttal Testimony*
Case No.:	*GR-2018-0013*
Date Testimony Prepared:	*May 9, 2018*

MISSOURI PUBLIC SERVICE COMMISSION

COMMISSION STAFF DIVISION

AUDITING DEPARTMENT

SURREBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

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

CASE NO. GR-2018-0013

Jefferson City, Missouri
May 2018

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MARK L. OLIGSCHLAEGER

LIBERTY UTILITIES

CASE NO. GR-2018-0013

Q. Please state your name and business address.

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

Q. Are you the same Mark L. Oligschlaeger who previously filed rebuttal testimony in this proceeding?

A. Yes, I am.

EXECUTIVE SUMMARY

Q. Please summarize your surrebuttal testimony in this proceeding.

A. In this testimony, I will address certain arguments made in the rebuttal testimony of Liberty Midstates - MO witness Timothy S. Lyons regarding the issue of "tracker proposals." I will also address the section of the rebuttal testimony of Liberty Midstates - MO witness James A. Fallert regarding pension and Other Post-Employment Benefits ("OPEB") expense.

TRACKER PROPOSALS

Q. Is Liberty Midstates - MO seeking authorization to implement a number of tracker mechanisms in this case for purposes of accounting for certain revenue requirement components?

A. Yes. I previously addressed Liberty Midstates - MO's tracker proposals related to plant additions ("CR Tracker"), property tax (ad valorem) expense ("AV Tracker"), bad debt expense ("BD Tracker") and vegetation management/right-of-way expense ("ROW Tracker") in my rebuttal testimony in this proceeding. In this surrebuttal testimony, I will expand upon my earlier statements regarding use of trackers in response to the arguments made in the rebuttal testimony of Liberty Midstates - MO witness Lyons in this case concerning the proposed use of trackers.

Q. At page 29 of his rebuttal testimony, Mr. Lyons presents an argument that the proposed cost reliability tracker ("CR Tracker") is necessary because eligibility standards for inclusion of plant in service additions in the current Infrastructure Replacement Surcharge Mechanism ("ISRS") are too restrictive. Do you agree?

A. No. The current ISRS mechanism provides gas and water utilities a limited opportunity to obtain single-issue rate relief for the costs of qualifying plant added for safety reasons or in response to government mandates. Given the normal requirement for customer rates to be established taking into account "all relevant factors," Staff is opposed to expanding the use of trackers or similar mechanisms to apply on a blanket basis to account for plant additions without regard to changes in revenue, expense, cost of capital or other rate base components.

Q. At pages 29 – 30 of his rebuttal testimony, Mr. Lyons presents replacement of current Polyvinyl Chloride ("PVC") pipe as an example of a beneficial project that is not ISRS-eligible but that would be covered under the proposed CR tracker. Please comment.

A. Mr. Lyons appears to be arguing that special ratemaking mechanisms should be used by the Commission to "incent" utilities to undertake beneficial plant projects. Staff disagrees. The decision to undertake discretionary plant improvement projects by the utility should be primarily based upon the need to provide safe and adequate service to customers at the lowest reasonable cost. Projects meeting this general criterion should not have to be "incented" in order for the utility in question to implement them. Even in the absence of trackers, Staff also notes that utilities inherently gain a financial benefit from decisions to add plant, since (if prudent) such costs are included in rate base and the utility is able to earn a return on those items and increase its profits.

Q. In general, Mr. Lyons argues for the use of trackers for property taxes and bad debt expense by pointing to recent changes in the incurred level of expense for these items. Do the changes in the levels over time for a particular expense justify the use of trackers?

A. No. As previously discussed in my rebuttal testimony, treatment of individual cost of service items through trackers should be limited to certain extraordinary or highly unusual circumstances. Merely citing to a recent upward or downward trend in the incurred level of an item is not sufficient to justify use of trackers.

Q. If a utility experiences an upward trend in the level of one cost of service component, is it possible that downward changes in other cost of service items may offset this financial impact?

A. Yes. In fact, the data presented by Liberty Midstates - MO witness Lyons in his rebuttal testimony for property taxes and bad debt expenses demonstrates this very phenomenon.

In his rebuttal testimony at pages 30 – 31, Mr. Lyons cites the following increase/decrease amounts for property taxes and bad debt expense going from 2015 to 2016:

Property Taxes	$400,000
Bad Debts	($446,000)

Mr. Lyons' data shows that in 2016 a sizeable increase in property taxes was more than offset by a sizeable decrease in bad debt expense. The net change in these two cost of service items in 2016 was a reduction in expense of approximately $46,000, an immaterial impact.

At the same pages in his rebuttal, Mr. Lyons presents data for the change in these two costs from 2016 to 2017:

Property Taxes	$0
Bad Debt Expenses	($26,000)

Mr. Lyons' data shows an immaterial change in both cost of service items for 2017, with a net reduction in expense of approximately $26,000.

Q. Taken together, is the change in value for these two expense items from 2015 through 2017 of sufficient materiality to justify tracker treatment?

A. No.

Q. Why didn't you take into account historical levels of vegetation management/right-of-way expenses in the analysis presented above?

A. Unlike the case for property taxes and bad debts, Mr. Lyons does not rely upon recent historical experience in incurred expense levels to justify tracker treatment for vegetation management/right-of-way expenses. Instead, he cites to estimated values for this item over the next five years to attempt to justify the proposed ROW Tracker.

Q. Is reliance upon budget estimates appropriate support for a tracker request?

A. No. Staff's position is that tracker treatment should only be authorized by the Commission in response to known and measurable trends in the item's cost (assuming that the item otherwise meets the criteria for tracker implementation). Speculative forecasts of future costs are not an appropriate basis for granting tracker treatment going forward.

In any event, even if the amounts forecasted for vegetation management/right-of-way expenses were assumed to be accurate, the amounts projected for these items for the next five years would still not be material enough to justify extraordinary ratemaking treatments, such as a tracker.

PENSIONS/OPEBS

Q. Based upon the rebuttal testimony filed by Liberty Midstates - MO witness Fallert, what are the outstanding issues between Staff and Liberty Midstates - MO concerning pensions and OPEBs expense?

A. There appear to be two issues: (1) whether certain pension and OPEB "excess funding" contribution amounts should be included in rate base; and (2) whether certain pension gain/loss amortization procedures should continue to be applied in order to determine Liberty Midstates – MO's annual pension expense.

Q. Please explain the first issue listed above.

A. In the section of the *Partial Stipulation and Agreement As To Certain Issues* ("Agreement") filed in Liberty Midstates – MO's most recent general rate case on August 12, 2014, concerning pension and OPEB expense, one of the provisions required Liberty Midstates - MO to separately track the difference between the amount of its ongoing pension and OPEB trust fund contributions and the amount of pension and OPEB expense reflected in its rates authorized in that case, and book those differences as either regulatory assets (pension/OPEB contributions in excess of the rate allowance amounts) or regulatory liabilities (pension/OPEB contributions less than the rate allowance amounts). With certain exceptions, the Agreement required Liberty Midstates - MO to fund its annual contribution amounts at a level equal to its calculated net periodic benefit cost amount for pensions and its calculated net periodic benefit cost for OPEBs. Any regulatory asset or liability recorded in this fashion would be eligible for inclusion in rate base in subsequent Liberty Midstates - MO general rate proceedings.

However, this agreement also allowed potential rate base treatment of pension contribution amounts made in excess of net periodic benefit cost financial reporting amounts under certain conditions. The listed exceptions were:

1) If the "minimum ERISA" contribution amount was greater than the net periodic benefit cost calculation;
2) If greater funding than the net periodic benefit expense level was needed to avoid implementation of certain pension benefit "restrictions" otherwise mandated under law; and
3) If greater funding than the net periodic benefit expense level was needed to avoid payment of Pension Benefit Guaranty Corporation (PBGC) "variable premiums."

In addition, the Agreement required Liberty Midstates - MO to inform Staff and The Office of Public Counsel on a timely basis if it chose to fund pensions in excess of the net periodic benefit expense amounts.

Q. Did Liberty Midstates - MO seek to include in its rate base inclusion of any tracked amounts of pensions and OPEBs in its direct filing pursuant to the Agreement from Case No. GR-2014-0152?

A. No.

Q. Notwithstanding the initial failure of Liberty Midstates - MO to seek potential rate base inclusion of pension/OPEB funding amounts, is Liberty Midstates – MO eligible to claim any such recovery in this case under the terms of the Agreement?

A. Yes. In fact, Mr. Fallert presented quantifications of the pension and OPEBs rate base amounts in his rebuttal testimony filed in this case.

Q. Does Staff agree with these quantifications?

A. Only in part. Based upon the information provided by Liberty Midstates - MO to Staff regarding the amount of pensions and OPEB financial reporting expense and contributions since the last rate case, it appears that Liberty Midstates – MO's contribution amounts tied to net periodic benefit expense calculations, in total, exceeded the rate allowance for these items reflected in current customer rates. Under the Agreement, such amounts are eligible for rate base inclusion. By Staff's calculation, the pension rate base addition is appropriately valued at $112,971, and the OPEBs rate base addition is appropriately valued at $386,786.

Q. In what respect does Staff disagree with the pension and OPEBs regulatory asset quantifications found in Mr. Fallert's testimony?

A. For both pensions and OPEBs, Liberty Midstates - MO chose to fund these costs at levels higher than indicated by the annual net periodic benefit calculations since the last rate case. As previously discussed, such excess funding amounts for pensions are only provided rate base treatment under the Agreement if the contributions are made for one of three listed reasons. From the information provided to date by Liberty Midstates – MO, it is not clear to Staff that the excess funding amounts contributed by Liberty Midstates - MO since the last rate case fall under any of these categories.

Q. What does Liberty Midstates - MO claim is the reason for these excess pension contributions?

A. In its response to Staff Data Request No. 0359, Liberty Midstates – MO claims that such contributions were made in order to reduce the amount of PBGC variable premiums that would otherwise be payable due to the funding status of its pension plan. However, Liberty Midstates - MO has not provided any quantification or documentary support for this contention.

Q. In any event, did Liberty Midstates - MO at any time inform Staff of the excess contributions it made since the last rate case, as was committed to in the Agreement?

A. No, not to my knowledge.

Q. Based upon the above, what is Staff's current position regarding potential rate base treatment of "excess" pension funding amounts contributed since the last rate case?

A. Staff recommends that such amounts be excluded from Liberty Midstates – MO's rate base until such point as adequate documentation is provided that such contribution amounts are in fact eligible under the Agreement.

Q. Did the Agreement provide for the possibility of rate base inclusion of excess OPEBs funding amounts in a similar manner to pensions?

A. No. For this reason, Staff is opposed to inclusion in rate base of any amount of excess OPEBs funding made since Liberty Midstates - MO's last general rate case. However, the total amount of excess funding for OPEBs since the last rate case is minor in nature, unlike the situation with pension funding.

Q. What is the second issue between Staff and Liberty Midstates - MO concerning pension expense?

A. At pages 10 – 11 of his rebuttal testimony, Liberty Midstates - MO witness Fallert recommends that certain language be changed in the Agreement concerning treatment of pension "gains" and "losses." Staff disagrees with this position.

Q. What are pension gains/losses?

A. Generally accepted accounting principles ("GAAP") require that current pension expense financial reporting expense be based upon estimations of future pension payouts to eligible retirees, with the payouts generally not occurring until many years in the future. For this reason, pension expense accruals are calculated using forecasts of many different variables, including the average service life of employees, future employee pay levels, future interest rate levels, future performance of debt and equity markets, and many more. Any differences between the assumptions made in estimating annual pension expense accruals and actual experience over time are referred to as pension "gains" and "losses."

Q. How are pension gains and losses currently treated for financial reporting purposes?

A. If the cumulative amount of the pension gain/loss does not exceed 10% of the greater of the "projected benefit obligation" ("PBO") amount or the market-related value of pension plan assets, the reporting entity may choose not to recognize any of the gain/loss in current income. Use of the 10% threshold for this purpose is known as the "corridor approach." For financial reporting purposes, the rationale for use of the corridor approach in determining annual pension expense is that the amount of gain/loss in one year may be offset in the next year or several years, and thus there is no need for immediate recognition of gain/loss amounts in the enterprise's financial statements. For this reason, under generally accepted accounting principles ("GAAP") no recognition of the cumulative gain/loss is required unless a materiality threshold is exceeded (such as 10% of the PBO or market value of assets).

Q. Is Staff opposed to use of the corridor approach for calculation of pension expense in setting utility rates?

A. Yes. Allowing utilities to withhold a material amount of pension gains/losses from potential amortization in rates through use of the corridor approach could have a material impact on customer rates (a higher amount of pension expense if gains are excluded, a lower amount of pension expense if losses are excluded). As pension gains and losses are a known and measurable phenomenon affecting utility pension expense, Staff's position is that gains and losses should be accounted for in the ratemaking process in a reasonably timely manner, and not excluded in an arbitrary fashion such as is possible using the corridor approach.

Q. How does the Agreement in Case No. GR-2014-0152, reflect this position?

A. The Agreement calls for annual pension gains/losses to be reflected in rates through an overall gain/loss amortization in increasing percentages over an initial five-year period (20% of the gain/loss to be included in the gain/loss amortization in the first year following the gain/loss, 40% in the second year, and so on) and then after the first five years be fully included in the amortization for an additional five years. This results in full reflection of the impact of annual pension gain/loss amounts in rates over a ten-year period. This approach effectively precludes use of a "corridor approach" for ratemaking purposes in Missouri.

Q. Are these provisions unique to the Liberty Midstates - MO Agreement?

A. No. To my knowledge, all or almost all of the pension stipulations in effect for major utilities in Missouri contain similar provisions.

Q. Why is Liberty Midstates - MO apparently opposed to this treatment of pension gains/losses?

A. Mr. Fallert refers to a concern that differences between pension gain/loss assumptions for ratemaking and financial reporting purposes should be avoided.

Q. Is use of the corridor approach a requirement under GAAP?

A. No. A wide variety of gain/loss amortization approaches are acceptable under GAAP. In fact, the pension gain/loss method generally advocated by Staff and currently reflected in the Agreement for Liberty Midstates - MO is fully compliant with GAAP requirements.

Q. Does this conclude your surrebuttal testimony?

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 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-2018-0013

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 Surrebuttal Testimony and True-Up Direct Testimony, and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

Mark L. Oligschlaeger

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 9th day of May, 2018.

DIANNA L. VAUGHT
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: June 28, 2019
Commission Number: 15207377

Dianna L. Vaught

Notary Public